U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34892301

Date: NOV. 22, 2024

Appeal of California Service Center Decision

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

The Petitioner seeks to 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,[1] concluding the record did not establish that the Petitioner's proffered job qualified as a specialty occupation under section 101(a)(15)(H)(i)(b) of the Act and the Department of Labor (DOL) certified labor condition application (LCA) did not correspond to the Petitioner's proffered job.[2] The matter is now before us on appeal pursuant to 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

"Specialty Occupation" is defined 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) as a minimum for entry into the occupation in the United States. *See* section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1).

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[1] On September 5, 2024, after the filing of this appeal, the Director re-issued their decision. The regulations do not permit the Director to reopen a matter after the filing of an appeal unless they intend to reverse course to issue a favorable decision. *See* 8 C.F.R. § 103.3(a)(2)(iii). So, the decision dated September 5, 2024 should be withdrawn to ensure our decision today is the final administrative action in this matter.

[2] Upon de novo review we conclude the relevant evidence in the record sufficiently described the job duties with enough specificity to establish that the proffered job duties are contained in the job category listed in the LCA and therefore the LCA corresponds to the proffered job. As the resolution of the remaining issues is dispositive of the Petitioner's appeal, further analysis of this serves no legal purpose.

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)(A) 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.

USCIS analyzes the employer's prior practice, as well as the industry norm for parallel positions, to assure that a petitioner's requirements do not merely state a degree requirement or its equivalent in a specific specialty when such a degree is not actually required to perform the proffered job duties. *See Matter of Caron International, Inc.*, 191 I&N Dec. 791, 793-794 (BIA 1988) The burden of proof to establish eligibility under the statute and regulation is squarely a petitioner's alone. *See Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 145 (1st Cir. 2007) ("The burden of proving that a particular position comes within this taxonomy (and thus qualifies as a specialty occupation) is on the applicant.").

Moreover, 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 a 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 v. Meissner*, 201 F.3d 384 (5th Cir. 2000). So, a petitioner's self-imposed requirements are not as critical as whether the nature of the offered position requires the application of a theoretical and practical body of knowledge gained from earning the required baccalaureate or higher degree in the specific specialty (or its equivalent) required to accomplish the duties of the job.

The statute and regulations must be read together to ensure 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 could lead to scenarios where a petitioner satisfies a regulatory factor, but not the definition of specialty occupation contained in the statute. *See Defensor*, 201 F.3d at 387. 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 or its equivalent, but one in a specific specialty that is directly related to the proffered position supporting the statutory definition of specialty occupation or its equivalent. *See Royal Siam*

Corp., 484 F.3d at 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, certified public accountants, information technology professionals, and other occupations commensurate with what Congress intended when it created the H-1B category.

II. ANALYSIS

A. Background

The Petitioner filed the Form I-129, Petition for Nonimmigrant Worker, on the Beneficiary's behalf seeking a determination that its program manager position is a specialty occupation under section 214(i)(1) of the Act so that the Beneficiary could be admitted to the United States and undertake the proffered position in H-1B classification at multiple locations within a commutable distance in the State of New York. The Petitioner describes itself as a "not-for-profit provider of quality services for children and adults with psychological, behavioral, or neurological treatment needs." Its operations include psychiatric hospitals, residential treatment centers, group homes, respite care, supported living, foster care, special education, and vocational education. The Petitioner described the program manager's job duties to encompass responsibility "for assisting in the planning, coordination and implementation of [its] rehabilitative residence program" and overseeing "the "planning, implementation, and documentation of programs designed to meet the social, emotional, physical, and personal needs" of individuals.

After review of the initial petition, the Director determined that the initial evidence in the record reflected a disparate range of baccalaureate degree fields unconnected with one another and the duties of the proffered job such that the range could constitute a specialty required to perform the proffered job duties. So, they issued a request for evidence (RFE) directing the Petitioner to demonstrate its proffered program manager position was a specialty occupation as described in the statute and applicable regulations.

In response, the Petitioner submitted expanded job duties, an expert opinion position analysis evaluation, a copy of Fed. R. Evid. 703, a copy of the "Rehabilitation Counselor" entry in the DOL's *Occupational Outlook Handbook* (*Handbook*), job postings advertising purportedly similar roles with other U.S. employers, a listing of fields of study that can be categorized as human services, the Beneficiary's educational documentation and credentials, and a representative sample of educational documents from other program managers at the Petitioner's organization.

As stated above, the Director denied the petitioner based on their determination that the record did not establish the Petitioner's proffered job qualified as a specialty occupation under section 101(a)(15)(H)(i)(b) of the Act. We agree.

B. Specialty Occupation - Wide and Disparate Acceptable Degree Field Range

We conclude that the Petitioner's acceptance of a bachelor's degree from the wide variety of fields it specifies precludes the Petitioner from satisfying both the statutory and regulatory definition of specialty occupation. The record of proceedings reflects that the Petitioner would accept a bachelor's

degree in psychology, sociology, social work, education, or "a related field, or equivalent" for entry into the proffered job.

The Director correctly found this acceptable range of degrees too wide and denied the petition. The Petitioner's grouping of psychology, sociology, social work, education, or "a related field, or equivalent" is not adequately supported in the record with evidence highlighting its composition as collectively forming a singular specialty from a body of highly specialized knowledge. The Petitioner provided a list of "closely related human services field[s]" populated with diverse fields like anthropology, criminal justice, nutrition, and divinity/religion/theology, all of which also broadly provide the skills required to perform the duties of the proffered job. The Petitioner's vague and general duties in combination with its mass grouping of degree fields constitutes a range so broad that it cannot compose a "specialty" required to perform the duties of a "specialty occupation." When the desired skills could be gained from any number of seemingly unrelated degrees, spanning from sciences such as anthropology to humanities-adjacent fields such as divinity, religion, and theology, the only conclusion can be that these skills are fundamental and not specialized. In fact, numerous unrelated specialties would fall within the Petitioner's minimum educational requirements with the Petitioner's desired range of skills. Such a position 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 range of skills sourced from the diverse grouping of psychology, sociology, social work, education, or "a related field, of its equivalent" from the list of "closely related human services field[s]" the Petitioner provided, form a body of highly specialized knowledge or a specific specialty.

On appeal, the Petitioner contends that "degrees from multiple fields can qualify for H-1B status without undermining the 'specific' specialty component." The Petitioner cites to *Raj & Co. vs. USCIS*, 85 F.Supp.3d 1241 (W.D. Wash 2015) and *Residential Finance Corporation v. U.S. Citizenship & Immigration Servs.*, 839 F.Supp.2d 985 (S.D. Ohio 2012) to conclude that its wide range of degrees can constitute a specialty required to perform the duties of a specialty occupation. We agree in so far that we interpret the statutory "the" and the regulatory "a" to mean a singular specialty, but we do not so narrowly interpret the statute and regulation such that multiple closely related fields of study would not constitute a specialty to perform the duties of a related specialty occupation. But, contrary to the Petitioner's assertion, the issue here is not that the Petitioner would accept degrees in various fields. The issue today is that the Petitioner's stated spectrum of acceptable degrees is too broad to support a finding that the proffered position requires a bachelor's degree in a specific specialty, or the equivalent. In general, 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 provided the specialties are closely related such that they constitute a common specialty required to perform the duties of the position. If they constitute a common specialty, then the required "body of highly specialized knowledge" would essentially be the same. If the required degree fields do not constitute a common specialty, a minimum entry requirement of a degree in disparate fields would not meet the statutory requirement that the degree be "in the specific specialty (or its equivalent)." A minimum entry requirement that did include disparate fields of study, such as philosophy and engineering for example, would require a petitioner to establish how each field is directly related to all the duties and responsibilities of the particular position. Section 214(i)(1)(B) of the Act (emphasis added).

The cases cited by the Petitioner support the requirement of a singular specialty. The court in *Residential Finance* following this rationale found for the Plaintiff only after determining that the Plaintiff had established its minimum requirements capture the necessity of a baccalaureate degree in a specialized course of study in a field related to the proffered job's duties as a minimum. *Residential Finance Corporation*, 839 F.Supp.2d at 996. In other words, the court in *Residential Finance* did not state that a petitioner can cobble together any mass grouping of degree fields and call it a specialty, as the Petitioner seems to imply. To the contrary, the plaintiff in *Residential Finance* prevailed because the court determined that the plaintiff's grouping of degree fields was a specialty. In other words, the court found that the plaintiff had *satisfied* the "specific specialty" requirement.

The foundational principle leading to the holding in *Residential Finance* is also present in *Raj & Co.* In *Raj & Co.*, the court stated that a specialty occupation requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent. The court confirmed that this issue is well-settled in case law and with the agency's reasonable interpretation of the regulatory framework. In the decision, the court noted that "permitting an occupation to qualify simply by requiring a generalized bachelor degree would run contrary to congressional intent to provide a visa program for specialized, as opposed to merely educated, workers." And in *Relx v. Baran*, 397 F.Supp.3d 41 (D.D.C. 2019), the court determined that a specialty occupation existed only after determining that the occupation required a specialized course of study the plaintiff had earned. *Relx*, 397 F.Supp.3d at 55.

The Petitioner also cites to *Next Generation Tech., Inc. v. Johnson*, 382 F.Supp.3d 252 (S.D.N.Y. 2017) as relevant here and uses it to support a conclusion concerning the meaning of what is "normally" the minimum requirement for the position. We question the applicability of *Next Generation Tech., Inc.* in the instant matter, as the court in *Next Generation Tech., Inc.* analyzed our reading of the U.S Department of Labor's *Occupational Outlook Handbook* (*Handbook*) concerning the entry requirements for positions located within the different and separate occupational category of "Computer Programmers," rather than the "Rehabilitation Counselors" category designated by the Petitioner in the LCA relating to this case. And the court in *Next Generation Tech., Inc.* relied in part on a U.S. Citizenship and Immigration (USCIS) policy memorandum specific to "Computer Programmers" indicating generally preferential treatment toward computer programmers, and "especially" toward companies in that particular petitioner's industry. Moreover, *Next Generation Tech., Inc.* is inapplicable because the Petitioner's mass grouping of psychology, sociology, social work, education, or any "related field, or its equivalent" contained on its list of related human services fields is not sufficiently narrow to conclude that the Petitioner's requirement comprises a "specialty" required to perform the duties of the specialty occupation. Or in other words, 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.

C. The Petitioner's Assertions on Appeal

The record contains the Department of Labor's O*NET Online and *Handbook* entry for "Rehabilitation Counselors," expert opinion position analysis authored by Dr. [redacted] with respective supporting evidence, the Beneficiary's educational documentation,

job postings for purportedly parallel positions with reportedly similar employers, a copy of Fed. R. Evid. 703, education documents for other program managers currently employed by the Petitioner, and a listing of fields of study that can be categorized as human services[3] to support the Petitioner's assertion that its proffered position requires a bachelor's degree in a specific field of study comprising a body of specialized knowledge or a specialty required to perform the duties of the position. But, as we discuss below, the supplemental regulatory criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(*1*)-(*4*) cannot be satisfied without the express requirement of a baccalaureate or higher degree providing the theoretical and practical application of a body of highly specialized knowledge.

The *Handbook* reports that "rehabilitation counselors typically need a master's degree in rehabilitation counseling or a related field" whilst "some employers hire workers with a bachelor's degree in rehabilitation and disability studies…" *See* Bureau of Labor Statistics, U.S. Dep't of Labor, *Occupational Outlook Handbook*, Rehabilitation Counselors, https://www.bls.gov/ooh/community-and-social-service/rehabilitation-counselors.htm (Aug. 29, 2024). The Petitioner states that it requires a bachelor's degree, but in a diverse grouping of fields (psychology, sociology, social work, education, or a "related field or its equivalent' from a list of "related human services" fields). It is not adequately described in the record how the Petitioner's grouping constitutes a specialty akin to the rehabilitation, rehabilitation counseling, or disability studies fields listed in *Handbook*. Nevertheless, we understand that the *Handbook* is only one source that can be used to assist in demonstrating whether a particular occupation may be a specialty occupation. The Petitioner may present other sources to establish that a specific degree is normally the minimum requirement for entry into the position or may establish that its particular position requires a bachelor's level, or other, degree in a specific discipline or fields of disciplines constituting a specialty or theoretical or practical body of specialized knowledge required to perform the duties of the position. The Petitioner has not submitted sufficient evidence regarding its particular position to satisfy the requirements necessary to establish the position is a specialty occupation.

The Petitioner also submits several job postings submitted initially with the petition, in response to the Director's RFE, and with this appeal advertising purportedly parallel positions from reportedly similar employers. It further asserts that this evidence supports its contention that requirements like those it has established for its proffered position are widely held across its industry. The Petitioner asserts on appeal that the fact the organizations posting the jobs "offer behavioral health services and/or long-term and short-term rehabilitative care" is sufficient to demonstrate the organizations' similarity to the Petitioner. We do not agree. The job postings the Petitioner submitted do not adequately demonstrate that the employers who posted these positions are "similar" to the Petitioner. The advertisements the Petitioner submitted were posted by employers ranging from governmental organizations, to religious organizations, to private for-profit entities engaged in business operations. The record does not adequately describe how these diverse organizations, sharing only a service they offer, are similar to one another let alone the Petitioner. For example, whilst the Petitioner and MyMichigan Health may both seek the services of individuals performing similar duties, the Petitioner as a community services organization is dissimilar to a health care system affiliated with a larger university managed health system, which is of different size, scope, mission, and may have different priorities. The evidence in the record does not provide any context that would permit a comparison of the Petitioner to the organizations whose job postings it submitted to evaluate their contended similarity. And, even if the

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

organizations were similar, we would not conclude that the job postings demonstrate the proffered job is a specialty occupation because the minimum educational requirements contained in the advertisements are varied and ranging such that they didn't constitute a specialty required to perform the duties of the job.

And the education documentation for other program managers currently employed by the Petitioner does not persuasively support the specialty occupation nature of the proffered program manager position. At most, the documents indicate the Petitioner's preference for its employees to have a baccalaureate level of education in a disparate group of degree fields. It does not demonstrate the Petitioner's requirement of a bachelor's degree in a specific specialty, or its equivalent, related to the performance of the position's job duties. The record must establish that a petitioner's stated degree requirement is not a matter of preference for high-caliber candidates but is necessitated instead by performance requirements of the position. *See Defensor*, 201 F.3d at 387-88. Were we limited solely to reviewing a petitioner's claimed self-imposed requirements, an organization could bring any individual with a bachelor's degree to the United States to perform any occupation so long as the petitioning entity created a token degree requirement. *Id.* Here, the evidence in the record simply supports the Petitioner's preference for its employees to have a baccalaureate level of education.

The record contains an expert opinion position analysis to contend that the range of fields the Petitioner requires for the program manager 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 Petitioner's reliance on Dr. [redacted] opinion to supports its argument that the range of fields of study it accepts is closely related is misplaced. Dr. [redacted] evaluation does not provide a strong enough basis for us 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.[4] Dr. [redacted] formulated their opinion based on their knowledge of the wider field of education gained as a professor in the department of educational technology at [redacted] Idaho. They have taught courses in teacher education and professional development, educational philosophy and training, and instructional technology. They have also noted their other professional experience and certifications. They state that they have reviewed "the support letter and the detailed job description" provided by the Petitioner. Dr. [redacted] lists the proffered job's duties, the job's academic prerequisites, and attempts to establish the suitability of each required field of study to a selected portion of the proffered job's overall duties, concluding that the proffered position fits within the statute and regulations as a "specialty occupation."

We have questions about the sufficiency of Dr. [redacted] opinion because their conclusions are not in accord with information in the record. For example, Dr. [redacted] references their research and

[4] And even if it did, the Petitioner would still be left with the deficiencies discussed earlier.

published work as authority for their opinion. But they do not specifically identify what research in the record supports their opinion to bolster their conclusions. The evaluation is mainly based on unspecified research authority not present or described in the record of proceedings. Moreover, the evaluation makes numerous presuppositions and conclusory findings which are not tethered to any cognizable authority. For example, Dr. [redacted] "presupposes accomplished ability in English-language writing and communication" as a requirement to perform the duties of the job and concludes baccalaureate level education in the grouping of degree fields identified by the Petitioner would confer the skill to successfully perform the duties. But communication skills in English language could be attained, learned, or acquired through any number of vast and varied degree fields such as literature, journalism, or even English itself. And the Petitioner's own requirements, permitting baccalaureate level education in "a related field, or its equivalent" demonstrate this because the list of "related human services fields" submitted by the Petitioner spans a significantly diverse spectrum as described above. It is apparent from the Petitioner's list that the "ability and knowledge" in human development and professional communication, individualized social, educational, and psychological knowledge, and participation as a part of a multi-disciplinary team is generally available amongst a wide swath of degree fields such that it is more fundamental knowledge than specialized knowledge required for the performance of the specific job duties. And even if we put aside our doubts about the basis for the writer's opinions, the writer's conclusions of each degree field's applicability to the proffered job duties are selectively applied to only a small portion of the overall job duties. The record does not support how each acceptable field of study is directly related to all the duties and responsibilities of the proffered job. Moreover, the writer's expertise appears to be in the field of education. The record does not indicate how the writer's specific expertise relates to the Petitioner's proffered job of program manager or its operations as a community services organization. And the evidence in the record does not convincingly corroborate the writer's claims that education and education technology focused teaching and research activities renders them qualified to provide an opinion about the applicability of education and other seemingly unrelated degree fields such as psychology, sociology, social work and whether they qualify someone to perform the duties of the program manager or are related to one another such that they comprise a specialty required to perform those duties.

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. So, the evaluation is not probative and we decline to assign it any significant evidentiary weight.

We therefore cannot conclude that the proffered position's minimum requirement for entry into the job is anything more than a general bachelor's degree. 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, or the equivalent, 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 will not 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*).

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.

III. CONCLUSION

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.