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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**



*Dz*

Date: **MAY 31 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:

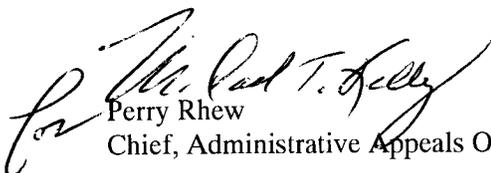


INSTRUCTIONS:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 acting 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 university. To employ the beneficiary in what it designates as an assistant crime analyst position, 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 acting 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 acting director's basis for denial was erroneous, and contended that the petitioner satisfied all evidentiary requirements.

As will be discussed below, the AAO has determined that the acting director did not err in her decision to deny the petition on the specialty occupation issue. Accordingly, the acting 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 acting 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 (5<sup>th</sup> 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 provided evidence sufficient to show that the beneficiary received a bachelor's degree in sociology from [REDACTED] and a master's degree in psychology from another institution, possibly the petitioner. Counsel also submitted (1) a description of crime analyst positions with the city of [REDACTED] (2) a printout of content from a website maintained by the Labor Market Information Division of the California Employment Development Department (EDD); (3) a letter, dated May 7, 2010, from the petitioner's Assistant Dean for International Students and Scholars Services and (4) the petitioner's own description of the proffered position.

The description of [REDACTED] crime analyst positions will be discussed below.

The petitioner's assistant dean's letter states:

The [beneficiary] will be primarily involved in the compilation and review of crime data for crimes that occur within [the petitioner's] patrol borders. He will prepare reports based upon [patterns] that will be observed and will work . . . to ensure that all crime data is properly reported for our jurisdiction.

More specifically, [the beneficiary] will be responsible for detecting patterns from crimes by studying and linking common factors together such as methods, suspect physical descriptions and weapons used. He will analyze and disseminate information regarding the crime statistical patterns for the use of patrol officers and detectives. He will provide special reports to the Department of Public Safety Management, interpreting crime statistics categorized by such factors as geographical locations, crime methods, and days and time of crime occurrence. He will review and report on the locations of CCTV cameras and call boxes to assure that the devices are appropriately located where crimes are most likely to occur. He will conduct remote field tests of security systems to assure operational integrity.

We anticipate that compilation and analysis of statistical data will comprise approximately sixty percent of [the beneficiary's] work. Work relating to the production and dissemination of the information will take up another 20 percent of his time. The field-testing of security systems and correlation of systems to events will take another 20% of his time.

The petitioner's assistant dean further stated, "Our education requirement for the position is a Bachelor's degree in Criminal Justice, Psychology or Sociology."<sup>1</sup>

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<sup>1</sup> Although the proffered position is within the petitioner's Department of Public Safety operations, that letter is from the petitioner's [REDACTED] and Scholars Services. It contains no indication pertinent to who provided the information in that letter to the associate dean, who does not appear to be in the beneficiary's chain of command, and does not appear, therefore, to have any control over the duties the beneficiary would perform or what education the proffered position would require.

As a preliminary matter, it must be noted that the petitioner's claimed entry requirement of at least a bachelor's degree in "Criminal Justice, Psychology or Sociology" for the proffered position is inadequate to establish that the proposed position qualifies as a specialty occupation. A petitioner must demonstrate that the proffered position requires a precise and specific course of study that relates directly and closely to the position in question. Since there must be a close correlation between the required specialized studies and the position, the asserted requirement of a degree in one of three disparate fields identified by the petitioner does not support the position as a specialty occupation as it is not evident that the respective course requirements for achieving at least a bachelor's degree in each of these three academic majors are essentially similar, so as to reflect that attainment of each of the three degrees reflects achievement of a bachelor's or higher degree level of essentially the same body of highly specialized knowledge that needs to be practically and theoretically applied to perform the proffered position. See § 214(i)(1) of the Act (requiring in pertinent part the "application of a body of highly specialized knowledge" and "attainment of a bachelor's or higher degree in the specific specialty" (emphasis added)); cf. *Matter of Michael Hertz Associates*, 19 I&N Dec. 558 (Comm'r 1988).

To prove that a job requires the theoretical and practical application of a body of highly 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 one specialized field of study or its equivalent. As discussed *supra*, USCIS interprets the degree requirement at 8 C.F.R. § 214.2(h)(4)(iii)(A) to require a degree in the specific specialty or its equivalent that is directly related to the proposed position.

Again, the petitioner claims that the duties of the proffered position can be performed by an individual with a bachelor's degree in criminal justice, psychology, or sociology. As these three fields of study fail to delineate a specific specialty or its equivalent, this assertion is tantamount to an admission that the proffered position is not in fact a specialty occupation. The acting director's decision could, therefore, be affirmed and the petition denied on this basis alone. However, the AAO will continue its analysis of the specialty occupation issue, in order to identify other evidentiary deficiencies that preclude approval of this petition.

The web content from the California EDD site pertains to crime and intelligence analyst positions in California.<sup>2</sup> It provides a description of duties that is substantially similar to those of the proffered position, and states:

A bachelor's degree with major courses in Criminal Justice, Psychology, or Sociology is often required. However, applicants can substitute a Crime and Intelligence Analysis certificate, or two years of college with a minimum of two years' experience in police or related criminal justice work, in lieu of a degree. New hires that are not certified may be required to complete a certificate program approved by the California Department of Justice.

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<sup>2</sup> <http://www.calmis.ca.gov/file/occguides/crimanlt.pdf>.

On June 1, 2010, the service center issued an RFE in this matter. The service center requested additional evidence that the petitioner would employ the beneficiary in a specialty occupation.

In response, counsel submitted (1) vacancy announcements for crime analyst positions and similar positions; (2) a printout pertinent to a Crime and Intelligence Analysis Certificate Program offered by the Sacramento State College of Continuing Education; (3) a letter, dated July 8, 2010, from the petitioner's Senior Associate Vice President; (4) an evaluation of the proffered position; and (5) counsel's own letter, dated July 12, 2010.

The vacancy announcements and the printout pertinent to the Sacramento State College of Continuing Education certificate will be discussed below.

The July 8, 2010 letter from the petitioner's [REDACTED] reiterated the duty descriptions from the May 7, 2010 letter of the petitioner's [REDACTED] and Scholars Services. It also reiterated the petitioner's position that the proffered position requires a bachelor's degree in criminal justice, psychology, or sociology.

The evaluation of the proffered position was provided by an associate professor of criminal justice at Temple University. As to the duties of the proffered position, it states:

The [proffered] position primarily involves the compilation and analysis of statistical data. [The beneficiary] will prepare reports based upon findings. These skills are commonly taught in undergraduate and graduate programs in Criminal Justice, Sociology, and Psychology.

It further states:

In my opinion, the position of Crime Analyst, as it is configured at [the petitioner] and in most police departments, requires technical and communication skills that are most likely to be learned by means of the specialized training of a Bachelor's degree program in Criminal Justice, Psychology or Sociology.

In his own July 12, 2010 letter, counsel noted that the U.S. Department of Labor's *Occupational Outlook Handbook (Handbook)* does not include a description of crime analyst positions, but asserted that the other evidence provided demonstrates that the proffered position is a specialty occupation position.

The acting director denied the petition on July 23, 2010, finding, as was noted above, that the petitioner had not demonstrated that the proffered position qualifies as a position in a specialty occupation by virtue of requiring a minimum of a bachelor's degree or the equivalent in a specific specialty. More specifically, the acting 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 acting director analyzed the proffered position as a forensic science technician as described in the *Handbook*.

On appeal, counsel submitted more vacancy announcements and a brief. The vacancy announcements will be addressed below.

In his brief, counsel objected to the classification of the proffered position as a forensic science technician position. He reiterated the petitioner's claim that the evidence submitted demonstrates that the proffered position is an assistant crime analyst position and a specialty occupation position.

The AAO will now discuss the application of the additional, supplemental requirements of 8 C.F.R. § 214.2(h)(4)(iii)(A) to the evidence in this record of proceeding.

We will first address the supplemental, alternative requirement of 8 C.F.R. § 214.2(h)(4)(iii)(A)(I), 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.

The AAO recognizes the U.S. Department of Labor's *Occupational Outlook Handbook (Handbook)* as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses.<sup>3</sup>

In this instance, the petitioner may be able to meet this criterion by (1) establishing 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.

As was noted above, in the decision of denial, the acting director analyzed the proffered position as a position described in the "Forensic Science Technician" chapter of the *Handbook*. On appeal, counsel asserted that this characterization of the position is inaccurate. The AAO notes that forensic science technicians gather and analyze evidence, typically specializing in either crime scene investigation or laboratory analysis.<sup>4</sup>

While such a position may be vaguely analogous to the proffered position, forensic science technicians typically apply the physical sciences to evidence in an effort to solve crimes whereas the proffered position, as described, involves applying social science techniques to study the distribution of crime, either to solve crimes or to predict the likely time and location of their occurrence. The AAO finds, therefore, that the two positions are distinctly different, and will not, therefore, analyze the proffered position as a forensic science technician position.

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<sup>3</sup> 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.

<sup>4</sup> U.S. Dep't of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook, 2012-13 ed.*, Forensic Science Technicians, <http://www.bls.gov/ooh/life-physical-and-social-science/forensic-science-technicians.htm>. (Last visited April 30, 2012).

The duties of the proffered position, when compared to the other submissions in the record, amply demonstrate that the proffered position is a crime analyst, or assistant crime analyst, position. Counsel correctly observed, however, that the *Handbook* does not address crime analyst positions. The *Handbook* cannot, therefore, be used to support the position that the proffered position is a specialty occupation position by virtue of requiring a minimum of a bachelor's degree or the equivalent in a specific specialty.

The printout of content from the California EDD website is closest evidence in the record to the statistics-based determinations of the *Handbook*. That printout, however, states, as was noted above, that a degree in any of a wide array of subjects, criminal justice, psychology, or sociology, may be sufficient for a crime analyst position. Therefore, it does not indicate that the position requires a minimum of a bachelor's degree or the equivalent *in a specific specialty*. Further, that document indicates that other avenues to the field exist. Those other avenues include obtaining a Crime and Intelligence Analysis certificate, or attending two years of college and acquiring a minimum of two years' experience in police or related criminal justice work.

As was noted above, the record contains a printout pertinent to a Crime and Intelligence Analysis Certificate Program offered by the Sacramento State College of Continuing Education. That is the only evidence in the record pertinent to a crime analyst certification program. The program discussed, leading to that certificate, "consists of eight courses for a total of 148 instructional hours and a 400-hour practicum." The AAO notes that a bachelor's degree would typically entail at least 2,000 instructional hours. Therefore, a Crime and Intelligence Analysis Certificate is not necessarily equivalent to a bachelor's degree. Further, the record does not indicate that two years of college, in no specified major course of study, and two years of police experience, taken together, are equivalent to a minimum of a bachelor's degree or the equivalent in a specific specialty related to the proffered position. For both reasons, the content of the California EDD website does not support the proposition that the proffered position is in a specialty occupation.

The evaluation of the proffered position by the [REDACTED] states that the proffered position "primarily involves the compilation and analysis of statistical data" and that "These skills are commonly taught in undergraduate and graduate programs in Criminal Justice, Sociology, and Psychology." That those skills are taught in those programs does not mean that they cannot be acquired elsewhere. The evaluation further states that the proffered position "requires technical and communication skills that are most likely to be learned by means of the specialized training of a Bachelor's degree program in Criminal Justice, Psychology or Sociology." Whatever particular technical and communications skills the professor referred to, he provided no evidence in support of his conclusory assertion that they are "most likely" to be acquired in the college curricula listed. Further, that they are most likely to be learned in those college programs does not mean they cannot be acquired elsewhere, without obtaining the equivalent of a bachelor's degree. Further still, the professor indicated that those skills may be acquired in any of a wide array of subjects. For all of those reasons, the evaluation does not support the proposition that the proffered position qualifies as a specialty occupation position by virtue of requiring a minimum of a bachelor's degree or the equivalent in a specific specialty.

Further, the AAO finds that, to the extent that they are described in the record of proceeding, the numerous duties that the petitioner ascribes to the proffered position indicate a need for a range of knowledge in social science statistics, but do not establish any particular level of formal education leading to a bachelor's or higher degree in a specific specialty as minimally necessary to attain such knowledge.

Yet further, the petitioner's assistant dean's May 7, 2010 letter, its description of the proffered position, and its Senior Associate Vice President's July 8, 2010 letter stated that the proffered position requires a degree in criminal justice, psychology or sociology. As was noted above, the assertion that any degree in that wide array of disciplines would be a sufficient educational qualification for the proffered position is tantamount to conceding that the proffered position does not require a minimum of a bachelor's degree or the equivalent *in a specific specialty* and does not qualify as a specialty occupation position.

For all of those reasons, the petitioner has not demonstrated that a baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position and 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, neither the *Handbook* nor the content of the California EDD website provides any support for the proposition that the petitioner's industry, or any other, normally requires crime analysts to possess a minimum of a bachelor's degree or the equivalent in a specific specialty. The record contains no evidence pertinent to a professional association of crime analysts that requires a minimum of a bachelor's degree or the equivalent in a specific specialty as a condition of entry. The record contains no letters or affidavits from other universities or others in the police industry.

Counsel did provide the description of crime analyst positions [REDACTED] and the vacancy announcements described above.

[REDACTED] job description describes job duties that are substantially similar to the duties of the proffered position. That job description states:

### DESIRABLE TRAINING AND EXPERIENCE

Graduation from an accredited four-year college or university with major course work in criminal justice, sociology, computer sciences or related field.

That a given degree is "desirable" does not indicate that it is a minimum requirement. Further, that job description, like the California EDD description, indicates that a degree in any of a wide array of subjects would be desirable, rather than that a minimum of a bachelor's degree or the equivalent in a specific specialty is required for the position.

The six vacancy announcements provided are for positions entitled Crime Analyst, LARIAT Crime Analyst,<sup>5</sup> Crime Analyst II, Research and Information Analyst 1 (Public Safety), Assistant Analyst, and Crime Research Analyst. The positions are in North Charleston, South Carolina; Tacoma, Washington; Miami, Florida; and Philadelphia, Pennsylvania; and two positions are in Rochester, New York. All contain position descriptions that are substantially the same as that of the proffered position.

One announcement identifies as acceptable a bachelor's degree in "criminal justice, geography, GIS or [a] related field." Criminal justice, geography, geographical information systems, or a related field do not delineate a specific specialty. As such, the employer does not require a minimum of a bachelor's degree or the equivalent in a specific specialty.

Another announcement identifies as acceptable a bachelor's degree in "math, statistics, criminal justice, behavioral science, or [a] related field," but also states that "formal training and certification from a recognized crime analyst program or qualifying experience in the analysis of criminal activities may be substituted for the required education." As was noted above, certification from a crime analyst program is not necessarily equivalent to a minimum of a bachelor's degree or the equivalent in a specific specialty. Further, the vacancy announcement does not indicate that the "qualifying experience" that may be substituted for either the college degree or the certificate would necessarily be equivalent to a minimum of a bachelor's degree in a specific specialty. Also, the announcement allows for substitution of certification, or some unspecified amount and type of experience, for a bachelor's degree. It does not appear, therefore, to require a minimum of a bachelor's degree or the equivalent, nor, in any event, a degree in a specific specialty, as it indicates that a degree in math, statistics, criminal justice, or behavioral science, as well as a subject deemed "related" to those subjects, would suffice.

The third vacancy announcement states:

### DESIRABLE BASIC TRAINING AND EXPERIENCE

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<sup>5</sup> LARIAT is the LESA Accelerated Response using Integrated Analysis and Technology. LESA is the Law Enforcement Support Agency, which processes crime information in real time to provide to police officers responding to a crime scene.

Graduation from an accredited four-year college or university with major coursework in Criminology, Criminal Justice, or a related field.

Again, that a given degree is desirable does not indicate that it is a minimum requirement. The position announcement does not appear to require a minimum of a bachelor's degree or the equivalent in a specific specialty.

The fourth announcement specifies as necessary educational credentials a master's degree psychology, political science, sociology, or a related field." Again, such an array of disparate degree majors or course concentrations does not delineate a specific specialty. As such, the position announcement does not require a minimum of a bachelor's degree or the equivalent in a specific specialty.

The fifth vacancy announcement requires "completion (or near completion) of a Bachelor's degree . . . in Criminal Justice, or related Social Science, Business, or [an] Information Technology field." Not only does the announcement not require completion of a bachelor's degree, but it indicates that near completion of a degree in any of a wide array of subjects would be a sufficient educational qualification for the position announced.

Further, the petitioner has indicated that a degree in business administration would be an acceptable educational qualification for the proffered position. A petitioner must demonstrate that the proffered position requires a precise and specific course of study that relates directly and closely to the position in question. 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 educational qualification 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). Thus, that the educational qualification of the position announced may be satisfied by an otherwise undifferentiated degree in business administration, indicates that it does not qualify as a specialty occupation by virtue of requiring a minimum of a bachelor's degree or the equivalent in a specific specialty.

The final vacancy announcement requires "Equivalent to a bachelor's degree in criminal justice, or [a]related social science field." The social sciences include anthropology, archaeology, criminology, economics, education, linguistics, political science, sociology, geography, history, law, and psychology. Which of those social sciences the hiring authority might consider to be sufficiently

closely related to criminal justice is not specified, and is unclear to the AAO. The position announcement has not been shown, therefore, to require a minimum of a bachelor's degree or the equivalent in a specific specialty.

Neither the printout from [REDACTED] nor any of the six vacancy announcements specifies attainment of a bachelor's degree in a specific specialty as a requirement for hire.

In any event, even if the [REDACTED] job description and all six vacancy announcements unequivocally required a minimum of a bachelor's degree or the equivalent in a specific specialty, the submission of the evidence pertinent to seven positions is statistically insufficient to demonstrate an industry-wide requirement.<sup>6</sup> The record contains no independent evidence that the job description and vacancy announcements submitted are representative of common recruiting and hiring practices for the proffered position in the petitioner's industry.

For the reasons discussed above, 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 the 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 establishes that, notwithstanding that other assistant crime analyst positions at other universities or in other police departments 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 credentials.

None of the salient evidence, the description of crime analyst positions with [REDACTED] the EDD printout, the petitioner's Assistant Dean's letter, the petitioner's description of the proffered position, the vacancy announcements, the printout pertinent to the Sacramento State College of Continuing Education's Crime and Intelligence Analysis Certificate Program, the letter from the petitioner's Senior Associate Vice President, the evaluation, or counsel's letter of July 12, 2010, focuses upon or conveys complexity or uniqueness of the proffered position as requiring an individual with a minimum of a bachelor's degree or the equivalent in a specific specialty. In fact,

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<sup>6</sup> Although the size of the relevant study population is unknown, the petitioner fails to demonstrate what statistically valid inferences, if any, can be drawn from the seven documents provided with regard to determining the common educational requirements for entry into parallel positions in similar police departments. 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").

all of that evidence makes clear, by citing alternatives, that the position does not require such a person.

The petitioner has not, therefore, satisfied the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A)(3) is satisfied if the petitioner demonstrates that it normally requires a minimum of a bachelor's degree or the equivalent in a specific specialty for the position.<sup>7</sup> In his letter of July 12, 2010, counsel asserted that the petitioner has never previously employed anyone in the position. The petitioner cannot, therefore, cite its previous employment practices to satisfy this alternative requirement.

Further, as was noted above, the petitioner's Assistant Dean's letter, the petitioner's description of the proffered position, and the letter from the petitioner's Senior Associate Vice President all indicate that the petitioner would accept a bachelor's degree in any of a wide array of disciplines as an adequate academic position for the proffered position. This demonstrates that the petitioner does not, in fact, normally require a minimum of a bachelor's degree or the equivalent in a specific specialty for the position. The petitioner has not, therefore, satisfied the criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

Finally, the AAO will address the alternative criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4), which is satisfied if the petitioner establishes that the nature of the specific duties is so specialized and complex that knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree, or the equivalent, in a specific specialty.

However, the duties of the proffered position as described in the record of proceeding appear to encompass routine duties associated with crime analyst positions in general, and the totality of the evidence in the record indicates that such positions do not generally require a minimum of a bachelor's degree or the equivalent in a specific specialty.

The AAO finds that, to the extent that they are described, the proposed duties do not convey a usual association between such knowledge and the attainment of a particular educational level in a specific specialty. Rather, the AAO finds that the proposed duties are presented in the record of proceeding

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<sup>7</sup> While a petitioner may believe or otherwise assert that a proffered position requires a degree, that opinion alone without corroborating evidence cannot establish the position as a specialty occupation. Were USCIS limited solely to reviewing a petitioner's claimed self-imposed requirements, then any individual with a bachelor's degree could be brought to the United States to perform any occupation as long as the employer artificially created a token degree requirement, whereby all individuals employed in a particular position possessed a baccalaureate or higher degree in the specific specialty or its equivalent. See *Defensor v. Meissner*, 201 F. 3d at 387. In other words, if a petitioner's degree requirement is only symbolic and the proffered position does not in fact require such a specialty degree or its equivalent to perform its duties, the occupation would not meet the statutory or regulatory definition of a specialty occupation. See § 214(i)(1) of the Act; 8 C.F.R. § 214.2(h)(4)(ii) (defining the term "specialty occupation").

in terms of generalized and generic functions that, as so generally described, fail to convey that their performance would require application of a particular level of a body of highly specialized knowledge that is usually associated with attainment of a particular level of educational attainment in a specific specialty. As the petitioner has not established that the proffered position's specific duties require the application of a level of specialized and complex knowledge usually associated with the attainment of a baccalaureate or higher degree, or the equivalent, in a specific discipline, the petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

The petitioner has failed to establish that it has satisfied any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) and, therefore, the AAO cannot find that the proffered position qualifies as a specialty occupation. The appeal will be dismissed and the petition denied for this reason.

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.