U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34545439

Date: OCT. 8, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Professional)

The Beneficiary's qualifications for the offered U.S. business analyst job turn on whether her graduate field of study – environmental health sciences – relates to management science, statistics, mathematics, or marketing analytics. The Director of the Nebraska Service Center found insufficient evidence that the Beneficiary's academic field relates to any of the job's acceptable degree disciplines.

The Beneficiary's petitioning employer, however, demonstrated that graduate programs in both environmental health sciences and statistics focus on the collection, management, analysis, and reporting of data – skills the offered job requires. We will therefore withdraw the Director's decision and sustain the appeal.

I. LAW

Immigration as a professional under Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii), generally follows a three-step process. First, a prospective employer must apply to the U.S. Department of Labor (DOL) for certification that: there are insufficient U.S. workers able, willing, qualified, and available for an offered position; and a noncitizen's employment in the position would not harm wages and working conditions of U.S. workers with similar jobs. *See* section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D).

Second, an employer must submit a DOL-approved labor certification with an immigrant visa petition to U.S. Citizenship and Immigration Services (USCIS). *See* section 204(a)(1)(F) of the Act, 8 U.S.C. § 1154(a)(1)(F); 8 C.F.R. § 204.5(l)(3)(i). Among other things, USCIS determines whether a noncitizen beneficiary meets the requirements of a DOL-certified job and a requested immigrant visa category. 8 C.F.R. § 204.5(l)(3)(ii)(C).

Finally, if USCIS approves a petition, a beneficiary may apply for an immigrant visa abroad or, if eligible, "adjustment of status" in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

II. ANALYSIS

A. Facts and Procedural History

The Beneficiary, a Chinese national and citizen, has worked in the United States for the Petitioner – an online retailer – in the offered job of business analyst since February 2022. Her H-1B nonimmigrant visa status allows the company to temporarily employ her as a professional worker. *See* section 101(a)(15)(H) of the Act, 8 U.S.C. § 1101(a)(15)(H).

In December 2022, the Petitioner filed a labor certification application for the Beneficiary, seeking permission to permanently employ her in the offered job. After DOL approved the labor certification application in November 2023, the Petitioner filed this petition in January 2024.

The Director denied the petition in June 2024, concluding that the Petitioner did not demonstrate the Beneficiary's possession of a degree in an acceptable field of study. This timely appeal followed.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

B. The Required Education

A professional must have at least a baccalaureate degree. Section 203(b)(3)(A)(ii) of the Act. Also, a petitioner must demonstrate that, by a petition's priority date, a beneficiary met all DOL-certified requirements of an offered job. *Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Acting Reg'l Comm'r 1977). This petition's priority date is December 6, 2022, the date DOL accepted the labor certification application for processing. *See* 8 C.F.R. § 204.5(d) (explaining how to determine a petition's priority date).

When assessing a beneficiary's qualifications, USCIS must examine the job-offer portion of an accompanying labor certification to determine a job's minimum requirements. USCIS may neither disregard certification terms nor impose unstated requirements. *See, e.g., Madany v. Smith*, 696 F.2d 1008, 1015 (D.C. Cir. 1983) (holding that DOL "bears the authority for setting the *content* of the labor certification") (emphasis in original).

The Petitioner's labor certification states the offered job's primary educational requirements as a U.S. master's degree, or a foreign equivalent degree, in management science, statistics, mathematics, marketing analytics, "or a related field." The job also requires one year of experience in business analysis, business intelligence engineering, data engineering, or data mining. The labor certification further states the company's acceptance of an alternate combination of education and experience: a bachelor's degree and three years' experience.[1] The Beneficiary's experience is not at issue.

[1] Part H.14 of the labor certification – "Specific skills or other requirements" – further describes the type of experience needed to meet both the primary and alternate job requirements.

On the labor certification, the Beneficiary attested that, by the petition's priority date, a U.S. university awarded her a master's degree in environmental health sciences. The Petitioner submitted copies of her 2019 diploma and university transcript.

The Director found insufficient evidence of the Beneficiary's claimed qualifying education for the offered job. The Director stated: "The [Beneficiary's] master's degree in Environmental Health Sciences is not related to the Management, Math, Statistics or Marketing realm of acceptable fields of study listed [on] the Labor Certificat[ion]."

As the Petitioner argues on appeal, however, the Director overlooked materials in the company's response to the Director's request for additional evidence (RFE). A letter from the Beneficiary's supervisor discusses the offered job's duties and how the Beneficiary's graduate courses in environmental health sciences provided her knowledge and skills needed to perform the job's tasks. For example, the letter states that her courses in "Introduction to Biostatistics," "Data Management & Statistical Computing," and "Principles of Epidemiology" taught her data analysis programming, statistical concepts, and how to design statistical experiments and identify key performance indicators (KPIs). The supervisor stated that the Beneficiary needs these skills to develop and implement KPIs and model automated reporting/process solutions in the offered job.

The Petitioner's RFE response also included an expert opinion letter from a U.S. associate professor of mathematics/director of graduate programs. He further described how the Beneficiary's graduate coursework in environmental health sciences prepared her for the offered job. For example, the letter notes her completion of the course "Introduction to Geographic Information Systems (GIS)," in which she developed database knowledge and skills. The course involved using GIS platforms to track environmental health concerns, such as disease outbreaks and the spreading of tainted food and contaminated soil. The Petitioner does not generally monitor such matters. But it uses GIS platforms to track its delivery routes and times. The letter states that the course taught the Beneficiary how to collect and input spatial data, manage them, and create automated data dashboards and reporting tools. The letter states: "Having studied data dashboard and visualization methods and best practices, [the Beneficiary] will be able to create automated data visual tools tailored to the needs of [the Petitioner], one of her primary duties as a Business Analyst."

The associate professor concluded that the Beneficiary's:

> master degree program in Environmental Health Sciences at [her university] may be seen as being closely related, in terms of course and content overlap, to master's-level programs in Statistics and Mathematics. Common to her program as well as programs in Statistics and Mathematics was an intensive focus upon the development of knowledge in data collection, management, analysis, and reporting methods and best-practices. She also developed computer database and statistical programming skills. Most notably, her coursework is closely related to that completed by students majoring in Statistics and Mathematics.[2]

[2] Because we find that the Beneficiary's graduate field of environmental health sciences relates to statistics, we need not consider whether her discipline also links to math. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

We also note that the labor certification shows DOL's classification of the offered job under the occupational category of "statistician." This classification further suggests a relationship between the Beneficiary's academic field of environmental health sciences and the job's accepted degree discipline of statistics.

III. CONCLUSION

A preponderance of the evidence demonstrates that the Beneficiary's graduate field of environmental health sciences relates to the offer job's acceptable degree discipline of statistics. Thus, the Beneficiary met the job's educational requirements. We will therefore withdraw the Director's contrary finding.

ORDER: The appeal is sustained.