



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

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

MATTER OF M-H- LLC

DATE: FEB. 2, 2017

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a developer, wholesaler, and retailer of toys and games, seeks to temporarily employ the Beneficiary as a "logistician" 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, California Service Center, denied the petition. The Director concluded the Petitioner did not establish that the proffered position qualifies as a specialty occupation.

On appeal, the Petitioner submits additional evidence and asserts that the Director erred in denying the petition.

Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) 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.

The regulation at 8 C.F.R. § 214.2(h)(4)(ii) largely restates this statutory definition, but adds a non-exhaustive list of fields of endeavor. In addition, the regulations provide that the proffered position must 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.

8 C.F.R. § 214.2(h)(4)(iii)(A). U.S. Citizenship and Immigration Services (USCIS) has consistently interpreted the term “degree” in the criteria at 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 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”); *Defensor v. Meissner*, 201 F.3d 384, 387 (5th Cir. 2000).

II. PROFFERED POSITION

In the H-1B petition, the Petitioner stated that the Beneficiary will serve as a “logistician.” In its appeal, the Petitioner submits the following duties for the position, which are materially consistent with that provided in response to the Director’s request for evidence (RFE):

Coordination

- Coordination of international toy and game production from beginning to end, including working closely with product designers and overseas vendors to outline project specifications, manage schedules, request and track components, and deliver final product. Provide assistance to the internal marketing and store teams regarding sample and promotions needs for new products. 11.0%
- Manage upfront development and production needs for various marketing channels. Responsibilities include identifying optimum case pack and inner sleeve configuration by balancing production costs, freight expenses and marketing channel requirements. 3.0%
- Assist marketing and merchandising teams to build sales forecasts and establish safety stock requirements through statistical analyses of key market and an understanding of manufacturing and shipping lead times. Address economic order quantities internally and with vendors to balance needs. 5.0%

- Consult with 3rd party testing agency during the development stages to ensure component compliance by product. Apply statistical techniques to ensure adequate and cost-effective sampling programs. 7.0%
- Manage project schedules using collaborative web based project management tools. 6.0%
- Understand the channel requirements and develop processes for creating marketing assets for new products entering market. For example, set up a system for handling domestic and international wholesale product image requirements. 4.0%
- Coordinate the production of international distributors, including safety compliance, consolidated orders, localizing instructions and/or packaging, and distribution. 3.0%
- Manage ERP systems set-up and ensure data integrity for each product as it is introduced. 4.0%
- Recommend and confirm order quantities and channel distribution. 2.0%

Vendor Relations

- Negotiate terms, update vendor information in company database, communicate daily through email or skype, review and resolve disputes, serve as key contact within the company. 5.0%
- Identify manufacturing partners in China that meet quality, safety and social standards in line with our company policies. 4.0%
- Negotiate pricing with an understanding of global exchange rates and current market trends. 3.0%
- Solicit vendor input on production and design by educating each vendor regarding the product features and consumer use. 4.0%
- Discuss long term forecasts and plans to maximize trade relationships. 4.0%

Product Safety

- Manage the product safety testing process directly with third party vendors. This includes specifying test requirements, requesting and approving quotes, logging and managing reports, creating and tracking the budget. 3.0%
- Understand safety requirements for all products and work with 3rd party safety company to continue to build knowledge. 2.0%
- Utilize statistical techniques to define testing procedures and requirements. 3.0%
- Create naming convention and filing system for easy access for all departments. 1.0%
- Create and track annual budget. 1.0%

Managing Administration

- Issue purchase orders, track invoices, manage shipments, and ensure correct and accurate payments. Update product information in company database. Assist in developing or revising standard departmental procedures and practices. 3.0%

- Provide assistance placing international purchase orders and tracking international invoices. 0.5%
- Provide weekly order updates to department management. 1.0%
- Interface with accounting and finance teams to ensure proper accounting treatment of expenditures, billing and receipts. 2.0%
- Function as contact for international vendors regarding open orders and payments. 0.5%

Logistics

- Work with local and overseas shipping agents to coordinate LCL and FCL shipments. Review and analyze weekly reports and provide delivery direction with the guidance of the inventory team. 3.0%
- Review and approve international shipping orders. 0.5%
- Update database and communicate changes to shipping schedule. 1.0%
- Organize freight estimate and assist with the budgeting. 0.5%

Quality Control

- Help to establish internal quality control processes, communicate problems with the factories, log complaints, follow-up on improvements. 2.0%
- Review QC procedures with factories. 1.0%
- Inspect incoming products. 1.0%
- Communicate and track product revisions. 1.0%

Sourcing

- Contact potential vendors to request samples and pricing. Develop a network of factories in China that will supply [the Petitioner] with various OEM products. 2.0%
- Supporting other departments that need products purchased from China, including marketing, promotional and packaging items. 0.5%
- Reach out to new vendors to find new products to meet the needs of our growing marketing channels. 0.5%

Translations

- Assist with the translations of the product packaging and instructions. Work with outside translators, graphic designers, as well as the internal web team. 2.0%
- Collaborate with international distributors to have the instructions and packaging translated into the area of distribution. 0.5%
- Specify all requirements to the manufacture. 0.5%
- Participate in [Petitioner] Workshop activities for example play testing and corporate training. Attend tradeshow or industry events as needed. 2.0%

According to the Petitioner, the position requires a bachelor's degree in international business, international economics, or a related field.

III. ANALYSIS

Upon review of the record in its totality and for the reasons set out below, we determine that the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation. Specifically, the record does not establish that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.¹

A. First Criterion

We turn first to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1), which requires that a baccalaureate or higher degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry into the particular position. To inform this inquiry, we recognize the U.S. Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)* as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses.²

On the labor condition application (LCA)³ submitted in support of the H-1B petition, the Petitioner designated the proffered position under the occupational category "Logisticians" corresponding to the Standard Occupational Classification code 13-1081.⁴ The *Handbook* subchapter entitled "How to Become a Logistician" states, in pertinent part: "Logisticians may qualify for some positions with an associate's degree. However, as logistics becomes increasingly complex, more companies prefer to hire workers who have at least a bachelor's degree." U.S. Dep't of Labor, Bureau of Labor

¹ The Petitioner submitted documentation in support of the H-1B petition, including evidence regarding the proffered position and its business operations. While we may not discuss every document submitted, we have reviewed and considered each one.

² All of our references are to the 2016-2017 edition of the *Handbook*, which may be accessed at the Internet site <http://www.bls.gov/ooh/>. We do not, however, maintain that the *Handbook* is the exclusive source of relevant information. That is, the occupational category designated by the Petitioner is considered as an aspect in establishing the general tasks and responsibilities of a proffered position, and USCIS regularly reviews the *Handbook* on the duties and educational requirements of the wide variety of occupations that it addresses. To satisfy the first criterion, however, the burden of proof remains on the Petitioner to submit sufficient evidence to support a finding that its particular position would normally have a minimum, specialty degree requirement, or its equivalent, for entry.

³ The Petitioner is required to submit a certified LCA to USCIS to demonstrate that it will pay an H-1B worker the higher of either the prevailing wage for the occupational classification in the "area of employment" or the actual wage paid by the employer to other employees with similar experience and qualifications who are performing the same services. See *Matter of Simeio Solutions, LLC*, 26 I&N Dec. 542, 545-546 (AAO 2015).

⁴ The Petitioner classified the proffered position at a Level I wage (the lowest of four assignable wage levels). We will consider this selection in our analysis of the position. The "Prevailing Wage Determination Policy Guidance" issued by the DOL provides a description of the wage levels. A Level I wage rate is generally appropriate for positions for which the Petitioner expects the Beneficiary to have a basic understanding of the occupation. This wage rate indicates: (1) that the Beneficiary will be expected to perform routine tasks that require limited, if any, exercise of judgment; (2) that he will be closely supervised and his work closely monitored and reviewed for accuracy; and (3) that he will receive specific instructions on required tasks and expected results. U.S. Dep't of Labor, Emp't & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), available at http://flcdatcenter.com/download/NPWHC_Guidance_Revised_11_2009.pdf. A prevailing wage determination starts with an entry level wage and progresses to a higher wage level after considering the experience, education, and skill requirements of the Petitioner's job opportunity. *Id.*

Statistics, *Occupational Outlook Handbook*, 2016-17 ed., “Logisticians,” <http://www.bls.gov/ooh/business-and-financial/logisticians.htm#tab-4> (last visited Jan. 26, 2017). The *Handbook* also states: “Many logisticians have a bachelor’s degree in business, systems engineering, or supply chain management.” *Id.*

The *Handbook* indicates that logistician positions do not require a minimum of a bachelor’s degree in a specific specialty, or its equivalent, for entry, as it indicates that an associate’s degree may suffice for some positions. Further, as to those logistician positions that may require a bachelor’s degree, the *Handbook* indicates that an otherwise undifferentiated bachelor’s degree in business administration may suffice.

In its appeal, the Petitioner asserts that the *Handbook* establishes that logistician positions require a minimum of a bachelor’s degree in business. However, a degree with a generalized title, such as business or business administration, without further specification, is not a degree in a specific specialty. *Cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558 (Comm’r 1988). As such, an educational requirement that may be satisfied by an otherwise undifferentiated bachelor’s degree in business administration is not a requirement of a minimum of a bachelor’s degree in a specific specialty, or its equivalent.

In addition, the Petitioner also cites the Occupational Information Network (O*NET) Summary Report for the “Logisticians” occupational classification (a copy of which the Petitioner submitted). In particular, the Petitioner highlights that logisticians are categorized Job Zone 4 and that 75% of logisticians hold a bachelor’s degree. However, this information in O*NET also does not establish that the proffered position satisfies the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1). Specifically, a designation of Job Zone 4, which indicates that a position requires considerable preparation, does not demonstrate that a bachelor’s degree in any specific specialty is required.⁵ In addition, the statistical information makes no mention of the specific field of study from which the degrees possessed by the respondents come. In other words, although O*NET indicates that most (but not all) of respondents possess at least a bachelor’s degree, it does not indicate whether these bachelor’s degrees come from a *specific specialty*, and if so, which specific specialty.

The Petitioner states that O*NET, and the *Handbook*, support a conclusion that the proffered position requires a degree in international business, international economics, or a related field. However, neither the *Handbook* nor O*NET make reference to a degree in international business or international economics being required.

In its appeal, the Petitioner contends that the Director improperly applied case law in dismissing the petition. We do not find this assertion persuasive. Indeed, we find that some of cases cited by the Petitioner as misapplied are directly applicable here. For instance, the Petitioner contends that the *Handbook* reflects that the minimum of a bachelor’s degree in business is required for the position. However, two of the cases cited by the Petitioner state that a general degree in business

⁵ For an explanation of Job Zones, see <http://www.onetonline.org/help/online/zones>.

administration alone is insufficient to qualify the Beneficiary to perform the services of a specialty occupation, unless the academic courses pursued and knowledge gained is a realistic prerequisite to a particular occupation in the field. *See Matter of Ling*, 13 I&N Dec. 35 (Reg'l Comm'r 1968) (finding that "'Business administration' is a broad field, a field which contains various occupations and/or professions, all of which are related to the world of business but each requiring a different academic preparation and experience peculiar to its needs"); *see also Matter of Michael Hertz Assocs.*, 19 I&N Dec. at 558.

The Petitioner has not provided sufficient documentation from a probative source to substantiate its assertion regarding the minimum requirement for entry into this particular position. Thus, the Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

B. Second Criterion

The second criterion presents two alternative prongs: "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[.]" 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) (emphasis added). The first prong casts its gaze upon the common industry practice, while the alternative prong narrows its focus to the Petitioner's specific position.

1. First Prong

To satisfy this first prong of the second criterion, the Petitioner must establish that the "degree requirement" (i.e., a requirement of a bachelor's or higher degree in a specific specialty, or its equivalent) is common to the industry in parallel positions among similar organizations.

In determining whether there is such a common degree requirement, factors often considered by USCIS include: whether the *Handbook* reports that the industry requires a degree; whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." *See Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D. Minn. 1999) (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

Here and as already discussed, the Petitioner has not established that its proffered position is one for which the *Handbook* (or other independent, authoritative source) reports an industry-wide requirement for at least a bachelor's degree in a specific specialty or its equivalent. Thus, we incorporate by reference the previous discussion on the matter. Also, there are no submissions from the industry's professional association indicating that it has made a degree a minimum entry requirement.

In support of this criterion, the Petitioner submitted copies of job announcements placed by other employers. However, upon review of the documents, we find that the Petitioner's reliance on the job

announcements is misplaced. First, we note that some of the job postings do not appear to involve organizations similar to the Petitioner. For example, the Petitioner is a 200-person retailer of games and toys, whereas the advertising organizations include a company that manufactures agricultural, construction, and forestry machinery, diesel engines, drivetrains, and lawn care equipment. Furthermore, one of the postings appears to be for a staffing agency and provides little information regarding the hiring employer. In addition, another posting indicates "Confidential Manufacturing" for which no information regarding the employer is provided. The Petitioner did not supplement the record of proceedings to establish that these advertising organizations are similar.

When determining whether the Petitioner and the organization share the same general characteristics, such factors may include information regarding the nature or type of organization, and, when pertinent, the particular scope of operations, as well as the level of revenue and staffing (to list just a few elements that may be considered). It is not sufficient for the Petitioner to claim that an organization is similar and in the same industry without providing a legitimate basis for such an assertion.

Moreover, many of the advertisements do not appear to be for parallel positions. For example, some of the positions appear to be for more senior positions than the proffered position. The Petitioner has not sufficiently established that the primary duties and responsibilities of the advertised positions are parallel to the proffered position.

In addition, some of the postings do not indicate that a bachelor's degree in a directly related specific specialty (or its equivalent) is required.⁶ The job postings suggest, at best, that a bachelor's degree is sometimes required for logistician positions, but not a bachelor's degree in a *specific specialty* (or its equivalent).⁷

⁶ As discussed, the degree requirement set by the statutory and regulatory framework of the H-1B program is not just a bachelor's or higher degree, but a bachelor's degree in a specific specialty that is directly related to the duties of the position. See section 214(i)(1)(b) of the Act and 8 C.F.R. § 214.2(h)(4)(ii). Further, although a general-purpose bachelor's degree, such as a degree in business or business administration, may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify a finding that a particular position qualifies for classification as a specialty occupation. *Royal Siam Corp. v. Chertoff*, 484 F.3d at 147.

⁷ It must be noted that even if all of the job postings indicated that a requirement of a bachelor's degree in a specific specialty is common to the industry in parallel positions among similar organizations (which they do not), the Petitioner has not demonstrated what statistically valid inferences, if any, can be drawn from the advertisements with regard to determining the common educational requirements for entry into parallel positions in similar organizations. See generally Earl Babbie, *The Practice of Social Research* 186-228 (1995). Moreover, given that there is no indication that the advertisements were randomly selected, the validity of any such inferences could not be accurately determined even if the sampling unit were sufficiently large. See *id.* at 195-196 (explaining that "[r]andom selection is the key to [the] process [of probability sampling]" and that "random selection offers access to the body of probability theory, which provides the basis for estimates of population parameters and estimates of error").

As the documentation does not establish that the Petitioner has met this prong of the regulations, further analysis regarding the specific information contained in each of the job postings is not necessary.⁸ That is, not every deficit of every job posting has been addressed.

In addition, the Petitioner provided two letters from executives within the toy and children's gaming manufacturing industry. Upon review, we find that the letters state that a general bachelor's degree is required for the logistician positions. They do not state that a bachelor's degree in a specific specialty, or its equivalent, is required for their logisticians. For instance, a letter from the president of the Petitioner's competitor states that "our Logisticians at minimum hold a bachelor's degree," while another letter from a toy and gaming company indicates that "it is the toy industry standard to require at least a Bachelor's degree for the position of Logistician." Therefore, the letters do not establish that the organizations require at least a bachelor's degree in a specific specialty, or its equivalent.

Without more, the Petitioner has not provided sufficient evidence to establish that a bachelor's degree in a specific specialty, or its equivalent, is common to the industry in parallel positions among similar organizations. Thus, the Petitioner has not satisfied the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

2. Second Prong

We will next consider the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), which 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 at least a bachelor's degree in a specific specialty, or its equivalent.

In its appeal, the Petitioner asserts that the proffered position involves several complex and unique duties including the implementation of "modern, cutting-edge technology," the use of "advanced statistical tools and database management," providing advice on improving processes and increasing logistical efficiency, identifying "cost-effective manufacturing and distribution solutions," and managing off-shore resources. The Petitioner asserts that the position requires knowledge of "logistical technologies, systems, and processes" and "product design and safety," and the ability "to gain the trust of clients and vendors through demonstrated knowledge and ability." The Petitioner indicates that a bachelor's degree is required to resolve "issues with suppliers while identifying the causes of an issue to ensure that such problems are not recurrent."

Upon review of the Petitioner's assertions, we do not doubt that some, or all, of the knowledge and listed skills are required. However, the Petitioner does not explain in detail how the duties of the proffered position are unique and complex when compared to other similarly placed logisticians.

⁸ The Petitioner did not provide any independent evidence of how representative the job postings are of the particular advertising employers' recruiting history for the type of job advertised. As the advertisements are only solicitations for hire, they are not evidence of the actual hiring practices of these employers.

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For instance, the Petitioner mentions “cutting edge technology,” “advanced statistical tools and database management,” and “logistical technologies, systems, and processes,” but provides neither specific examples of the technology, statistical tools, databases, systems, or processes involved, nor how they differ from those encountered by others placed in similar positions in the industry.

Further, the Petitioner designated the proffered position as an entry-level position within the occupational category (by selecting a Level I wage). This designation, when read in combination with the Petitioner’s job descriptions and the *Handbook’s* account of the requirements for this occupation, further suggests that the particular position is not so complex or unique that the duties can only be performed by an individual with bachelor’s degree or higher in a specific specialty, or its equivalent.

In support of its assertion that the Beneficiary’s duties are complex and unique, the Petitioner also points to an expert opinion provided on appeal from a professor of business management from [REDACTED]. The professor opines that the position is an “advanced professional-level position in logistics systems engineering and operations” and that it requires “at least a bachelor’s degree in Logistics Management, International Business, or a related discipline.” First, USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *Matter of Caron Int’l*, 19 I&N Dec. 791, 795 (Comm’r. 1988). However, USCIS is ultimately responsible for making the final determination regarding a foreign national’s eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.* USCIS may even give less weight to an opinion that is not corroborated or is in any way questionable. *Id.*

Regardless, upon review of the referenced opinion, we find that the opinion does not state why the Beneficiary’s duties are more complex or unique than those of similarly placed logisticians. Indeed, the opinion appears to merely reiterate the duties of the position and the conclusions of the Petitioner without offering further insight as to what specifically makes the position complex or unique. In addition, the conclusion that the position is “advanced” in the opinion does not match with the Petitioner’s designation of the position as a Level I (entry-level) wage on the LCA. Likewise, the Petitioner states that the position is “clearly not a lower level logistician” position. However, if this is the case, it is not clear why the Petitioner would have designated the position as a Level I (entry-level) position.

The Petitioner claims that the Beneficiary is well-qualified for the position, and references her qualifications. However, the test to establish a position as a specialty occupation is not the education or experience of a proposed beneficiary, but whether the position itself requires at least a bachelor’s degree in a specific specialty, or its equivalent. The Petitioner did not sufficiently develop relative complexity or uniqueness as an aspect of the duties of the position, and it did not identify any tasks that are so complex or unique that only a specifically degreed individual could perform them. Accordingly, the Petitioner has not satisfied the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

C. Third Criterion

The third criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A) entails an employer demonstrating that it normally requires a bachelor's degree in a specific specialty, or its equivalent, for the position.

On appeal, the Petitioner submits its job posting for the position of inventory analyst and copies of resumes of two of its inventory analysts. The Petitioner asserts that the position of inventory analyst is similar to the logistician position.

Upon review, we find that the documentation does not demonstrate that the inventory analyst position is similar to the proffered position. For instance, the job posting does not state that the inventory analyst will work closely with product designers, consult with testing agencies, and negotiate pricing with vendors as indicated in the Petitioner's job description for the logistician position. Thus, the documentation does not appear to be relevant to the instant matter.

Without more, the Petitioner has not provided sufficient evidence to establish that it normally requires at least a bachelor's degree in a specific specialty, or its equivalent, for the proffered position. Therefore, it has not satisfied the third criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A).

D. Fourth Criterion

The fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A) requires a petitioner to establish that the nature of the specific 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.

In its appeal, the Petitioner provides a lengthy list of the courses completed by the Beneficiary when completing the equivalent of a bachelor's degree in international business and explains how these are essential to the proffered position, including courses in law of economy, principles of accounting, finance, banking, international trade theories, international economics theory, models of economic development, principles of management, international business communication, amongst others. We do not doubt that these courses would likely assist the Beneficiary in the performance of her duties. However, what is not explained or documented is how the duties of the proffered position are more specialized or complex when compared to other logisticians in the industry.

As such, we incorporate our earlier discussion and analysis regarding the duties of the proffered position, and the designation of the position in the LCA as a Level I position (the lowest of four assignable wage-levels) relative to others within the same occupational category.⁹ The Petitioner has

⁹ The Petitioner's designation of this position as a Level I, entry-level position undermines its claim that the position is particularly complex, specialized, or unique compared to other positions *within the same occupation*. Nevertheless, a Level I wage-designation does not preclude a proffered position from classification as a specialty occupation, just as a Level IV wage-designation does not definitively establish such a classification. In certain occupations (e.g., doctors or

not demonstrated in the record that its proffered position is one with duties sufficiently specialized and complex to satisfy 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

IV. CONCLUSION

Because the Petitioner has not satisfied any one of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), it has not demonstrated that the proffered position qualifies as a specialty occupation. The burden is on the Petitioner to show eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of M-H- LLC*, ID# 286102 (AAO Feb. 2, 2017)

lawyers), a Level I, entry-level position would still require a minimum of a bachelor's degree in a specific specialty, or its equivalent, for entry. Similarly, however, a Level IV wage-designation would not reflect that an occupation qualifies as a specialty occupation if that higher-level position does not have an entry requirement of at least a bachelor's degree in a specific specialty, or its equivalent. That is, a position's wage-level designation may be a relevant factor but is not itself conclusive evidence that a proffered position meets the requirements of section 214(i)(1) of the Act.