

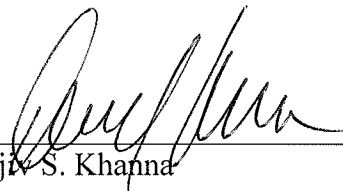
(d) Alternative procedure. An employer that cannot or does not choose to satisfy the special recruitment procedures for a college or university teacher under this section may avail itself of the basic process at Sec. 656.17. **An employer that files for certification of employment of college and university teachers under Sec. 656.17 or this section must be able to document, if requested by the Certifying Officer, in accordance with Sec. 656.24(a)(2)(ii),¹ the alien was found to be more qualified than each U.S. worker who applied for the job opportunity.** [Emphasis added]

The only clear conclusion that can be drawn from the regulations at §§ 656.17 and 656.24(b)(2)(ii)² is that a teaching position can be filled by the best-qualified candidate even if an employer chooses to use the basic process under Sec. 656.17.

The immigration bar and the employers look to BALCA for consistent interpretations of law. We respectfully submit that this matter be reconsidered and the portion of it that violates the regulations must be adjudicated according to law.

Thank you for your time and attention to this matter.

Sincerely,
Law Offices of Rajiv S. Khanna PC.

By: 
Rajiv S. Khanna

¹ The regulation Sec. 656.24(a)(2)(ii) does not exist. This is obviously a typographical error. The correct citation should be Sec. 656.24(b)(2)(ii).

² 656.24(b)(2)(ii) – “If the job involves a job opportunity as a college or university teacher, the U.S. worker must be at least as qualified as the alien.”