



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

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

In Re: 28650325

Date: NOV. 20, 2023

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (H-1B)

The Petitioner seeks to temporarily employ the Beneficiary under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both: (a) the theoretical and practical application of a body of highly specialized knowledge; and (b) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director of the California Service Center denied the petition, concluding that the record did not establish that establish the Petitioner's proffered job's duties required the theoretical and practical application of a body of highly specialized knowledge and that the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) providing that highly specialized knowledge was a minimum entry into the occupation in the United States. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

The Act at Section 214(i)(1), 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires: (A) the theoretical and practical application of a body of highly specialized knowledge, and (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) is a minimum for entry into the occupation in the United States.

The regulation at 8 C.F.R. § 214.2(h)(4)(ii) adds a non-exhaustive list of fields of endeavor to the statutory definition. And the regulation at 8 C.F.R. § 214.2(h)(4)(iii) requires that the proffered position must also meet one of the following criteria to qualify as a specialty occupation:

1. A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position.
2. The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
3. The employer normally requires a degree or its equivalent for the position; or
4. The nature of the specific duties [is] so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

The statute and the regulations must be read together to make sure that the proffered position meets the definition of a specialty occupation. *See K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988) (holding that construction of language which takes into account the design of the statute as a whole is preferred); *see also COIT Independence Joint Venture v. Fed. Sav. And Loan Ins. Corp.*, 489 U.S. 561 (1989); *Matter of W-F-*, 21 I&N Dec. 503 (BIA 1996). Considering the statute and the regulations separately leads to scenarios where a Petitioner satisfies a regulatory factor but not the definition of specialty occupation contained in the statute. *See Defensor v. Meissner*, 201 F.3d 384, 387 5th Cir. 2000). The regulatory criteria read together with the statute gives effect to the statutory intent. *See Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act*, 56 Fed. Reg. 61111, 61112 Dec. 2, 1991).

So we construe the term “degree” in 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position supporting the statutory definition of specialty occupation. *See Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007) (describing “a degree requirement in a specific specialty” as “one that relates directly to the duties and responsibilities of a particular position”). USCIS’ application of this standard has resulted in the orderly approval of H-1B petitions for engineers, accountants, information technology professionals and other occupations, commensurate with what Congress intended when it created the H-1B category.

And job title or broad occupational category alone does not determine whether a particular job is a specialty occupation under the regulations and statute. The nature of the Petitioner’s business operations along with the specific duties of the proffered job are also considered. We must evaluate the employment of the individual and determine whether the position qualifies as a specialty occupation. *See Defensor*, 201 F.3d 384. So a Petitioner’s self-imposed requirements are not as critical as whether the position the Petitioner offers requires the application of a theoretical and practical body of knowledge gained after earning the required baccalaureate or higher degree in the specific specialty required to accomplish the duties of the job.

By regulation, the Director is charged with determining whether the petition involves a specialty occupation as defined in section 214(i)(1) of the Act. 8 C.F.R. § 214.2(h)(4)(i)(B)(2). The Director may request additional evidence in the course of making this determination. 8 C.F.R. § 103.2(b)(8). In addition, a petitioner must establish eligibility at the time of filing the petition and must continue to be eligible through adjudication. 8 C.F.R. § 103.2(b)(1).

II. THE PETITIONER AND ITS PROFFERED JOB

The Petitioner is offering the Beneficiary the position of senior consultant – data analytics. The petition included a labor condition application (LCA) certified for a position located within the “Computer Systems Analysts” occupation category corresponding to the Standard Occupational Classification code 15-1121.00.¹ The proffered job appears to align with the duties of the “Computer Systems Analysts” occupational category. In its response to the Director’s request for additional evidence (RFE), the Petitioner submitted a brief in support to establish that the proffered position met all three of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) and referenced evidence submitted earlier in these proceedings.²

But the Petitioner’s requirements are incompatible with the statutory and regulatory framework of the H-1B program. The Petitioner’s acceptance of a bachelor’s degree from a wide variety of fields precludes the Petitioner from satisfying both the statutory and regulatory definition of specialty occupation. And the evidence the Petitioner has submitted into the record does not demonstrate that performance of the proffered job’s duties requires an individual with a bachelor’s degree in a specific related specialty, or the equivalent under any of the criteria contained at 8 C.F.R. § 214.2(h)(4)(iii).

III. SPECIALTY OCCUPATION

A. Wide and Disparate Acceptable Degree Field Range

The Petitioner inconsistently represented the minimum requirements for its senior consultant - data analytics position. The Petitioner asserts the minimum requirements for its senior consultant – data analytics position are a bachelor’s degree in computer science or an engineering degree with no specialization. It further contends that the stated “degree requirement ensure candidates have the knowledge, technical background and critical thinking skills to perform the job.” But the Petitioner also introduced evidence in the record which reflected “the knowledge, technical background and critical thinking skills” for the proffered job were held by data analytics consultants and architects on the team the Beneficiary would be assigned to with bachelor’s degrees in a vast range of fields such as computer science, information technology, finance, and economics.³

So the record of proceedings reflects the actual minimum requirements for the Petitioner’s proffered position to be a bachelor’s degree in computer science or engineering with no specialization, information technology, economics, and finance for entry into the proffered job.⁴ The Petitioner’s

¹ After the filing of the petition, the Department of Labor (DOL) Bureau of Labor Statistics (BLS) advised that the Computer Systems Analyst entry contained at Standard Occupational Code (SOC) 15-1121 had been discontinued. BLS replaced the Computer Systems Analyst entry with the Computer Systems Analyst entry described at SOC 15-1211.

² While we may not discuss every document submitted, we have reviewed and considered each one.

³ On appeal the Petitioner deemphasizes the Director’s conclusion that the proffered positions’ minimum requirements were wider than the range of fields the Petitioner presented, by noting the Director’s conclusion in this regard is “not the focus [of its] appeal.” Whilst the Petitioner has chosen to avert the focus of its appeal, we consider the Director’s conclusions worthy of further examination because they go directly to the matter of the Petitioner’s base eligibility under the statute and regulations.

⁴ And we need not therefore consider whether a requirement of an engineering degree without specification composes a specialty providing the theoretical and practical body knowledge required to perform the duties of a specialty occupation

inapposite representations constitute an inconsistency relevant to the core statutory eligibility requirements for H-1B classification. The Petitioner's grouping of computer science, engineering with no specialization, information technology, economics, and finance was not adequately supported in the record with evidence highlighting its composition as a singular specialty composing a body of highly specialized knowledge. So a position accommodating such a wide range of acceptable educational fields would not be considered specialized. *See Caremax v. Holder*, 40 F.Supp.3d 1182, 1187-88 (N.D. Cal. 2014) ("A position that requires applicants to have any bachelor's degree, or a bachelor's degree in a large subset of field, can hardly be considered specialized."). The record as it is presently composed does not establish how the Petitioner's degree field grouping could form a body of highly specialized knowledge or a specific specialty. The Petitioner's demonstrated acceptance of a bachelor's degree from the wide variety of fields contained in the evidence of record precludes the Petitioner from satisfying both the statutory and regulatory definition of specialty occupation.

The Petitioner's appeal includes an analysis of positional requirements (evaluation) to argue that the range of fields it requires for the position is not disparate, and that the fields constitute a specialty closely related together and with the duties of the position. As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). But an opinion statement has less weight where there is cause to question or doubt the opinion, or if it is not in accord with other information in the record. The submission of expert opinion letters is not presumptive evidence in any event. *Id.*; *see also Matter of V-K-*, 24 I&N Dec. 500, 502 n.2 (BIA, 2008).

The evaluation's writer formulated their opinion based on their professional qualifications and experience as a professor and director of computing and informatics at University [redacted] at [redacted] Louisiana. The writer states that they reviewed, amongst a list of materials, the support letter from the Petitioner submitted with the response documents to the Director's RFE. The writer lists the proffered job duties and attempts to establish the suitability of the Petitioner's required fields of computer science and any engineering degree without specialization to the proffered job's overall duties. In so doing, they focus on the "complexity and specialization of position and duties" and "degree requirement [commonality] for position and industry."

The Petitioner's reliance on this evaluation to support its argument that the range of fields of study it accepts is closely related is misplaced. The evaluation does not provide a strong enough basis to understand how the wide range of degrees accepted by the Petitioner are related to one another to form a body of specialized knowledge. Nor does it show how that body of specialized knowledge relates to the duties of the proffered job. So we have questions about the sufficiency of the writer's opinion because their conclusions are not in accord with information in the record. Specifically, the writer focuses their analysis on the suitability of degrees in computer science and degrees in engineering without specialization. But the writer's review of the Petitioner's support letter submitted in response to the Director's RFE would have advised them that the Petitioner's need for its "degree requirement [to] ensure candidates have the knowledge, technical background and critical thinking skills to perform the job" is satisfied by individuals with degrees in finance and economics. The writer makes no

as it is simply one field listed amongst a diverse range of degree fields the Petitioner apparently accepted for entry into their proffered position. The position's minimum education for entry amounts to nothing more than a token requirement when "[a]ll of Centric Consulting's Data Analytics consultants and architects possess bachelor's or higher degrees" in the variety of different fields listed earlier.

mention of, nor do they address, the Petitioner's acceptance of these additional degree fields. Nor does the writer sufficiently describe how the Petitioner's accepted degree fields mentioned in the record relate to one another such that they compose the base commonality of a specialty to perform the duties of the proffered occupation.

And the documentation supporting the writer's opinion presents inconsistent facts. The letter of [] [] dean of the graduate school, University of [] attests that the University of [] has "divisions that evaluate professional work experience for admission to graduate study." The materials present in the record and accompanying the writer's evaluation in support of this proposition consist only of web pages dated October 25, 2022. These web pages make no mention or allowance for the evaluation of work experience for appropriate credit for admission to graduate study. The copies of web pages in the record state the University of [] graduate school only "recognizes the appropriateness of accepting credits completed at another regionally accredited institution for coursework" equivalent to coursework at University of [] Whilst we held in *Chawathe* that the standard of proof in immigration proceedings is the preponderance of the evidence, the burden of proof is always on the petitioner. A petitioner's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion. *Matter of Y-B-*, 21 I&N Dec. 1136, 1142 n.3 (BIA 1998); *see also* the definition of burden of proof from *Black's Law Dictionary* (11th ed. 2019) (reflecting the burden of proof includes both the burden of production and the burden of persuasion). A petitioner must satisfy the burden of production. As the term suggests, this burden requires a filing party to produce evidence in the form of documents, testimony, etc. that adheres the governing statutory, regulatory, and policy provisions sufficient to have the issue decided on the merits. When, as here, a petitioner has not met the burden of persuasion by a preponderance of the evidence because its evidence is not material, relevant, or probative it follows that it has not demonstrated eligibility for the benefit that it seeks. And the materiality, relevance, and probity of the writer's opinion is meaningfully undercut upon identification of the inconsistency in [] letter and the supporting web page documentation present in the record. So the evaluation is not probative, and we decline to assign it any significant evidentiary weight.

Whilst there is no requirement in the statute for the required education to consist of one specific degree or major there must be a close relation between the required specialized studies to constitute a common "specialty" and that "specialty" must be related to the duties of the position as supported by the case law cited by the Petitioner in its appeal. When a petitioner would accept a bachelor's degree from a wide variety of seemingly unconnected fields, like the range of fields the Petitioner presents here, it cannot establish that the fields constitute a "specialty" if it does not establish how each accepted and specific field of study is directly related to each another and to the duties and responsibilities of the particular position. The record as it is currently constituted does not support a conclusion that the Petitioner's mass grouping of degree-fields is sufficiently narrow to conclude that it comprises a "specialty" requires to perform the duties of the "specialty occupation."

B. The Petitioner's Additional Assertions on Appeal Regarding Eligibility Under the Four Criteria Contained at 8 C.F.R. § 214.2(h)(4)(iii)(A).

The Petitioner asserts on appeal that the Director erred in concluding the Petitioner did not establish its proffered position is a specialty occupation pursuant to the regulations at 8 C.F.R.

§ 214.2(h)(4)(iii)(A). We disagree. We cannot conclude that the proffered position's minimum requirement for entry into the job is anything more than a general bachelor's degree for the above stated reasons and the Petitioner has not satisfied the statutory definition of a "specialty occupation" at section 214(i)(1)(B) of the Act nor the regulatory definition of a specialty occupation at 8 C.F.R. § 214.2(h)(4)(ii). Without the express requirement of a baccalaureate or higher degree providing the theoretical and practical application of a body of highly specialized knowledge, the supplemental regulatory criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1)-(4) cannot be satisfied. The supplemental regulatory criteria are read together within the related regulations and the statute as a whole. So, where the regulations refer to the term "degree," we interpret that term to mean a baccalaureate or higher degree in a specific specialty related to the proffered position. See *Royal Siam*, 484 F.3d at 147. The word "degree" is mentioned in each prong of the supplemental regulatory criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1)-(4). And where, as here, a baccalaureate or higher degree in a specific specialty is not required as a minimum requirement of entry, it follows that each prong under 8 C.F.R. § 214.2(h)(4)(iii)(A)(1)-(4) remains unsatisfied. So we are not required to consider the Petitioner's arguments and the evidence it submits in support of its contention that it satisfies the supplemental regulatory criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1)-(4).

But, even if we set aside the base statutory ineligibility we have already discussed, we would still conclude upon examination of the Petitioner's assertions and evidence in the record before us that its proffered position is not a specialty occupation under the supplemental regulatory criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1)-(4).⁵

1. A baccalaureate or higher degree or its equivalent is not the normal minimum requirement for entry into the Petitioner's proffered position. 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

The Petitioner's proffered job does not qualify as a specialty occupation under the first criterion of the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1). The regulations require a bachelor's or higher degree in a specific specialty as a threshold for entry into the proffered position. The Petitioner selected the computer systems analyst position contained at Standard Occupational Code (SOC) 15-1121 of DOL BLS' Occupational Information Network (O*NET).⁶ The corresponding entry in DOL's *Occupational Outlook Handbook (Handbook)* related to the computer systems analyst job classification reports "[c]omputer systems analysts typically need a bachelor's degree in computer and information technology or a related field, such as mathematics."

See Bureau of Labor Statistics, U.S. Dep't of Labor, *Occupational Outlook Handbook*, Computer Systems Analysts (Sept. 6, 2023), <https://www.bls.gov/ooh/computer-and-information-technology/computer-systems-analysts.htm>. We fully acknowledge the data contained in the *Handbook*. But the Petitioner's requirements are diverse compared to those included in the *Handbook*. The Petitioner's actual minimum requirements of a bachelor's degree in computer science, any engineering field without specialization, economics, and finance are broader than those contained in the *Handbook*. The Petitioner's broader degree field requirements do not identify a specific discipline

⁵ The Petitioner did not rebut the Director's conclusions with respect to 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) (first prong – common industry practice) or 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

⁶ After the filing of the petition, the DOL BLS advised that the Computer Systems Analyst entry contained at Standard Occupational Code (SOC) 15-1121 had been discontinued. BLS replaced the Computer Systems Analyst entry with the Computer Systems Analyst entry described at SOC 15-1211.

or specialty cognizable from the degree grouping required to perform the duties of the occupation. The Petitioner's reliance on the *Handbook* is therefore misplaced. The computer systems analyst entry in the *Handbook* does not support a conclusion that the Petitioner's proffered job normally requires at least a bachelor's degree in a specific specialty, or its equivalent as a minimum requirement for entry.

2. The Petitioner's proffered job does not qualify as a specialty occupation under the second alternate prong of the second criterion or the fourth criterion of the regulations. 8 C.F.R. §§ 214.2(h)(4)(iii)(A)(2) and (A)(4).

The Petitioner's proffered job does not qualify as a specialty occupation under the second alternate prong of the second criterion or the fourth criterion of the regulations at 8 C.F.R. §§ 214.2(h)(4)(iii)(A)(2) and (A)(4). The second criterion presents two, alternative prongs: (A) the degree requirement is common to the industry in parallel positions among similar organizations; or (B) the employer's particular position is so complex or unique that it can be performed only by an individual with a degree. The first prong, concerned with common industry practice is satisfied when the Petitioner establishes that its degree requirement is common to the industry in parallel positions among similar organizations. The Petitioner here states that its appeal does not focus on the first prong of the second criterion and we will not address it further.

The Petitioner does claim that its proffered job is a specialty occupation under the second alternate prong of the second criterion. That alternative prong of the second criterion is satisfied if the Petitioner shows that its particular position is so complex or unique that it can be performed only by an individual with a bachelor's degree in a specific specialty related to the duties of the proffered position or its equivalent. The fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4) requires a petitioner to establish that the nature of the specific job duties is so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent.

The Petitioner contends its particular position is more complex or unique than a "prototypical" computer systems analyst on three bases. First, it asserts the role has a data analytics focus requiring the use of "sophisticated processes and cutting-edge technologies." It specifically identifies "SQL/TSQL/PL/SQL," "Agile," and "Mainframe" as the technologies its incumbent will utilize. Second, it purports the "consulting nature" of its proffered position "sets a higher bar than most" for computer system analysts. Finally, it advances the proposition that the "cross-over" between the industry team (insurance) and its service offering (data analytics) elevates the position's complexity or uniqueness.

The Petitioner, by Counsel and through its support letter submitted with the response documents to the Director's RFE, grounds its assertions in its original and expanded job duties. But the sole function served by the Petitioner and its Counsel's assertions in the support letter and brief is a recitation of its proffered position's duties. The record does not contain any additional supporting documentation or evidence that would highlight or substantiate its claims of complexity or uniqueness. For example, the record does not contain evidence supporting the complexity or uniqueness in the use of "SQL/TSQL/PL/SQL," "Agile," or "Mainframe" in the performance of computer system analyst duties. Similarly, the record does not support the assertion that a consulting component elevates the

complexity or uniqueness of a position. When viewed in the context of the ubiquity of consulting professionals in the corporate, academic, and public sector the Petitioner's assertion elevating the function of consulting without specific or contextual evidence in the record is viewed weakly. And the record does not sufficiently explain how the performance of computer system analyst duties involving data analytics for insurance clients is complex or unique to performing those duties for any of the Petitioner's other clients.

Unlike the second prong of the second criterion contained at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) where complexity or uniqueness is considered disjunctively, the fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4) requires a petitioner to demonstrate its proffered job duties are both complex and specialized. Again the Petitioner submits no more than a recitation of the job duties and their expansion submitted in response to the Director's RFE to substantiate its claim that the job duties in its proffered position are specialized and complex in combination with reference to O*NET and *Handbook* entry for computer systems analysts.⁷ The Petitioner emphasizes the use of the word "complex" in the O*NET and *Handbook* entries, but does not mention its placement. For example, in the *Handbook*, DOL BLS utilizes the word "complex" to describe the important qualities of an incumbent *individual* in the computer systems analyst category. But the requirements of the regulation refer to job *duties* which are "complex" not the capabilities of individuals to "interpret complex information" or "explain complex issues." The record does not sufficiently describe how the Petitioner's proffered senior consultant – data analytics job presents complex information to interpret or complex issues to explain. And, even if the record did reflect complex duties, we would still conclude that the Petitioner did not meet this criterion because the record does not demonstrate how those complex duties are also conjunctively specialized as required by the regulation. For example, the record does not sufficiently describe how the duties performed in consulting on data analytics in the insurance industry requires any or more specialization than consulting in any other industry.

And whilst the Petitioner asserts that the "specialized and complex nature of the Sr. Consultant – Data Analytics' duties" require a bachelor's degree or higher in computer science, any engineering degree without specialization, or a related field for the role, the Petitioner states in its support letter submitted in response to the Director's RFE that it has employed individuals with degrees in finance and economics to fill the role it is offering to the Beneficiary. The Petitioner does not sufficiently acknowledge or explain in the record how the individuals it identifies with finance and economics degrees functioning in the role it proffered to the Beneficiary attained the "knowledge, technical background, and critical thinking skills to perform the job" that it asserts requires a bachelor's degree in computer science, engineering without specialization, or a related field to perform duties of a specialized and complex nature.

So the record lacks sufficient unambiguous information to set the Petitioner's senior consultant – data analytics position as more "complex or unique" or its duties "specialized and complex" from positions that do not require at least a bachelor's degree in a specific specialty or its equivalent to perform the duties of the Petitioner's officer job. Thus the Petitioner has not satisfied the second alternative prong

⁷ In their Decision, the Director concluded the Petitioner did not meet this criterion. We disagree with the Director's rationale for concluding the Petitioner did not meet the criterion. Nevertheless we agree with the Director's ultimate decision that the Petitioner did not demonstrate eligibility under the criterion. Upon exercise of our authority pursuant to our de novo review of this matter, we considered the assertions and evidence the Petitioner introduced previously and on appeal and do not find them persuasive for the reasons set forth herein.

of the second criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) or the fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

III. CONCLUSION

We conclude that the proffered position here is not a specialty occupation because the Petitioner's stated range of acceptable degree fields is too broad to constitute a single specialty required to accomplish the duties of proffered job. The record of proceedings does not establish that the proffered position requires both: (1) the theoretical and practical application of a body of highly specialized knowledge; and (2) the attainment of a bachelor's degree in the specific specialty. The Petitioner has satisfied neither the statutory definition of a "specialty occupation" at section 214(i)(1)(B) of the Act nor the regulatory definition of a specialty occupation at 8 C.F.R. § 214.2(h)(4)(ii). As the Petitioner had not satisfied that threshold requirement, it cannot satisfy any of the supplemental specialty-occupation criteria enumerated at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1)-(4). The Petitioner has not established that the proffered position is a specialty occupation.

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has not met that burden.

ORDER: The appeal is dismissed.