



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 21655140

Date: SEP. 13, 2022

Appeal of California Service Center Decision

Form I-129, Petition for L-1B Specialized Knowledge Worker

The Petitioner, a social services non-profit youth organization, seeks to temporarily employ the Beneficiary as a cultural exchange program coordinator in the United States under the L-1B nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the California Service Center denied the petition, concluding the Petitioner did not establish that: 1) the Beneficiary's position abroad involved specialized knowledge, 2) the Beneficiary is qualified to perform the duties of the intended position in the United States; and 3) the proposed U.S. position would involve specialized knowledge.

On appeal, the Petitioner asserts that the Beneficiary is the only employee working for the Petitioner with her level of special and advanced knowledge of the organization's guiding philosophies, policies, and procedures. The Petitioner contends that the Director placed an undue burden on the Petitioner to demonstrate that the Beneficiary's knowledge is specialized.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1B nonimmigrant visa classification, a qualifying organization must have employed the beneficiary "in a capacity that is managerial, executive, or involves specialized knowledge," for one continuous year within three years preceding the beneficiary's application for admission into the United States. Section 101(a)(15)(L) of the Act. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a specialized knowledge capacity. *Id.* The petitioner must also establish that the beneficiary's prior education, training, and employment qualify him or her to perform the intended services in the United States. 8 C.F.R. § 214.2(l)(3).

II. BACKGROUND

The Petitioner indicated that it is a branch of a worldwide non-profit organization focused on youth development, healthy living, social responsibility, and social services. The Petitioner provided marketing materials reflecting that the national organization “is one of the oldest and largest youth organizations in the world,” of which it and the foreign employer are branches, and that it has locations in 120 countries and employs nearly 90,000 worldwide.

In a support letter, the Petitioner indicated that the Beneficiary was being transferred from a branch in Columbia “so that she can help us formalize and launch our unique cultural exchange program between it and the [redacted] in the United States. The Petitioner emphasized the Beneficiary’s “technical knowledge of the [national organization’s] policies, goals, methods and systems,” a level of knowledge it asserted could not be accomplished by an “outside employee.” The Petitioner stated that each year it recruits international staff to its summer camp to “provided a culturally rich experience” and to “allow campers to learn about different cultures and experiences.” The Petitioner indicated that its cultural exchange program could not be successful without the transfer of the Beneficiary.

The Petitioner explained that the Beneficiary had been employed with an affiliated branch office in Columbia for over three years and she had previously worked at the Petitioner from May 2016 to August 2017 where she “proved herself to be an indispensable part of the team,” created new cultural opportunities, and began building the first steps to taking campers overseas. The Petitioner noted that the Beneficiary “developed training programs for young adults through [the branch office in] Columbia so they would be best prepared to serve as camp counselors at [national organization] camps.” The Petitioner asserted that the Beneficiary possesses unique and specialized knowledge gained through her “lived and learned experience” while working at the Columbia and [redacted] locations.

The Petitioner further provided a support letter from the foreign employer stating that the Beneficiary had successfully participated in programs for over five years as a [redacted] and the Youth Leadership Programs.” The Petitioner stated that the Beneficiary “created and developed innovative programs and methodologies” and that she was an “authentic leader with a broad range of skills and competencies to engage children in youth activities.” The Petitioner indicated that “there is no one who knows our organization’s unique workings on cultural exchange programs” and that her “deep knowledge of our processes and procedures” will allow it to fluidly launch the cultural exchange program with [redacted]

The Petitioner also submitted a position description for the Beneficiary’s U.S. employment indicating that the candidate must possess a variety of skills, including “cross-cultural awareness, character development, leadership development, group work, communication, program planning and management, fiscal control, promotion and public relations, administration, camp and the recruitment, [and] training and evaluation of staff and volunteers.” The description further stated that the position requires “a basic understanding of the [national organization] movement...[and] the policies and procedures of the [national organization],” a bachelor’s degree in education or equivalent, “at least two

seasons or 16 weeks of administrative or supervisory experience in an organized camp,” and bilingual ability in English and Spanish.

On appeal, the Petitioner states that the Beneficiary will be tasked with implementing a “first of its kind educational program” and asserts that she is the only employee capable of performing this duty. The Petitioner explains that there are “strong public policy factors” influencing an approval of the petition. The Petitioner contends that the Director applied an overly strict standard related to special and advanced knowledge, such that no one could demonstrate that an employee possesses this level of knowledge. The Petitioner states that the Director ignored that the Beneficiary’s knowledge is greatly developed than that generally found within the organization, including her knowledge of the organization’s policies and procedures.

In addition, the Petitioner submits additional evidence on appeal, specifically a letter from a U.S. Congressman from Michigan emphasizing the public policy benefits of the Beneficiary’s transfer, including building a partnership between the Petitioner and the Colombia branch. The Congressman emphasizes the “cultural exchange experience” this would provide for both communities and notes that the Petitioner “works with international staff to provide unique cultural experiences to the community.” The letter further discusses the Beneficiary’s “extensive knowledge of the policies, goals, methods, and systems of the national organization” and points to her “success in the cultural exchanges program.”

III. SPECIALIZED KNOWLEDGE

The primary issue in this matter is whether the Petitioner established that the Beneficiary possesses specialized knowledge and whether she was employed in a specialized knowledge capacity. As a threshold matter, if the Beneficiary does not possess specialized knowledge, then her position abroad and in the United States would not involve specialized knowledge as necessary to qualify her.

Under the statute, a beneficiary is considered to have specialized knowledge if he or she has: (1) a “special” knowledge of the company product and its application in international markets; or (2) an “advanced” level of knowledge of the processes and procedures of the company. Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B). A petitioner may establish eligibility by submitting evidence that the beneficiary and the proffered position satisfy either prong of the statutory definition of specialized knowledge. Specialized knowledge is also defined as special knowledge possessed by an individual of the petitioning organization’s product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization’s processes and procedures. 8 C.F.R. § 214.2(l)(1)(ii)(D).

Once a petitioner articulates the nature of the claimed specialized knowledge, it is the weight and type of evidence which establishes whether or not the beneficiary actually possesses specialized knowledge. We cannot make a factual determination regarding a given beneficiary’s specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of its products and services or processes and procedures, the nature of the specific industry or field involved, and the nature of the beneficiary’s knowledge. The petitioner should also describe how an employee is able to gain specialized knowledge within the organization and explain how and when the individual beneficiary gained such knowledge.

A. Advanced Knowledge

On appeal, the Petitioner states that the Beneficiary holds advanced knowledge of the organization's policies and procedures and contends that the Director ignored that her knowledge is greatly developed beyond the knowledge held by her colleagues. Determinations concerning "advanced knowledge" require review of a beneficiary's knowledge of the petitioning organization's processes and procedures. A petitioner may meet its burden through evidence that a given beneficiary has knowledge of or expertise in the organization's processes and procedures that is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the employer's operations. Such advanced knowledge must be supported by evidence setting that knowledge apart from the elementary or basic knowledge possessed by others. Also, as with special knowledge, the petitioner ordinarily must demonstrate that a beneficiary's knowledge is not commonly held throughout the particular industry and cannot be easily imparted from one person to another.

First, the Petitioner has not sufficiently articulated the Beneficiary's knowledge as necessary to determine whether it is advanced as defined by the regulations. For instance, the Petitioner stated that the Beneficiary was responsible for implementing training programs, including "innovative programs and methodologies" and that she had in-depth knowledge of the "unique workings" of the organization. However, the Petitioner did not specifically describe the Beneficiary's experience, nor the innovative programs and methodologies she was involved in creating or the unique workings of the organization that she was involved with in Colombia. Likewise, the Petitioner did not submit supporting documentation to illustrate or document the programs and methodologies the Beneficiary created while employed abroad or in the United States. For example, the letter from a U.S. congressman submitted on appeal discusses the Beneficiary's "extensive knowledge of the policies, goals, methods, and systems of the national organization" and points to her "success in the cultural exchange program." However, the Petitioner does not explain the mentioned policies, goals, methods, or systems in detail, nor does it specifically describe or document the cultural exchange programs it claims she created. As we have noted, we cannot make a factual determination regarding a given beneficiary's specialized knowledge if the petitioner does not, at a minimum, articulate with specificity the nature of its products and services or processes and procedures and the nature of the beneficiary's knowledge.

Further, the Petitioner asserted, and reemphasizes on appeal that the Beneficiary holds special and unique knowledge of the national organization's "policies and procedures." However, again, the Petitioner does indicate in what national policies and procedures the Beneficiary has advanced knowledge. In fact, the U.S. position description states that the position requires only "a basic understanding of the [national organization] movement, the policies and procedures and the [national organization] and the ability to role model the four principles of [redacted]." The position description reflects that only a basic understanding of the national organization's general principles is required leaves substantial uncertainty as to whether the position requires knowledge greatly developed beyond others within the organization. In addition, the Petitioner also submits substantial documentary evidence indicating that the national organization's core principles, processes, and procedures are widely disseminated within the greater organization. It is not clear how the Beneficiary's knowledge greatly exceeds the knowledge of its over 90,000 other employees in 120 countries who likely have knowledge of these concepts, particularly employees working in youth education like the Beneficiary. The Beneficiary's position description also indicates that only two seasons worth of experience are required to perform the duties of the position, a level of experience not reflective of an individual with greatly

developed knowledge in comparison to colleagues without further explanation and evidence. The Petitioner does not articulate the level of experience and education required to greatly exceed and set an employee apart from their colleagues. The Petitioner must resolve ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The Petitioner has also not sufficiently established how the Beneficiary's knowledge is greatly developed as compared to similarly placed colleagues within the organization. Determining whether knowledge is "advanced" inherently requires a comparison of the beneficiary's knowledge against that of others. The Petitioner bears the burden of establishing such a favorable comparison. However, the Petitioner provided no specific comparisons of the Beneficiary's knowledge and experience against that of her colleagues within the greater national organization, the Petitioner, or her employer in Columbia.

The Petitioner indicates that it is one branch amongst many others across its multinational organization employing approximately 90,000 individuals in 120 countries. Further, the Petitioner emphasizes that the Beneficiary is the only employee with knowledge of its Colombian branch and the Petitioner's location in [REDACTED]. However, the Petitioner does not discuss how many other employees work in positions similar to the Beneficiary's within its organization, the Colombian branch, and its greater national organization. This lack of detail is noteworthy as the Petitioner appears to indicate on the record that they annually "recruit international staff to bring to our summer camp to provide a culturally rich experience for our campers." Likewise, the Petitioner indicates that the national organization has other international exchange programs between U.S. branches and foreign locations, as it submits a letter from another U.S. location explaining its exchange program with a branch location in Japan. This evidence indicates that there are likely many other similarly placed international camp counselors and educators within the company's greater organization performing the Beneficiary's duties and likely holding comparable knowledge of its policies, goals, methods, and systems of the national organization.

As discussed by the Director, the Petitioner further provides no specific comparison of the Beneficiary against her colleagues to substantiate that her knowledge of both locations and the national organization's philosophies, programs, and methodologies is greatly developed in comparison. For instance, the Petitioner provided an organizational chart of staff members working at the summer camp, including those dedicated to youth education. However, the Petitioner submits no details related to these colleagues to demonstrate their knowledge, education, and experience in comparison to the Beneficiary. In addition, there is no evidence on the record related to the Beneficiary's foreign colleagues or their knowledge, education, and experience to provide an effective comparison.

For example, the Petitioner submitted evidence indicating that the Beneficiary received a foreign bachelor's degree in English, a foreign master's degree in language didactics, and a certificate in teaching English as a foreign language following the completion of a 120-hour course. Although these credentials appear impressive, it is difficult to discern whether they set the Beneficiary apart from her colleagues as the Petitioner provides no specific information or evidence related to the experience and education of her U.S. or foreign colleagues. Without this evidence, it appears likely that there are many others with similar international exchange education experience, particularly since the Petitioner runs this program and employs international counselors on an annual basis. Although we have little doubt that the

Beneficiary is likely a very valuable employee to the organization and that her transfer would be good for public policy, the Petitioner has not met the regulatory requirement of demonstrating with documentary evidence that the Beneficiary's knowledge of the organization's processes and procedures is greatly developed or further along in progress, complexity, and understanding in comparison to other workers in the employer's operations.

For the foregoing reasons, the Petitioner did not establish that the Beneficiary possesses advanced knowledge.

B. Special Knowledge

We will next discuss whether the Petitioner has demonstrated that the Beneficiary's knowledge is "special." 8 C.F.R. § 214.2(l)(1)(ii)(D).

Determining whether a beneficiary has "special knowledge" requires review of a given beneficiary's knowledge of how the petitioning organization manufactures, produces, or develops its products, services, research, equipment, techniques, management, or other interests. Because "special knowledge" concerns knowledge of the petitioning organization's products or services and its application in international markets, a petitioner may meet its burden through evidence that the beneficiary has knowledge that is distinct or uncommon in comparison to the knowledge of other similarly employed workers in the particular industry. Knowledge that is commonly held throughout a petitioner's industry or that can be easily imparted from one person to another is not considered special knowledge.

As we noted, the Petitioner appears to only assert on appeal that the Beneficiary's knowledge is advanced within its organization and does not explicitly contend that it is special, or distinct or uncommon in comparison to the knowledge of other similarly employed workers in their industry. Therefore, we will only briefly discuss whether the Beneficiary's knowledge qualifies as special according to the regulatory definition. Upon review, the Petitioner has not established the Beneficiary's knowledge can be considered special. First, as we discussed at length in the previous section, the Petitioner does not clearly describe or document the nature of the Beneficiary's knowledge, such as by explaining and sufficiently documenting the educational programs and policies she established, nor their place within its industry.

Even if we accept that the Petitioner is a leader within its industry and that it holds knowledge of specific policies, methods, and systems, this alone is not sufficient to establish that the Beneficiary's knowledge is distinct or uncommon. In fact, it is common in nearly every industry for organizations to hold unique or proprietary knowledge and to work on highly complex problems and services. The Petitioner must set the Beneficiary apart from similarly placed workers within the industry and demonstrate that his knowledge as distinct or uncommon in comparison. However, again, the Petitioner provides no specific explanation of the industry or comparisons of the Beneficiary against other similarly placed professionals. Without this specific information and evidence, it is reasonable to conclude that there are various other organizations providing similar international exchange and social services, or other services similar to that provided by the Petitioner, the foreign employer, and its many branches. In

turn, it is reasonable to conclude that there are many other educational professionals holding knowledge comparable to that of the Beneficiary within the Petitioner's industry.

Therefore, the Petitioner has not established that the Beneficiary's knowledge is "special" as defined by the regulations.

Again, as a threshold matter, if the Beneficiary does not possess specialized knowledge, then his position abroad and in the United States would not involve specialized knowledge as necessary to qualify him. For the foregoing reasons, the Petitioner has not sufficiently established that the Beneficiary possesses specialized knowledge.

ORDER: The appeal is dismissed.