
15. CHECKLIST FOR EMPLOYER/PETITIONER

This Checklist is to provide a quick guide before an H-1B petition is filed. An employer/Petitioner have to be diligent in filling and filing forms.

- Is the Beneficiary qualified for the position? Do they possess the appropriate academic or professional background?
- Can the duties of the Proffered position be performed by the beneficiary owing to his/her experience?
- Is the job description of the proffered position specific and unique to the beneficiary?
- Does the Job description show the complexity, uniqueness, and specificity of duties and does it correlate to the skills attained by the beneficiary either by a bachelor's degree in that specific field or its equivalent?
- Are the duties of the Proffered position in alignment with the description and duties on *NET job classification?
- Do not copy the job description or duties from O*NET classification.
- The Job description must not have simple and vague statements.
- Do not use words such as “development”, “integration”, “verification and validation” as they provide little insight into the beneficiary's specific role within these tasks
- The job description must be elaborated and must at least be one full page.
- The description must contain at least 10 specific and unique tasks.
- These tasks must contain a percentage breakdown of day-to-day duties, and equal 100%
- These duties must be so unique and complex that only a person with knowledge attained by obtaining a bachelor's degree or its equivalent can perform them.
- Do not use the same job description for multiple employees in petitions.
- Is the wage level on LCA in line with the complexity of the job duties?
- The Wage Level must be in sync with the job classification.

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- ☒ Does the proffered position require complex duties and a bachelor's degree as indicated in the Occupational Outlook Handbook (OOH.)?
- ☒ Does the wage level in the LCA, Job Classification in O*NET, job description, and degree requirements in the OOH have a common thread or common nexus?
- ☒ Do the other job advertisements provided to prove industry standard, show that the positions are with the other companies of similar size and in the similar business to that of the petitioner?
- ☒ Are the ads for jobs for parallel positions, and not of senior or junior positions?
- ☒ Do all parallel positions within the petitioner's organization require the minimum of a bachelor's degree?
- ☒ Mere requirement of job bachelor's degree is not enough; the complexity of tasks must be established to determine whether a bachelor's degree is required.
- ☒ Clear details of other employees must be given to show the petitioner usually requires a bachelor's degree.
- ☒ The employee's position, duties, how his/her bachelor's degree assists him/her in executing these duties must be explained.
- ☒ If there is an end-client, are these details provided to them?
- ☒ Does the letter provided by the end-client clearly state where the beneficiary is required to perform his/her duties?
- ☒ Does the letter indicate the length of time that beneficiary's services will be required?

(You can download these checklists from <http://www.edu-evals.com/checklists>)

16. CHECKLIST FOR ATTORNEYS

The immigration attorney plays a very crucial role in filing the petition. With the person who understands the most of legal system, this is a quick overview/suggestion checklist for attorneys.

- ☒ Are all required documents submitted along with the petition?
- ☒ Are all the required attestations and translations submitted along with the petition?
- ☒ Are the Name, Date of Birth, addresses of petitioner, beneficiary, end client and other parties are correctly mentioned?
- ☒ Has the employer provided a clear and complex description of the proffered position?
- ☒ Are the duties of the Proffered position in alignment with the job description and duties in the O*NET job classification?
- ☒ The Job description must not have simple and vague statements.
- ☒ Do not use words such as “development”, “integration”, “verification and validation” as they provide little insight into the beneficiary’s specific role within these tasks.
- ☒ The job description must contain specific tasks which contain a percentage breakdown of the total day-to-day duties performed.
- ☒ These duties must be so unique and complex that only a person with a bachelor’s degree or its equivalent can fulfill.
- ☒ Has the beneficiary completed all the legally required training?
- ☒ Is the wage level in the LCA in line with the complexity required based on the job duties?
- ☒ The Wage Level must be in sync with the job code designation.
- ☒ Do the proffered position and the job title require complex duties and a bachelor’s degree in the Occupational Outlook Handbook (OOH)?
- ☒ Are the wage level on the LCA, Job Classification on O*NET, job description and degree requirements, coherent and consistent?
- ☒ Are the job advertisements provided to prove industry standard from the same or similarly sized companies and in the same industry?

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- ☒ Are the job ads for parallel positions and not of senior or junior positions?
- ☒ Do they all require minimum of a bachelor's degree in a specific specialty?
- ☒ Merely stating requirement of bachelor's degree is not enough; the complexity of tasks demonstrates whether or not the position requires a bachelor's degree.
- ☒ Clear details of other similarly situated employees must be provided to show the petitioner usually requires a bachelor's degree.
- ☒ The employee's position, job duties, and an explanation of how his/her bachelor's degree helps in executing those duties must be in the support letter.
- ☒ Is the letter provided by the end-client consistent with the entire petition, as well as additional documents submitted in the RFE response?
- ☒ Did the end-client provide the required information on the proffered position and the beneficiary's role?

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17. CHECKLIST FOR EVALUATORS

- ☒ Has the evaluator established that he/she is qualified to offer an evaluation?
- ☒ Does the Evaluator Statement contain the evaluator's education and professional experience?
- ☒ Does the statement establish the evaluator's authority on the Specialty Occupation through his/her education and professional experience related to the Specialty Occupation?
- ☒ Does the statement establish the authority of the evaluator? It cannot just to give an opinion but opinion on that particular proffered position?
- ☒ Has the evaluator checked the authenticity of the beneficiary's qualifications?
- ☒ The opinion must not be solely based on the information and job description provided by the petitioner. It must contain objective evidence, and contain a petitioner-specific investigation.
- ☒ The evaluator must show that his/her opinion is not just based on the information provided by the petitioner in the petition, but from thorough research and investigation on the proffered position.
- ☒ The opinion must also establish that the evaluator has knowledge on the employers' organization, its services, its employees and their qualifications and duties.
- ☒ It is also advised that the evaluator visit the worksite and study the proffered position, the duties required and the qualifications required to perform those duties.
- ☒ The evaluator must establish that he/she has a firsthand understanding of the proffered position and its requirements.
- ☒ The evaluator must ensure that when describing the duties, he/she merely does not reiterate the duties provided by the employer but provide an analysis of those duties, describing how they require a skill attained by a bachelor's degree or its equivalent.
- ☒ The complexity must be proved by an analysis and not by merely stating that the duties are complex.
- ☒ The opinion must ensure that the evaluator only reached a conclusion after a thorough analysis of the employers' organization, the kind of services provided, the employees, their qualifications and duties, the proffered position, the duties required, their complexity, and

that they require knowledge and skills that can only be attained by earning bachelor's degree or its equivalent in a specific field, and finally why is it that the beneficiary, through his/her educational qualifications, or other experience can perform these duties?

- ☒ Every conclusion reached must be supported by evidence
- ☒ The evidence must be clearly stated in the references.
- ☒ If the beneficiary is providing services to an End-Client, the opinion must establish that the evaluator studies the end-client's organizations, and the services to be rendered by the beneficiary.
- ☒ The Opinion must also establish the evaluator's analysis of the services to the end-clients' and how it is that they will to be provided by beneficiary.

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