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U. S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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Date: **MAR 06 2012** Office: CALIFORNIA SERVICE CENTER

FILE:

IN RE: Petitioner:
Beneficiary:

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

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.

On the Form I-129 visa petition the petitioner stated that it is an employment agency established in 1997. It did not reveal the number of workers it employs in the space provided for that purpose. To employ the beneficiary in what it designates as a PR (public relations) specialist position, the petitioner endeavors to classify her 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 director denied the petition, finding that the petitioner failed to establish that it would employ the beneficiary in a specialty occupation position. On appeal, counsel asserted that the director's basis for denial was erroneous, and contended that the petitioner satisfied all evidentiary requirements. In support of these contentions, counsel submitted a brief and additional evidence.

As will be discussed below, the AAO has determined that the director's decision to deny the petition on the specialty occupation issue was correct. Accordingly, the director's decision will not be disturbed. The appeal will be dismissed, and the petition will be denied.

The AAO bases its decision upon its review of the entire record of proceeding, which includes: (1) the petitioner's Form I-129 and the supporting documentation filed with it; (2) the service center's request for additional evidence (RFE); (3) the response to the RFE; (4) the director's denial letter; and (5) the Form I-290B and counsel's submissions on appeal.

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. The issue before the AAO is whether the petitioner has provided evidence sufficient to establish that it would employ the beneficiary in a specialty occupation position.

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.

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 requires [(1)] 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 requires [(2)] 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 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 a particular position 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). 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. Applying this standard, USCIS regularly approves H-1B petitions for qualified aliens who are to be employed as engineers, computer scientists, certified public accountants, college professors, and other such occupations. These professions, for which petitioners have regularly been able to establish a minimum entry requirement in the United States of a baccalaureate or higher degree in a specific specialty, or its

equivalent, fairly represent the types of specialty occupations that Congress contemplated when it created the H-1B visa category.

With the visa petition, counsel submitted evidence that the beneficiary received a bachelor's of communication in media production from Assumption College in the Philippines. An evaluation stated that the beneficiary's degree is equivalent to a bachelor's degree in communication with a specialization in media production from a United States institution.

Counsel also submitted a letter, dated July 31, 2009 and addressed to USCIS, from the petitioner's vice president; and another letter from the vice president, also dated July 31, 2009, offering the beneficiary employment.

In his letter to USCIS, the petitioner's vice president provided the following description of the duties of the proffered position:

[In the proffered position, the beneficiary] will be responsible for the conceptualization, design, implementation and evaluation of programs that creates and enhances [sic] our company's good public image and strong relationship with various stakeholders.

[She] will utilize her knowledge of communication principles and techniques to help the [petitioner] maintain long-term, mutually beneficial relations with current clients, prospective clients, employers, labor agencies, industry players and other entities.

[The beneficiary] will work closely with [the petitioner's] vice president in devising programs that will help give the [petitioner's] market share a boost. She will be in charge of implementing all publicity and communication programs, and methodically and regularly communicate developments to all constituents through various channels and communication collaterals.

[The beneficiary] will coordinate marketing and PR activities that would include advertising and promotions, special events, client relations programs, special projects, product launches, seminars, and conferences. She will conduct various marketing research studies and as well as [sic] data analysis of the [petitioner's] marketing and communications initiatives. She will assist in developing marketing strategies that are responsive to prospective clients' needs and other market opportunities. She will analyze, interpret, and present data in a logical format to aid the management in its decision-making.

Moreover, as an inetgral [sic] part of her duties, [the beneficiary] will be responsible for gathering, monitoring, and measuring results of feedback on all projects and activities, including all other news and developments possibly affecting the [petitioner]. She is expected to regularly present and provide recommendation on all PR projects to management.

In that letter, the petitioner's vice president cited the U.S. Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)* chapter entitled Public Relations Specialists and asserted: "The nature of the [proffered] position requires the services of a person with at least a bachelor's degree." She did not assert that the requisite degree must be in any specific specialty.

In the employment offer addressed to the beneficiary, the petitioner's vice president paraphrased some of those job duties as follows:

[In the proffered position] you will utilize your knowledge of communication principles and techniques to help the [petitioner] maintain long-term, mutually beneficial relations with current clients, prospective clients, employers, labor agencies, industry players and other entities.

You will work closely with [the petitioner's] vice president in devising programs that will help give the [petitioner's] market share a boost. You will be in charge of implementing all publicity and communication programs, and methodically and regularly communicate developments to all constituents through various channels and communication collaterals.

The position requires that you coordinate marketing and PR activities that would include advertising and promotions, special events, client relations programs, special projects, product launches, seminars, and conferences. You will conduct various marketing research studies and as well as [sic] data analysis of the [petitioner's] marketing and communications initiatives. Youe [sic] will assist in developing marketing strategies that are responsive to prospective clients' needs and other market opportunities. She [sic] will analyze, interpret, and present data in a logical format to aid the management in its decision-making.

Moreover, as an integral part of your duties, you will be responsible for gathering, monitoring, and measuring results of feedback on all projects and activities, including all other news and developments possibly affecting the [petitioner]. You are expected to regularly present and provide recommendation on all PR projects to management.

On August 25, 2009, the service center issued an RFE in this matter. The service center requested, *inter alia*, evidence that the petitioner would employ the beneficiary in a specialty occupation.

In response, counsel submitted vacancy announcements placed by other organizations and a printout of web content pertinent to the Accredited in Public Relations (APB) designation awarded by the Universal Accreditation Board of the Public Relations Society of America (PRSA). That evidence will be addressed below.

In her own letter of October 5, 2009, counsel expanded upon the duties described in the petitioner's vice president's letter, and argued that the position satisfies at least one of the alternative criteria of 8 C.F.R. § 214.2(h)(4)(iii)(A).

The director denied the petition on November 19, 2009, finding, as was noted above, that the petitioner had not demonstrated that it would employ the beneficiary in a specialty occupation. More specifically, the director found that the petitioner had satisfied none of the criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A). In that decision, the director analyzed the proffered position as a public relations manager position.

On appeal, counsel asserted that the duties of the proffered position mark it as a public relations specialist position, rather than a public relations manager position, noting that the duties of the proffered position are not supervisory. Counsel cited the U.S. Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)* for the proposition that the proffered position, and such positions generally, qualifies as specialty occupation positions.

With the brief on appeal, counsel provided (1) a copy of web content from the *O*Net Online* Internet site, which is addressed below; (2) additional vacancy announcements, which are addressed below; and (3) a declaration, dated January 14, 2010, from the petitioner's vice president;

In her declaration, the petitioner's vice president stated that the petitioner previously employed a Government Liaison Officer with "at least a bachelor's degree" to perform "duties resembling that [sic] of the proffered position." She did not indicate how many people the petitioner has employed in similar positions, how many had degrees, or in what fields; she indicated only that one previous Government Liaison Officer had at least a bachelor's degree. She did not state the field in which the petitioner's previous Government Liaison Officer had at least a bachelor's degree. She did not state that either that position or the proffered position requires a degree. She gave no indication of what field the proffered position, if it required a degree, would require a degree in.

The AAO will now address the additional, supplemental requirements of 8 C.F.R. § 214.2(h)(4)(iii)(A).

We will first address the supplemental, alternative requirement of 8 C.F.R. § 214.2(h)(4)(iii)(A)(1), which is satisfied if the petitioner demonstrates that the normal minimum entry requirement for the proffered position is a bachelor's or higher degree in a specific specialty or its equivalent. In this instance, the petitioner may be able to meet this criterion by establishing (1) the occupational classification under which the proffered position should be classified and (2) providing evidence that the *Handbook* supports the conclusion that this occupational classification normally requires a bachelor's or higher degree in a specific specialty or its equivalent for entry into the occupation in the United States.

The AAO recognizes the U.S. Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)*, cited by counsel, as an authoritative source on the duties and educational requirements

of the wide variety of occupations that it addresses.¹ In the chapter entitled “Public Relations Specialists,” the *Handbook* describes the duties of those positions as follows:

Public relations specialists handle organizational functions, such as media, community, consumer, industry, and governmental relations; political campaigns; interest-group representation; conflict mediation; and employee and investor relations. Public relations specialists must understand the attitudes and concerns of community, consumer, employee, and public interest groups to establish and maintain cooperative relationships between them and representatives from print and broadcast journalism.

Public relations specialists draft press releases and contact people in the media who might print or broadcast their material. Many radio or television special reports, newspaper stories, and magazine articles start at the desks of public relations specialists. Sometimes, the subject of a press release is an organization and its policies toward employees or its role in the community. For example, a press release might describe a public issue, such as health, energy, or the environment, and what an organization does to advance that issue.

Public relations specialists also arrange and conduct programs to maintain contact between organization representatives and the public. For example, public relations specialists set up speaking engagements and prepare speeches for officials. These media specialists represent employers at community projects; make film, slide, and other visual presentations for meetings and school assemblies; and plan conventions.

The referenced section of the U.S. Dept. of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2010-11 ed., available at <http://www.bls.gov/oco/ocos086.htm> (last accessed February 21, 2012).

The AAO concurs with counsel's assertion that the duties described in the vice president's letter closely resemble the duties of a public relations specialist as described in the *Handbook*. The AAO finds that the proffered position is, in fact, a public relations specialist position as described in the *Handbook*.

The *Handbook* describes the educational requirements of such positions as follows:

Many entry-level public relations specialists have a college degree in public relations, journalism, marketing, or communications. Some firms seek college graduates who have worked in electronic or print journalism. Other employers seek applicants with demonstrated communication skills and training or experience in a field related to the

¹ The *Handbook*, which is available in printed form, may also be accessed on the Internet, at <http://www.stats.bls.gov/oco/>. The AAO's references to the *Handbook* are to the 2010 – 2011 edition available online.

firm's business—information technology, healthcare, science, engineering, sales, or finance, for example.

That *many* public relations specialists have bachelor's degrees does not indicate that it is a minimum requirement for such positions. In fact, the *Handbook* appears to indicate that such a degree *is not* a minimum requirement, as it appears to indicate that some employers may hire those with demonstrated skills, training, or experience in preference to those with bachelor's degrees.

Counsel also cited *O*Net Online*. The *O*Net Online* Internet site, which addresses Public Relations Specialists under the Department of Labor's Standard Occupational Classification code of 27-3031.00, does not state that such positions require bachelor's degrees.

Rather, it assigns Public Relations Specialists a Job Zone "Four" rating, which groups them among occupations of which "most," but not all, "require a four-year bachelor's degree." Further, the *O*Net Online* does not indicate that four-year bachelor's degrees required by Job Zone Four occupations must be in a specific specialty closely related to the requirements of that occupation. Therefore, the *O*Net Online* information is not probative of the proffered position's being a specialty occupation by virtue of requiring a minimum of a bachelor's degree or the equivalent in a specific specialty.

The record contains no other evidence addressing whether a minimum of a bachelor's degree or the equivalent in a specific specialty is normally the minimum requirement for entry into the particular position proffered in this case. The petitioner has not, therefore, satisfied the criterion of 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 alternatively requires a petitioner to establish that a bachelor's degree, in a specific specialty, 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 was observed above, the *Handbook* provides no support for the proposition that the petitioner's industry, or any other, requires computer systems analysts to possess a minimum of a bachelor's degree or the equivalent in a specific specialty. The record contains no letters or affidavits from other employment agencies.

As was noted above, the record does contains a printout of web content of the PRSA, which indicates that the PRSA awards the APB designation to some of its members. It further states that any member can apply for the designation, and continues:

However, it is recommended that candidates have at least five years' experience in the full-time practice or teaching of public relations and who have earned either a bachelor's degree in a communication-specific field (e.g., public relations, journalism, mass communication) or have equivalent work experience

Clearly, a bachelor's degree is not required for membership in PRSA. Further, no such degree is required for the APB designation. Further still, neither PRSA membership nor the APB designation is required for work in public relations. The record contains no evidence that any industry's professional association has made a degree a minimum entry requirement for entry into public relations or entry into the association itself.

As was observed above, counsel provided announcements of vacancies in public relations positions.

One of the vacancy announcements provided was placed by Oxford Communications for a Public Relations Account Executive. It states that the position requires a bachelor's degree in public relations or communications.

Another vacancy announcement was placed by Rose & Allyn Public Relations seeking a Public Relations Entry Level Executive Assistant. It states that the position requires a bachelor's degree in communications, journalism, or a related field.

Another vacancy announcement was placed by Alliance Technosystems, Inc. for a Communications and Public Relations Specialist. It states that the position requires a bachelor's degree in communications, public relations, journalism, or a related field.

Another announcement was placed by Mattel, Inc. for a Public Relations Specialist. It states that the position requires a bachelor's degree in journalism, communications, or public relations.

Another announcement was placed by an employment agency for an unidentified company for a Public Relations Coordinator. It states, "Candidates must have professional studies in Business Administration, Marketing, or Communications." That a person has studied a subject does not indicate that they have a minimum of a bachelor's degree in that subject. Further, business administration, marketing, or communications does not delineate a specific specialty. Further still, even if the position could only be satisfied by a degree in business administration, and permitted no alternative to that degree, that requirement would still not be a requirement of a minimum of a bachelor's degree or the equivalent in a specific specialty and would not mark the proffered position as a specialty occupation position.

Since there must be a close correlation between the required specialized studies and the position, the requirement of a degree with a generalized title, such as business administration, without further

specification, does not establish the position as a specialty occupation. *See Matter of Michael Hertz Associates*, 19 I&N Dec. 558 (Comm. 1988). To prove that a job requires the theoretical and practical application of a body of specialized knowledge as required by Section 214(i)(1) of the Act, a petitioner must establish that the position requires the attainment of a bachelor's or higher degree in a specialized field of study. As explained above, USCIS interprets the degree requirement at 8 C.F.R. § 214.2(h)(4)(iii)(A) to require a degree in a specific specialty that is directly related to the proposed position. USCIS has consistently stated that, although a general-purpose bachelor's degree, such as a degree in 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. *See Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007).

Another vacancy announcement was placed by [REDACTED] for a Public Relations Specialist. It states that the position requires a minimum of a bachelor's degree in public relations, communications, journalism, or a related field.

Two announcements were placed by MGM Mirage for a Public Relations Specialist. They state that the position requires a bachelor's degree in journalism, public relations, or communications. Because they appear to announce the same position, they will be considered as a single vacancy announcement.

Another announcement was placed by the American Society for Clinical Oncology for a Media Relations Specialist. It states that the position requires a bachelor's degree in communications, journalism, English, policy, or related experience planning and executing high-visibility media programs and events. The AAO notes that the announcement lists a degree as one alternative qualification for the position, rather than a minimum requirement, and, further, that communications, journalism, English, and policy do not delineate a specific specialty. For both reasons, that announcement does not require a minimum of a bachelor's degree or the equivalent in a specific specialty and does not announce a vacant specialty occupation position.

Another announcement was placed by an unidentified organization in the health care industry for what it designates as a Public Relations Specialist position. It states that the position requires a degree in communications, public relations, business, or equivalent. As was explained above, an educational requirement that may be satisfied by an otherwise undifferentiated degree in business is not a requirement of a minimum of a bachelor's degree or the equivalent in a specific specialty, and does not indicate that a position is a specialty occupation position.

Another announcement was placed by JC Resorts for a Public Relations/Advertising Specialist position. It states that the position requires a bachelor's degree in marketing, business, or a related area. Again, that the educational requirement may be satisfied by an otherwise undifferentiated degree in business indicates that the position announced is not a specialty occupation position.

Another vacancy announcement was placed by The Razer Group, a manufacturer of gaming peripherals, for a Public Relations Specialist. It states that the position requires a "Bachelor's degree

in a related subject." Whether "a related subject" would necessarily be in a specific specialty closely related to the position is unclear.

Another announcement was placed by [REDACTED] It states that the position requires a bachelor's degree or related experience. Again, a bachelor's degree is only one alternative way of qualifying for the position and, further, a degree that would qualify one for the position would not necessarily be a degree in a specific specialty closely related to the position. For both reasons, the announcement does not appear to announce a vacant specialty occupation position.

Another vacancy announcement was placed by [REDACTED] It states that the position requires a bachelor's or equivalent degree in communications, public relations, journalism, or a related field.

Another announcement was placed by the Florida state government for a Public Affairs Specialist. It states that the position requires a bachelor's degree in communications, English, public relations, advertising, marketing, or a closely related field of study.

Another vacancy announcement was placed by the University of California for a Communications Coordinator – Labor Relations position. It indicates that the position requires a degree in journalism, advertising, public relations, marketing, communications, or an allied field.

Another announcement was placed by the Corporation for Public Broadcasting for an Executive Communications Professional. It states that the position requires a bachelor's degree in communications, journalism, public relations, or a related field. The AAO notes not only the broad array of disparate disciplines in which degrees are acceptable, but also that the petitioner has not established that the proffered position is at an executive level.

Another vacancy announcement was placed by Surveying and Mapping, Inc. for a Marketing/Communications Assistant. It states that a bachelor's degree in communications, graphic arts, or a related field is preferred for the position. A preference, of course, is not a minimum requirement. Further, communications and graphic arts do not delineate a specific specialty. For both reasons, the announcement does not require a minimum of a bachelor's degree or the equivalent in a specific specialty and does not announce a specialty occupation position.

Another announcement was placed by the National Marrow Donor Program for a Senior Communications Specialist. It indicates that a bachelor's degree in public relations, marketing, English, journalism, mass communications, or a related field is required for the position. Public relations, marketing, English, journalism, and mass communications do not delineate a specific specialty. As such, that announcement does not require a minimum of a bachelor's degree or the equivalent in a specific specialty and is not for a specialty occupation position.

Another vacancy announcement was placed by Peabody Energy for a Corporate Communications Specialist. It states that the position requires a bachelor's degree in journalism, communications, or a related field.

Another announcement was placed by GE Capital Real Estate for a Senior Specialist – Internal Communications. It states that the position requires a "Bachelor's degree with 2+ years experience in internal communications, public relations, or other related field (such as journalism), with focus on business writing or proofreading." Although that phrase is ambiguous, it appears to require any bachelor's degree plus specific experience, rather than a degree in one of those fields or in any specific specialty.

Another vacancy announcement was placed by the Federal Reserve Bank of Chicago for a Senior Internal Communications Analyst. It states that the position requires a bachelor's degree in communications, journalism, public relations, or a related field.

Another announcement was placed by Takeda Pharmaceuticals North America for a Senior Employee Communications Specialist. It states that the position requires a bachelor's degree, but not that the degree must be in any specific specialty.

Another vacancy announcement was placed by Medtronic, Inc. for a Corporate Employee Communications Consultant, Requisition. It states that the position requires a bachelor's degree in journalism, marketing, communications, or a related field.

Another announcement was placed by FMC Corporation for a Communications Specialist. It states that the position requires a bachelor's degree in journalism, business, or public relations. Again, an educational requirement that may be satisfied by an otherwise undifferentiated degree in business indicates that a position is not a specialty occupation position.

Another vacancy announcement was placed by [REDACTED]. It states that the position requires a bachelor's degree in communications, marketing, journalism, or business communications.

Another vacancy announcement was placed by [REDACTED]. It states that the position requires a bachelor's degree in communications, agriculture, "or other relevant field." An educational requirement that may be satisfied by a degree in either communications or agriculture is clearly not a requirement of a minimum of a bachelor's degree or the equivalent in a specific specialty and indicates that the position announced is not a position in a specialty occupation.

Another vacancy announcement was placed by an employment agency for an unidentified company seeking a Public Relations Specialist. It states that the position requires a bachelor's degree in public relations or communications, or two years of experience in public relations. The AAO notes that a bachelor's degree is not required for that position, but is only one alternative qualification for the position.

Another announcement was placed by [REDACTED] Relations/Analyst Relations Specialist. Adecco is an employment agency, and whether it was recruiting for a client or for its own position is unclear. In any event, the announcement states that the position requires a bachelor's degree in public relations, communications, or a related field.

The final vacancy announcement was placed by American Specialty Health for a Human Resources Specialist – Employee Relations. That announcement states that the position announced requires a bachelor's degree in human resources or a related field.

The petitioner is an employment agency. Only three of the vacancy announcements were placed by employment agencies. Of those three, two were soliciting for a position with another company, rather than for a position in the employment agency industry. Whether the third employment agency was seeking an employee for a client or for a position in their own company is unclear. As such, whether even that one vacancy is in the petitioner's industry is unclear.

Of the 28 vacancies announced provided, 12 do not appear to require a minimum of a bachelor's degree or the equivalent in a specific specialty. Whether the position with [REDACTED] requires a minimum of a bachelor's degree or the equivalent in a specific specialty is unclear. Even if all of the positions announced were in the petitioner's industry and established as substantially similar to the proffered position, which they have not been, that only 58 percent of them require a minimum of a bachelor's degree or the equivalent in a specific specialty would not demonstrate that a minimum of a bachelor's degree or the equivalent in a specific specialty is common to the industry in parallel positions.

Further, even if all 28 positions were demonstrated to be for parallel positions in the petitioner's industry with organizations similar to the petitioner and unequivocally required a minimum of a bachelor's degree or the equivalent in a specific specialty, the submission of the 28 announcements is statistically insufficient to demonstrate an industry-wide requirement. The record contains no independent evidence that the announcements are representative of common recruiting and hiring practices for the proffered position in the petitioner's industry.

In short, the petitioner has not demonstrated that a requirement of a minimum of a bachelor's degree in a specific specialty or the equivalent is common to the petitioner's industry in parallel positions among similar organizations, and has not, therefore, satisfied criterion of the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The AAO 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 demonstrates that, notwithstanding that other public relations specialist positions in the petitioner's industry may not require a minimum of a bachelor's degree or the equivalent in a specific specialty, the particular position proffered in the instant case is so complex or unique that it can be performed only by an individual with such a degree.

The petitioner's vice president's descriptions of the duties of the proffered position do not differentiate the proffered position from other public relations specialist positions by either complexity or uniqueness. Rather, to the extent that it is described in the record of proceeding, the proffered position is presented in terms of generalized functions that appear to be generic to public relations specialist positions in general, including those not performed by persons with at least a bachelor's degree in a specific specialty. Designing, implementing, and evaluating programs to build a good public image; maintaining relations with clients, employers, labor agencies, industry players, and other entities; devising programs to boost market share; implementing publicity and communication programs; etc., contain no indication of complexity or uniqueness that would require a bachelor's degree in a specific specialty, notwithstanding that the *Handbook* indicates that some public relations specialist positions do not.

The petitioner has not demonstrated that the particular position proffered is so complex or unique that it can be performed only by an individual with a degree; it has not, therefore, met the requirements of the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The alternative requirement of 8 C.F.R. § 214.2(h)(4)(iii)(A)(3) is satisfied if the petitioner demonstrates that it normally requires a degree or its equivalent for the position. The petitioner's vice president, in a declaration described above, stated that the petitioner previously employed a Government Liaison Officer with "at least a bachelor's degree" to perform "duties resembling that [sic] of the proffered position." She provided no evidence to corroborate that assertion, and that letter is the only evidence pertinent to the educational qualifications of the petitioner's employees and previous employees.

Although the statement by the petitioner's vice president are relevant and have been taken into consideration, little weight can be accorded them in the absence of supporting evidence. An unsupported statement is insufficient to sustain the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Further, the petitioner's vice president did not reveal how many people it had employed in similar positions, how many of those people had degrees, what subject or subjects the degrees were in, or whether they were required for those positions. She did not state the field in which the petitioner's previous Government Liaison Officer had "at least a bachelor's degree." She did not state that either that position or the proffered position requires a degree. She gave no indication of what field the proffered position, if it required a degree, would require a degree in. Even if taken at face value, the petitioner's vice president's statement that the petitioner previously employed a person with a bachelor's degree in a similar position is insufficient to establish that the petitioner normally requires a degree or its equivalent for the proffered position.

The record contains no other evidence pertinent to whether the petitioner normally requires a minimum of a bachelor's degree or the equivalent in a specific specialty for the proffered position. The petitioner has not satisfied the alternative criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A)(3)

Finally, the AAO will address the alternative criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A)(4), which is satisfied if the petitioner demonstrates that 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 in a specific specialty, or its equivalent.

Again, however, the duties of the proffered position, as described, contain no indication of specialization and complexity that usually associated with attainment of a minimum of a bachelor's degree or the equivalent in a specific specialty.

Coordinating marketing and public relations activities; conducting marketing research studies; assisting in developing marketing strategies; analyzing, interpreting, and presenting data to management; gathering, monitoring, and measuring results of feedback on all projects and activities; etc.; appear to be routine duties associated with public relations specialist positions in general. The record does not contain explanations or clarifying data sufficient to elevate the position to one that is so specialized and complex that the knowledge to perform these tasks is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty.

The petitioner has not demonstrated that the nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree. The petitioner has not, therefore, demonstrated that the proffered position meets the requirements of the criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The AAO finds that the director was correct in her determination that the record before her failed to establish that the beneficiary would be employed in a specialty occupation position, and it also finds that the submissions on appeal have not remedied that failure. Accordingly, the appeal will be dismissed and the petition denied on this basis.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. The appeal will be dismissed and the petition denied.

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