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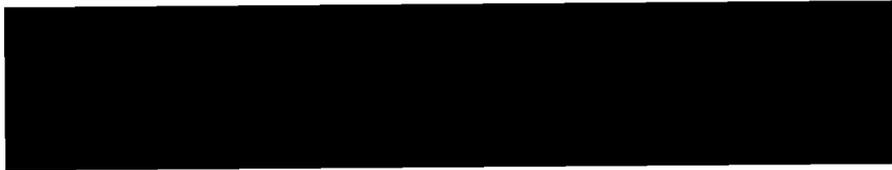
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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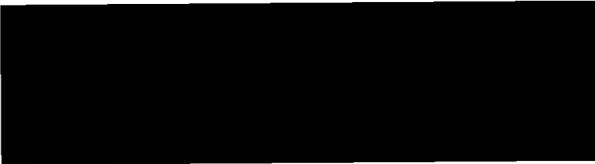


FILE: EAC 07 147 54488 Office: VERMONT SERVICE CENTER Date: APR 06 2010

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner is a corporation operating as an IT (information technology) solutions firm offering computer hardware sales, professional services, consulting, and disaster recovery. To employ the beneficiary in a position that the petitioner variously describes as “Engineering Support Specialist” and “Computer Support Specialist,”¹ the petitioner endeavors to classify him as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The appeal is filed to contest each of the two independent grounds upon which the director denied this petition, namely, the director’s separate determinations² that the petitioner failed to establish: (1) that the proffered position is a specialty occupation,² and (2) that the beneficiary holds the necessary credentials to qualify him to serve in the proffered position if it were a specialty occupation. At Part 3 of the Form I-290B, the petitioner’s counsel provides the following synopsis of the appeal:

The District Director erred in his/her factual and legal conclusion in denying the petition when he/she determined that the position of “Engineering Support Specialist”

¹ The AAO notes that while the Form I-129 and various submissions in support of the appeal refer to the proffered position as “Engineering Support Specialist,” the Labor Condition Application (LCA) identifies the proffered position as “Computer Support Specialist.” The AAO further notes that counsel’s brief on appeal acknowledges that the proffered position belongs to the Computer Support Specialists occupation as discussed in the Department of Labor’s *Occupational Outlook Handbook (Handbook)*. Accordingly, the AAO will hereinafter refer to the proffered position as Computer Support Specialist, the title which accurately conveys the general nature of the services that the beneficiary would perform.

² The clearest declarations of the director’s determination that the proffered position does not qualify as specialty occupation are the following statements at page 4 of his decision:

Due to the wide range of skills required, there are many paths of entry to a job as computer support specialist or systems administrator. While there is no universally accepted way to prepare for a job as a computer support specialist, many employers prefer to hire persons with some formal college education. A bachelor’s degree in computer science or information systems is a prerequisite for some technical support jobs; however, other jobs may require only a computer-related associate’s degree.

* * *

Petitioner has not demonstrated that the “Engineering Support Specialist” position is H-1B in scope. . . .

was not a specialty occupation and [that] the beneficiary does not possess the required degree to perform services in a specialty occupation.

The petitioner shall prove that the position of "Engineering Support Specialist" is a specialty occupation and that the beneficiary possesses the bachelor's degree sufficient for the specific specialty (or its equivalent) and is qualified to perform services in a specialty occupation.

On review of the entire record of proceeding as supplemented by all of the submissions on appeal, the AAO finds that the director did not err in denying the petition on each of the two grounds that he cites in his decision. Accordingly, the appeal will be dismissed, and the petition will be denied.

The AAO will first address the specialty occupation issue. The AAO analyzes the specialty occupation issue according to the statutory and regulatory framework below.

Section 101(a)(15)(H)(i)(b) of the Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b), provides a nonimmigrant classification for aliens who are coming temporarily to the United States to perform services in a specialty occupation.

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.

Thus, it is clear that Congress intended this visa classification only for aliens who are to be employed in an occupation that requires the theoretical and practical application of a body of highly specialized knowledge that is conveyed by at least a baccalaureate or higher degree in a specific specialty.

Consistent with section 214(i)(1) of the Act, the regulation at 8 C.F.R. § 214.2(h)(4)(ii) states that a specialty occupation means an occupation "which [1] requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which [2] requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States."

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must also meet one of the following criteria:

- (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.

As a threshold issue, it is noted that 8 C.F.R. § 214.2(h)(4)(iii)(A) must logically be read together with section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), and 8 C.F.R. § 214.2(h)(4)(ii). In other words, this regulatory language must be construed in harmony with the thrust of the related provisions and with the statute as a whole. *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. Federal Sav. and Loan Ins. Corp.*, 489 U.S. 561 (1989); *Matter of W-F-*, 21 I&N Dec. 503 (BIA 1996). As such, the criteria stated in 8 C.F.R. § 214.2(h)(4)(iii)(A) should logically be read as being necessary but not necessarily sufficient to meet the statutory and regulatory definition of specialty occupation. To otherwise interpret this section as stating the necessary *and* sufficient conditions for meeting the definition of specialty occupation would result in particular positions meeting a condition under 8 C.F.R. § 214.2(h)(4)(iii)(A) but not the statutory or regulatory definition. *See Defensor v. Meissner*, 201 F.3d 384, 387 (5th Cir. 2000) (hereinafter referred to as *Defensor*). To avoid this illogical and absurd result, 8 C.F.R. § 214.2(h)(4)(iii)(A) must therefore be read as stating additional requirements that a position must meet, supplementing the statutory and regulatory definitions of specialty occupation.

Consonant with section 214(i)(1) of the Act and the regulation at 8 C.F.R. § 214.2(h)(4)(ii), U.S. Citizenship and Immigration Services (USCIS) consistently interprets 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 proffered position.

In her letter of response to the director’s request for additional evidence (RFE), the petitioner’s prior counsel ascribed the following activities and related time expenditures to the proffered position:

ACTIVITY	PERCENTAGE OF TIME SPENT PERFFORMING EACH ACTIVITY
Installation and configuration of hardware and software	10
Training users in the operation of hardware and software	10
Troubleshooting newly installed hardware and software	10
Installation and customization of operating systems	10
Provide tier-one level telephone support for malfunctioning hardware and software	20
Repair of hardware and software components	10
Set-up computers for employee use	5
Maintain documentation related to system configurations and processes of computers	5
Complete technical reports regarding technical problems and repairs of computers	5
Assist with the modification of existing computer systems	5
Complete equipment upgrades	2
Complete memory or disk installation	2
Complete data migration	2
Complete data center moves	2
Complete system transitions	2

The AAO recognizes the *Handbook* as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses. The AAO finds that the petitioner's descriptions of the duties comprising the proffered position comport with the Computer Support Specialists occupational category as discussed in the 2010-2011 edition of the *Handbook*.³

The *Handbook's* chapter entitled "Computer Support Specialists" provides the following discussion of the nature of this occupational category's work:

³ All of this decision's references to the *Handbook* are to the 2010-2011 edition, which may be accessed at the Internet site <http://www.bls.gov/OCO/>, and, unless otherwise noted, to the particular chapter "Computer Support Specialists."

Computer support specialists provide technical assistance, support, and advice to individuals and organizations that depend on information technology. They work within organizations that use computer systems, for computer hardware or software vendors, or for third-party organizations that provide support services on a contract basis, such as help-desk service firms. Support specialists are usually differentiated between *technical support specialists* and *help-desk technicians*.

Technical support specialists respond to inquiries from their organizations' computer users and may run automatic diagnostics programs to resolve problems. In addition, they may write training manuals and train computer users in the use of new computer hardware and software. These workers also oversee the daily performance of their company's computer systems, resolving technical problems with Local Area Networks (LAN), Wide Area Networks (WAN), and other systems.

Help-desk technicians respond to telephone calls and e-mail messages from customers looking for help with computer problems. In responding to these inquiries, help-desk technicians must listen carefully to the customer, ask questions to diagnose the nature of the problem, and then patiently walk the customer through the problem-solving steps. They also install, modify, clean, and repair computer hardware and software. Many computer support specialists start out at the help desk.

Help-desk technicians deal directly with customer issues, and their employers value them as a source of feedback on their products and services. They are consulted for information about what gives customers the most trouble, as well as other customer concerns.

The chapter "Computer Support Specialists" indicates that these workers do not constitute an occupational class for which entry normally requires at least a bachelor's degree in a specific specialty. The "Significant Points" opening the chapter include the following two bullet-comments indicative of the fact that a bachelor's or higher degree in a specific specialty is not a normal requirement for entry into the computer support specialists field:

- A bachelor's degree is required for some jobs, while an associate degree or certification is adequate for others.
- Job prospects should be good, especially for college graduates with relevant skills and experience.

The "Training, Other Qualifications, and Advancement" section of the "Computer Support Specialists" chapter is quoted in its entirety below, as it clearly conveys that the 2010-2011 *Handbook* indicates that a bachelor's or higher degree in a specific specialty is not normally required for computer support specialist positions. The section reads:

A college degree is required for some computer support specialist positions, but an associate degree or certification may be sufficient for others. Strong problem-solving and communication skills are essential.

Education and training. Due to the wide range of skills required, there are many paths of entry to a job as a computer support specialist. Training requirements for computer support specialist positions vary, but many employers prefer to hire applicants with some formal college education. A bachelor's degree in computer science, computer engineering, or information systems is a prerequisite for some jobs; other jobs, however, may require only a computer-related associate degree. Some employers will hire applicants with a college degree in any field, as long as the applicant has the necessary technical skills. For some jobs, relevant computer experience and certifications may substitute for formal education.

Most support specialists receive on-the-job training after being hired. This training can last anywhere from 1 week to 1 year, but a common length is about 3 months. Many computer support specialists, in order to keep up with changes in technology, continue to receive training throughout their careers by attending professional training programs offered by employers, hardware and software vendors, colleges and universities, and private training institutions.

Certification and other qualifications. For some jobs, professional certification may qualify an applicant for employment. Certification can demonstrate proficiency in a product or process, and help applicants obtain some entry-level positions. Some hardware and software vendors require their computer support specialists to be certified, and many of these will fund this training after an applicant is hired. Voluntary certification programs are offered by a wide variety of organizations, including product vendors and training institutions, and are available across the Nation.

People interested in becoming a computer support specialist must have strong problem-solving, analytical, and communication skills because troubleshooting and helping others are vital parts of the job. The constant interaction with other computer personnel, customers, and employees requires computer support specialists to communicate effectively via e-mail, over the phone, or in person. Strong writing skills are useful in writing e-mail responses and preparing manuals for employees and customers.

Advancement. Entry-level computer support specialists generally work directly with customers or in-house users. They may advance into positions that handle products or problems with higher levels of technical complexity. Some may advance into management roles. Some computer support specialists may find opportunities in other occupations, such as computer programmers or software engineers, designing

products rather than assisting users. Promotions depend heavily on job performance, but formal education and professional certification can improve advancement opportunities. Advancement opportunities in hardware and software companies can occur quickly, sometimes within months.

In light of the fact that the *Handbook's* information on the wide range of training and educational backgrounds short of a bachelor's degree in a specific specialty that characterizes the Computer Support Specialist occupation, it is incumbent that the petitioner submit credible and persuasive documentary evidence distinguishing the proffered position from those computer support specialist positions that do not require at least a bachelor's degree or the equivalent in a specific specialty. This the petitioner has failed to do.

The AAO finds that the petitioner's reliance on the "expert opinion" that the proffered position requires at least a bachelor's degree in a specialty occupation is misplaced. In a September 6, 2007 letter on an educational evaluation firm's letterhead stationery, [REDACTED] opines, in pertinent part, that the duties of the proffered position "cannot be performed by a person who does not possess a Bachelor's degree in Computer Science, or Electrical Engineering, or Electronics & Communications Engineering, with a specialization in Programming, a closely related field or possess the equivalent in professional experience." The letter provides no analytical discussion of the basis for the author's conclusion. Instead, the petitioner repeats some generalized duties from a letter from the petitioner, not provided by the professor, and it voices the professor's agreement "with the contents of that letter by the Petitioner in that the position requires a person to have highly specialized skills to perform the job duties." However, the professor does not explain how he arrived at the conclusion that such generically stated duties, which do not appear to transcend the computer support specialist occupation as described in the *Handbook*, would require the level of education that he specifies. A corollary weakness is the author's failure to address the *Handbook's* information on computer support specialists and to provide an explanation of the substantive aspects of the proffered position that raise it above the vast range of computer support specialist positions for which the *Handbook* indicates no requirement for a bachelor's degree in a specific specialty.

Further, the extent of [REDACTED] involvement in producing, considering, and reviewing the actual content of the September 6, 2007 letter is questionable in light of the following facts. In the September 6, 2007 letter bearing his signature, he states that his opinion is based "on my several years of teaching experience as a Professor and Consultant in marketing, market research, hiring, and evaluating professionals." However, the recitation of the professor's academic experience in his March 20, 2007 "Evaluation Summary" lists degrees in Applied Mathematics and Computer Science and a professorship in Mathematics and Computer Science, but no degree, consultancy, teaching position, or professorship in marketing or marketing research. Also, the relationship between the proffered position and marketing or marketing research is not evident.

For each of the reasons discussed above, the AAO accords little evidentiary weight and no probative value in the opinion offered by Professor Sambandham on the educational requirements of the proffered position. USCIS may, in its discretion, use as advisory opinions statements submitted as

expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, USCIS is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988).

The record of proceeding does not contain credible and probative evidence that distinguishes the proffered position from computer support specialist positions that do not require at least a bachelor's degree, or the equivalent, in a specific specialty. Therefore, as the petitioner has not established that the particular position proffered in this petition is one for which the normal minimum entry requirement is a baccalaureate or higher degree, or the equivalent, in a specific specialty closely related to the position's duties, the petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

Next, the AAO finds that the petitioner has not satisfied the first of the two alternative prongs of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2). This prong assigns specialty occupation status to a proffered position with a requirement for at least a bachelor's degree, in a specific specialty, that is common to the petitioner's industry in positions that are both (1) parallel to the proffered position and (2) located in organizations that are similar to the petitioner.

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)).

As already discussed, the petitioner has not established that its proffered position is one for which the *Handbook* reports an industry-wide requirement for at least a bachelor's degree in a specific specialty. Also, there are no submissions from professional associations, individuals, or firms in the petitioner's industry, except for the letter from [REDACTED] that was discounted for the reasons stated, *supra*.

The job advertisements submitted into the record as evidence of other employers' recruiting practices have no significant evidentiary weight. They do not all specify as a hiring requirement a bachelor's degree or higher in a specific specialty. The record provides no documentary support that the actual performance requirements of the jobs advertised with a requirement for a bachelor's degree in a specific specialty substantially comport with the performance requirements of either the proffered position or the computer support specialist occupation in general. Also, the record contains no documentary evidence of how representative the advertisements are of the advertising employers' recruiting and hiring history for the type of position advertised. Further, the overall content of the job advertisements submitted into the record do not rebut or refute the *Handbook's* indication that a bachelor's or higher degree in a specific specialty is not a normal requirement for computer support specialist positions.

The petitioner also failed to satisfy the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), which provides that “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.” First, the record does not contain credible and persuasive evidence to refute the *Handbook’s* information that a wide spectrum of credentials short of a bachelor’s degree in a specific specialty is usually acceptable for computer support specialist positions. Second, the evidence of record does not distinguish the proffered position as unique from or more complex than computer support specialist positions that can be performed by persons without a specialty degree or its equivalent.

As the record has not established a prior history of recruiting and hiring for the proffered position only persons with at least a bachelor’s degree in a specific specialty, the petitioner has not satisfied the third criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A).⁴

Finally, the petitioner has not satisfied the fourth criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A), which is reserved for positions with specific duties so specialized and complex that their performance requires knowledge that is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty. The evidence of record does not establish that the duties of the proffered position are more specialized and complex than those computer support specialist positions not usually associated with the attainment of a baccalaureate or higher degree.

As the petitioner has failed to establish that the proffered position qualifies as a specialty occupation under any criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A), the director’s decision shall not be disturbed. Although this adverse determination of the specialty occupation issue is dispositive of the appeal, and renders the beneficiary’s qualifications irrelevant, the AAO will now discuss why it also affirms

⁴ To satisfy this criterion, the record must establish that the specific performance requirements of the position generated the recruiting and hiring history. A petitioner’s perfunctory declaration of a particular educational requirement will not mask the fact that the position is not a specialty occupation. USCIS must examine the actual employment requirements, and, on the basis of that examination, determine whether the position qualifies as a specialty occupation. *See generally Defensor v. Meissner*, 201 F. 3d 384 (5th Cir. 2000). In this pursuit, the critical element is not the title of the position, or the fact that an employer has routinely insisted on certain educational standards, but whether performance of the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate or higher degree in the specific specialty as the minimum for entry into the occupation as required by the Act. To interpret the regulations any other way would lead to absurd results: if USCIS were constrained to recognize a specialty occupation merely because the petitioner has an established practice of demanding certain educational requirements for the proffered position - and without consideration of how a beneficiary is to be specifically employed - then any alien with a bachelor's degree in a specific specialty could be brought into the United States to perform non-specialty occupations, so long as the employer required all such employees to have baccalaureate or higher degrees. *See id.* at 388.

the director's determination to also deny the petition for its failure to establish the beneficiary as qualified to serve in the proffered position if it were a specialty occupation.

Section 214(i)(2) of the Act, 8 U.S.C. § 1184(i)(2), states, in pertinent part, that an alien applying for classification as an H-1B nonimmigrant worker must have completed a degree in the specialty that the occupation requires, and that, if he or she does not possess the required degree, the petitioner must demonstrate that the alien has [1] experience in the specialty equivalent to the completion of such degree, and [2] recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation, an alien must meet one of the following criteria:

- (1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- (4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D), to succeed in equating the beneficiary's credentials to a United States baccalaureate or higher degree under 8 C.F.R. § 214.2(h)(4)(iii)(C)(4), the beneficiary would have to present one or more of the following:

- (1) An evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience;
- (2) The results of recognized college-level equivalency examinations or special credit programs, such as the College Level Examination Program (CLEP), or Program on Noncollegiate Sponsored Instruction (PONSI);

- (3) An evaluation of education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials;
- (4) Evidence of certification or registration from a nationally-recognized professional association or society for the specialty that is known to grant certification or registration to persons in the occupational specialty who have achieved a certain level of competence in the specialty;
- (5) A determination by the Service that the equivalent of the degree required by the specialty occupation has been acquired through a combination of education, specialized training, and/or work experience in areas related to the specialty and that the alien has achieved recognition of expertise in the specialty occupation as a result of such training and experience.

The beneficiary-qualification regulatory provision at issue in this proceeding is 8 C.F.R. § 214.2(h)(4)(iii)(C)(2), that is whether the beneficiary “hold[s] a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university.” The petitioner contends that this criterion has been satisfied by its submission of the March 20, 2007 “Evaluation Summary” produced by a foreign education credential evaluation service named Multinational Education & Information Services, Inc. (ME&IS) which opines that the beneficiary’s foreign “[b]achelor[’s] degree is equivalent to a Bachelor of Engineering Degree in Industrial Engineering from an accredited University in the United States.” However, for several reasons the AAO accords no weight to this evaluation.

While the evaluator states that the beneficiary was awarded a bachelor’s degree from the “Corporacion Universitaria de Ibague (CUI), Columbia, in 2006,” the record of proceeding contains no diploma reflecting this assertion and no confirmation of the award of the purported degree from an appropriate official of CUI. Further, while the beneficiary’s resume notes his graduation from high school, it only references attendance at CUI (from February 1999 to June 2002). The resume nowhere indicates that the beneficiary graduated from CUI. As the record contains no evidence of a material fact critical to the evaluator’s conclusion that the beneficiary holds a degree equivalent to a United States bachelor’s degree, and as the beneficiary’s resume indicates that he has obtained no degree, the MEIS evaluation of the beneficiary’s purported degree is unreliable on its face and merits no evidentiary weight. USCIS uses an evaluation by a credentials evaluation organization of a person’s foreign education as an advisory opinion only. Where an evaluation is not in accord with previous equivalencies or is in any way questionable, it may be discounted or given less weight. *Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm. 1988). Accordingly, the petitioner has not established that the beneficiary holds the equivalent of a United States degree in any specialty. This is by itself sufficient basis to affirm the director’s determination to deny the petition on the beneficiary qualification issue.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

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ORDER: The appeal is dismissed. The petition is denied.