

U.S. Department of Labor

Employment and Training Administration

Atlanta Processing Center

Harris Tower

233 Peachtree Street, Suite 410

Atlanta, GA 30303



July 16, 2010

WESTERN ILLINOIS UNIVERSITY
c/o Dunn, Willard, Arkell, Bugg &
Patterson, LLP
Thomas J. Arkell
1001 North Main Street, Suite A
Bloomington, IL 61701

ETA Case Number: A-08164-
MARIE
Alien's Name: K
Occupation: Assistant Professor of
Mathematics, 25-1022.00
Date of Acceptance for
Processing: June 12, 2008

Dear WESTERN ILLINOIS UNIVERSITY

The Department of Labor has made a determination on your Application for Permanent Employment Certification (Form ETA 9089) pursuant to 20 CFR §656.24 and as required by the Immigration and Nationality Act (INA), as amended.

Form ETA 9089 has not been certified. A certification cannot be issued as required by Section 212(a)(5)(A) of the INA, as amended. These reasons are outlined in the attachment "Reasons for Denial".

A request for review of this denial may be made to Board of Alien Labor Certification Appeals (BALCA) by the employer. When seeking review of this determination, the request must be in accordance with the following:

- The request for review must be in writing
- The request must clearly identify the particular labor certification determination from which review is sought
- The request must set forth the particular grounds for the request
- The request must include all the documents which accompany this Final Determination form
- The request for review, statements, briefs, and other submissions of the parties and amicus curiae must contain only legal argument and only such evidence that was within the record upon which the denial of the labor certification was based.
- The request must be mailed to the attention of the Certifying Office who denied the application within **30 calendar days** of the date of the determination.

If this application was denied because it was incomplete or because the employer did not submit documentation requested by the Certifying Officer to finalize review of the application by the date specified, the failure to provide the requested documentation in a timely manner constitutes refusal to exhaust available administrative remedies and the employer cannot request review of this denial with BALCA as outlined in §656.26.

Failure to request review within 30 calendar days, as specified in §656.26, constitutes a failure to exhaust administrative remedies. If a request for review is not made within 30 calendar days, the denial shall become the final determination of the Secretary. If an application for a labor certification is denied, and a request for review is not made in accordance with the procedures at §656.26(a) and (b), a new application may be filed at any time. *A new application in the same occupation for the same alien cannot be filed while a request for review is pending with the Board of Alien Labor Certification Appeals.*

Reconsideration may be requested any time within 30 days from the date of issuance of this denial. The Certifying Officer may, in his or her complete discretion, reconsider the determination or treat it as a request for review under §656.26(a).

Sincerely,

William Carlson
Certifying Officer

CC: WESTERN ILLINOIS UNIVERSITY
Enclosure: Reasons for Denial

Reasons for Denial

Case # A-08164-61012

Your Application for Permanent Employment Certification was not certified due to the following:

Denial Reason #1:

The employer failed to provide documentation as required in the Audit Notification Letter. Specifically, the employer failed to provide a statement signed by an official with actual hiring authority outlining in detail the complete recruitment procedures undertaken; and which set forth the total number of applicants for the job opportunity and the specific lawful job-related reasons why the alien is more qualified than each U.S. worker who applied for the job; and a final report of the faculty, student, and/or administrative body making the recommendation or selection of the alien. The report titled, "Applicant Pool Summery," [sic] was signed and dated by the Asst Equal Opportunity Officer, not the actual hiring authority and does not provide the required information.

AUTHORITY FOR DENIAL: Per 20 CFR 656.20(b), "a substantial failure by the employer to provide required documentation will result in that application being denied."

The employer is reminded that, as an alternative to an appeal, it has the option of correcting the information provided on the application for which the denial has been received and submitting a new application to the Atlanta National Processing Center for review.