



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

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

In Re: 34242963

Date: DEC. 19, 2024

Appeal of California Service Center Decision

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

The Petitioner is a consulting firm that seeks to temporarily employ the Beneficiary as a “Coordinator (Cell Operations)” 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 file a petition with U.S. Citizenship and Immigration Services (USCIS) 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 California Service Center Director denied the Form I-129, Petition for a Nonimmigrant Worker (petition), concluding the record did not establish that the proffered position qualified as a specialty occupation. The matter is now before us on appeal. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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. LEGAL FRAMEWORK

Section 101(a)(15)(H)(i)(b) of the Act defines an H-1B nonimmigrant as a foreign national “who is coming temporarily to the United States to perform *services . . . in a specialty occupation* described in section 214(i)(1) . . . .” (emphasis added). Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term “specialty occupation” as an occupation that requires “theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor’s or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.” The regulation at 8 C.F.R. § 214.2(h)(4)(ii) largely restates section 214(i)(1) of the Act, but adds a non-exhaustive list of fields of endeavor.

In addition, 8 C.F.R. § 214.2(h)(4)(iii)(A) provides that the proffered position must meet one of four criteria to qualify as a specialty occupation position. 8 C.F.R. § 214.2(h)(4)(iii)(A) must be read with the statutory and regulatory definitions of a specialty occupation under section 214(i)(1) of the Act

and 8 C.F.R. § 214.2(h)(4)(ii). We construe the term “degree” to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proposed position. *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”). Lastly, 8 C.F.R. § 214.2(h)(4)(i)(A)(I) states that an H-1B classification may be granted to a foreign national who “*will perform services in a specialty occupation . . .*” (emphasis added).

Accordingly, to determine whether the Beneficiary will be employed in a specialty occupation, we look to the record to ascertain the services the Beneficiary will perform and whether such services require the theoretical and practical application of a body of highly specialized knowledge attained through at least a bachelor’s degree or higher in a specific specialty or its equivalent.

A job title or broad occupational category alone does not determine whether a particular job is a specialty occupation under the regulations and statute. We also consider the nature of the Petitioner’s business operations along with the offered position’s specific duties. We must evaluate the employment of the individual and determine whether the position qualifies as a specialty occupation. *See Defensor v. Meissner*, 201 F.3d 384 (5<sup>th</sup> Cir. 2000). So, a Petitioner’s self-imposed requirements are not as critical as whether the position they offer requires the application of a theoretical and practical body of knowledge gained after earning the required baccalaureate or higher degree in the specific specialty necessary to accomplish the job’s duties.

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 that 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. ANALYSIS

### A. Background

When it filed the petition, the Petitioner provided the position’s duties and stated the following position requirements:

The position of Coordinator (Cell Operations) requires that the incumbent possess a bachelor’s degree or higher in Communications, Social Work, or other relevant social sciences field. Without this qualification, it would be virtually impossible for the Coordinator (Cell Operations) to perform the sophisticated analysis inherent in the position described above.

The Petitioner also noted the Beneficiary’s “Master of Social Work degree” and her equivalent of a Bachelor of Arts degree in Education qualified her to occupy the position. The Petitioner provided the Beneficiary’s master’s degree and accompanying transcripts, but no evidence for the referenced bachelor’s degree. On the U.S. Department of Labor’s (DOL) ETA Form 9035 & 9035E, Labor Condition Application for Nonimmigrant Workers, (LCA) the Petitioner classified the offered position

under the General and Operations Managers 11-1021 standard occupational classificational (SOC) code.

The Director issued a request for evidence (RFE) in part because the Petitioner did not demonstrate the position qualified as a specialty occupation, as the petitioning organization did not demonstrate the stated duties required a bachelor's degree or higher or its equivalent in a specific specialty to perform them.

In response, the Petitioner provided additional information relating to the duties and restated previous claims that the Beneficiary's master's degree would be leveraged in performance of the position's duties. Although the Director did not raise this issue, in the RFE response the Petitioner appears to have amended its position prerequisites. Within the initial filing, the Petitioner mandated a bachelor-level degree, but subsequently stated that the coursework the Beneficiary completed "indicat[ed] that the qualitative skills acquired through this master's level coursework is required in the capacity of Coordinator (Cell Operations). The beneficiary's coursework towards earning a Master of Social Work degree underscores the strong connection between the responsibilities inherent in the role and the completion of a degree in a specific specialty." This inconsistent divergence alone—is not adequately explained and ameliorated through adequate evidence—is sufficient to preclude this petition's approval. *See Matter of Ho*, 19 I&N Dec. 582, 591–92 (BIA 1988).<sup>1</sup>

The Petitioner attempted to draw a connection between the Beneficiary's coursework while attaining her master's degree and some of the duties, essentially indicating the human behavioral knowledge attained from a Master of Social Work could be applied to contract negotiations and to deliver training on vendor supplier management best practices. The Petitioner also claimed this same coursework could be applied to analyze market trends and identify opportunities for cost savings, process improvements, and innovation within the supplier management function.

The Director denied the petition noting the focus of whether a position qualifies as a specialty occupation is not based on a foreign national's education or skill set. Instead, the Director stated the focus should be on "whether the duties of the proffered position require the theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent." They also observed that the Petitioner did not offer evidence that it had ever required any education for the offered position. But the Director's primary basis in the denial focused on the Petitioner's social sciences requirement. The Director decided this requirement was overly broad and lacked sufficient specificity stating:

Social science is an extremely broad category that includes numerous and varied specialties such as sociology, anthropology, political science, history, economics, psychology, geography, linguistics, archeology, and gender studies.

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<sup>1</sup> An increase in the position's education prerequisites to a master's degree would likely also require a wage level increase on the LCA, which could call into question whether the Petitioner will compensate the Beneficiary at a sufficient wage level. An adverse determination in that area could result in the conclusion that the Petitioner has not established that the LCA corresponds with and supports the petition, which is an antecedent issue when compared to the offered position qualifying as a specialty occupation.

Since there must be a close correlation between the required “body of highly specialized knowledge” and the position, a minimum entry requirement of a bachelor’s degree in disparate fields of study, such as “other relevant social sciences field,” would not meet the requirement that the position requires the theoretical and practical application of a body of highly specialized knowledge and attainment of a bachelor’s degree or higher in a specific specialty, or its equivalent, unless you establish how each field is directly related to the duties and responsibilities of the particular position (stated another way, how each field relates to the body of highly specialized knowledge required to perform the job). That is, you would allow seemingly disparate fields of study such as psychology, geography, linguistics, archeology, and gender studies to qualify for the proffered position. You have not explained how any and all of these fields are directly related to the duties of the position.

The Director did not state that the Petitioner’s acceptance of a bachelor’s degree in relevant social sciences fields would preclude this petition’s approval. Instead, the issue was the petitioning organization’s failure to describe how each of the wide set of fields comprising the broad academic category of social sciences were directly related to the position’s duties and responsibilities. Finally, the Director addressed the opinion letter from a professor and indicated he also did not adequately address the issue of the disparate fields the Petitioner would accept to qualify for the position.

The Petitioner divides its appellate arguments into the following sections that we will address below:

- Misinterpretation of the minimum requirements of the role requiring a bachelor's degree or higher or its equivalent in a specific specialty;
- Mischaracterization of relevant social science fields in contradiction to provided expert letter;
- Wrongly dismissive of DOL’s Occupational Information Network website as a source of relevant and probative evidentiary value; and
- The position requires at least a bachelor’s degree in a specific field of study that is directly related to the position being offered.

The Petitioner’s arguments in the last bullet focuses on some of the regulatory criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A). The Director did not include discussion of those requirements in the denial, and it is unnecessary that we address the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1)–(4) in this appeal.

## B. Possibly Disparate Fields Requirements

When a filing party states that a degree in one of several disparate fields is sufficient for the position, there is additional information they must provide to demonstrate the position satisfies the definition of a specialty occupation. In general, provided the specialties are closely related, a minimum of a bachelor’s or higher degree in more than one specialty is recognized as satisfying the “degree in the specific specialty (or its equivalent)” requirement of section 214(i)(1)(B) of the Act. In such a case, the required “body of highly specialized knowledge” would essentially be the same.

Since there must be a close correlation between the required “body of highly specialized knowledge” and the position, however, a minimum entry requirement of a degree in two disparate fields, such as philosophy and engineering, would not meet the statutory requirement that the degree be “in *the*

specific specialty (or its equivalent),” unless the Petitioner establishes how each field is directly related to the duties and responsibilities of the particular position. Section 214(i)(1)(B) of the Act (emphasis added). Federal courts have recognized this requirement. In *Caremax, Inc. v. Holder*, 40 F.Supp.3d 1182, 1187–88 (N.D. Cal. 2014), the court stated: “A position that requires applicants to have any bachelor’s degree, or a bachelor’s degree in a large subset of fields, can hardly be considered specialized.” *See also Taylor Made Software, Inc. v. Cuccinelli*, 453 F. Supp. 3d 237, 243–44 (D.D.C. 2020).

While the statutory “the” and the regulatory “a” both denote a singular “specialty,” we do not so narrowly interpret these provisions to exclude positions from qualifying as specialty occupations if they permit, as a minimum entry requirement, degrees in more than one closely related specialty. *See* section 214(i)(1)(B) of the Act; 8 C.F.R. § 214.2(h)(4)(ii). This also includes even seemingly disparate specialties providing, again, the evidence in the record establishes how each acceptable, specific field of study is directly related to the position’s duties and responsibilities.

Below, we explain that the types of degrees the Petitioner would accept for the position in this petition both lacks sufficient specificity on their part, and due to their imprecise presentation, it appears they would accept a degree in a wide number of fields that are not related to the position’s duties. Our determination relating to disparate fields should not be misinterpreted to mean that the specialized study should be in a single academic discipline.

Now to the Petitioner’s appellate claims.

### C. Director’s Interpretation is Contrary to the Regulation and USCIS Policy

#### 1. Misinterpretation of the Minimum Requirements of the Role

The Petitioner begins their appellate arguments stating:

The Service’s interpretation of what constitutes a degree in a specific specialty is overly narrow and misconstrues the fact that experience with our operations and suppliers is necessary in the role to mean that this is the only minimum requirement, and that a bachelor’s degree or higher or its equivalent in a specific specialty is not required.

It appears the Petitioner is responding to one portion of the Director’s decision in which they indicated: “The duties as described appear to require experience with your operations and your suppliers. The duties do not require a bachelor’s degree or higher or its equivalent in a specific specialty.” Because the Petitioner did not express that the position required any number of years of experience, and because the Director did not make a definitive statement regarding an experience requirement, this does not appear to be an issue that we need to address further.

The Petitioner then claims they specified what social sciences fields were relevant to the position’s duties before the Director. But in this section of the appeal brief the Petitioner does not state what information it provided to USCIS reflecting it limited the number of social science fields. Nor do they indicate at what point in the process they offered this detailed information to the Director. A review of the Petitioner’s and their counsel’s statements before the Director do not reveal that they narrowed

their acceptable social sciences fields. The Director listed some, but not all, of the fields comprising the social sciences as “sociology, anthropology, political science, history, economics, psychology, geography, linguistics, archeology, and gender studies.” We do not agree with the Petitioner that before the Director, they explained what social sciences fields were relevant.

And the Petitioner closes out this discussion again focusing on whether a candidate for the position must have knowledge of its operations and suppliers, which was not a basis for the Director’s adverse decision so we will not address this aspect any further.

## 2. Mischaracterization of Relevant Social Science Field in Contradiction to Opinion Letter

Next, the Petitioner discusses the opinion letter from [redacted] Professor, Finance and Economics” at [redacted]. The professor stated his expertise is in “Finance, Economics, Accounting, Strategic Management, Business Communications, and related areas.” He did not indicate any special knowledge relating to the broad category of social sciences or any of the disciplines within that area. Without further clarification, it is unclear how his qualifications would translate to expertise regarding an organization’s position prerequisites when they involve the social sciences.

This detriment comes into play in the professor’s letter when he concludes that the disciplines the Petitioner identified as its acceptable prerequisites “offer formal training in effective communication with a wide range of audiences. Additionally, coursework in these fields teach students how to document interactions at a high level of detail should there be a need to revisit conversations in the future, for example to clarify misunderstandings about software use or licensing.” Also, the record does not contain any evidence such as surveys, research, etc. to substantiate the professor’s opinion in an area where he does not appear to hold expertise. The Petitioner has not demonstrated any social sciences expertise on the professor’s part. Therefore, his qualifications to meaningfully weigh in on issues related to the social sciences adversely affects the opinion’s probative value.

Even if we were to set that shortcoming aside, the professor does not state or otherwise indicate what fields are the “other relevant social sciences field[s]” that the Petitioner specified as possible position prerequisites. This further diminishes his opinion’s evidentiary value. USCIS may, in its discretion, treat evaluations submitted as expert testimony as only advisory opinions. *Matter of Caron Int’l, Inc.*, 19 I&N Dec. 791, 795 (Comm’r 1988). And where an opinion is in any way questionable, we are not required to accept it, or we may give less weight to it. *Id.* Ultimately, we agree with the Director’s assessment regarding this letter that it does little to aid the Petitioner in establishing its position and its requirements—as presented—satisfy the statutory and regulatory definitions of a specialty occupation.

## 3. USCIS was Dismissive of the DOL’s Occupational Information Network

Here, the Petitioner argues that USCIS claims that the Occupational Information Network (O\*NET) website does not demonstrate that a bachelor’s degree in any specific occupation is required, and thus does not demonstrate that the position designated is in a specialty occupation. Following the O\*NET discussion, the Petitioner asserts that federal courts “have routinely rejected the position that in order

to qualify as a specialty occupation for H-1B visa purposes, the degree must be in a specific academic major or have a specific title.”

When discussing the O\*NET, the Director noted that this resource classified the General and Operations Managers SOC code within job zone four. The Director noted that although this indicated a position in that zone requires considerable preparation, it does not demonstrate that positions within that zone are specialty occupations because a job zone four designation only signifies “that most but not all of the occupations within it require a bachelor’s degree. Further, there is no evidence that a Job Zone Four occupation requires particular majors or academic concentrations.”

Moving to the Petitioner’s opinion that the Director required the degree to be “in a specific academic major or have a specific title,” that was not an element within the denial decision. The Petitioner further cites to multiple district court cases to support the position that the statute and the regulation do not require that an offered position mandate that one single field of study may qualify a candidate to perform in it. As we state above, as long as the specialties are closely related, a minimum of a bachelor’s or higher degree in more than one specialty is recognized as satisfying the “degree in the specific specialty (or its equivalent)” requirement of section 214(i)(1)(B) of the Act.

We disagree with the Petitioner’s contention that the Director required that a specialty occupation cannot allow for degrees in multiple fields of study. Rather, the Director indicated that if the fields are not sufficiently related, the Petitioner must explain how those various fields relate to the duties to form together the numerous acceptable disciplines as a body of highly specialized knowledge. This should clarify to the petitioning organization that USCIS does not require that the degree must be in a specific academic major or have a specific title.

#### D. Requirement for a Bachelor’s Degree in a Specific Field of Study that is Directly Related to the Offered Position

Under this portion in the appeal brief, the Petitioner addresses the four criteria (8 C.F.R. § 214.2(h)(4)(iii)(A)(1)–(4)). Above, we noted that we would not directly address the four criteria as they were not a basis in the Director’s denial. But we will address a brief portion of the Petitioner’s arguments from this part of their appeal brief when they reference the wide number of fields the Director indicated were overly broad and prevented the organization from demonstrating the position met the definition of a specialty occupation based on their education requirements.

In this section, the Petitioner discusses some of the position’s responsibilities then challenges the Director’s application of multiple social sciences fields to their own statement that they would accept a candidate for the position who held at least a bachelor’s degree in “Social Work, or other relevant social sciences field.” To revisit, the Director stated: “Social science is an extremely broad category that includes numerous and varied specialties such as sociology, anthropology, political science, history, economics, psychology, geography, linguistics, archeology, and gender studies.” Addressing that in the appeal, the Petitioner states:

[I]n asserting that sociology, anthropology, political science, history, economics, psychology, geography, or linguistics qualify the requirement for entry, the Service ignores these limiting demands. While such fields may contain an aspect of people

relationship management or an aspect of data driven processes, they do not contain both simultaneously, and thus fail to be a relevant social science field.

It is not until the appeal that the Petitioner offers some insight into what limits it would apply when considering what social sciences fields it would find relevant. But even now at the appellate stage they have not offered a direct statement on what social science fields they would accept as “relevant”; only that they consider a relevant social science field to be one that encompasses both “people relationship management” and “data driven processes.” Without stating the specific fields it would find acceptable, the Petitioner has not provided USCIS with the information necessary to make a favorable determination. That failure means the petitioning organization has not met its burden of proof to demonstrate eligibility, and that burden includes 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). Here, the Petitioner has not produced information sufficient to demonstrate its position satisfies the definition of a specialty occupation.

Next, the Petitioner offers additional information it now applies to the position, where in the initial filing statement they listed these attributes under the Beneficiary’s qualifications, and in their RFE response they provided similar information but in that context the organization stated the Beneficiary’s master’s degree provided her with these attributes. Now in the appeal, the Petitioner states:

These functions would necessarily require the prior completion of at least a bachelor’s degree in Communications, Social Work, or other relevant social sciences fields that provided a background in effective communication, problem solving, rigorous research, precise data collection and analysis, adept people relationship management, cultural proficiency, and engagement strategies to facilitate judicious decision-making, skills which the above job duties demand. Furthermore, these skills make up the people relationship management and data driven operational management know-how that are the basis of the specialized knowledge needed in this role, and that are nurtured and perfected through the study of Communications, Social Work, or other relevant social sciences fields.

So, before the Director, the Petitioner applied these characteristics to the Beneficiary and stated they qualified her for the position, but now on appeal they have amended their claim to indicate that the position demands those same skills. This appears to be a material change to the Petitioner’s claims as they did not previously state the position required such skills, nor did they place any limits on what it considered to be a relevant social science field. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Assoc. Comm’r 1998).

And we close noting that it is not until now, at the appellate stage, that the Petitioner states what social science fields it does not consider to be relevant. Immediately after listing the skills in the above quote, the Petitioner states:

More specifically, they are not skills that are fully encompassed in the sociology, anthropology, political science, history, economics, psychology, geography, or linguistics fields that USCIS attempts to classify as other relevant social sciences fields.



Even though the Petitioner has indicated what social science fields it does not consider to be relevant, it still has not stated what specific social science fields it does find relevant other than a bachelor's degree in social work. And we note they did not eliminate their acceptance of other social science fields the Director listed to include archeology and gender studies. We further observe that the Director did not present every field that comprises the social sciences category as their list was only a sampling, and more fields exist that the Petitioner has not eliminated from its acceptable position qualifications.

In summary, a minimum threshold entry of a bachelor's degree from a wide variety of seemingly unconnected fields the Petitioner included in its position requirements cannot support a specialty occupation claim unless the grouping of fields is directly related to each other and to the offered position's duties and responsibilities such that it constitutes a "specialty." The fields comprising the social sciences category constitute a wide variety of unconnected fields that are not related to one another and to the duties of the position in a manner that constitutes a specialty.

### III. CONCLUSION

The appeal will be dismissed for the above stated reasons, with each considered an independent and alternative basis for the decision. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden.

**ORDER:** The appeal is dismissed.