

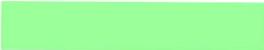
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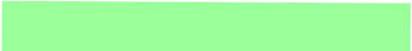
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



DATE: **JUN 20 2013** OFFICE: VERMONT 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:

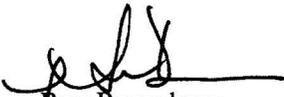


INSTRUCTIONS:

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 in accordance with the instructions on 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,



Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

In a letter submitted with the Petition for a Nonimmigrant Worker (Form I-129), counsel for the petitioner describes the petitioner as an "international shopping network." The petitioner seeks to employ the beneficiary in what it designates as a meeting and convention planner position and 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 on the grounds that the petitioner failed to establish that the proffered position qualifies for classification as a specialty occupation.

The record of proceeding before the AAO contains: (1) the Form I-129 and supporting documentation; (2) the director's request for evidence (RFE); (3) the petitioner's response to the RFE; (4) the notice of decision; and (5) the Form I-290B and supporting materials. The AAO reviewed the record in its entirety before issuing its decision.

The issue before the AAO is whether the petitioner's proffered position qualifies as a specialty occupation. To meet its burden of proof in this regard, the petitioner must establish that the job it is offering to the beneficiary meets the applicable statutory and regulatory requirements.

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

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

The regulation at 8 C.F.R. § 214.2(h)(4)(ii) states, in pertinent part, the following:

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, a proposed 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 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). 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. *See Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007) (describing "a degree requirement in a specific specialty" as "one that relates directly to the duties and responsibilities of a particular position"). 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 directly related to the duties and responsibilities of the particular position, fairly represent the types of specialty occupations that Congress contemplated when it created the H-1B visa category.

To determine whether a particular job qualifies as a specialty occupation, USCIS does not simply rely on a position's title. The specific duties of the proffered position, combined with the nature of

the petitioning entity's business operations, are factors to be considered. USCIS must examine the ultimate employment of the alien, and determine whether the position qualifies as a specialty occupation. *See generally Defensor v. Meissner*, 201 F. 3d 384. The critical element is not the title of the position nor an employer's self-imposed standards, but whether 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.

In support of the Form I-129, counsel for the petitioner submitted the following, *inter alia*: (1) a letter from counsel dated November 14, 2011; (2) a letter from the petitioner to the beneficiary dated November 14, 2011; (3) a certified Labor Condition Application (LCA); (4) a copy of the petitioner's brochure; (5) print-outs from the petitioner's website; and (4) a copy of the beneficiary's [REDACTED] diploma.

In its letter to the beneficiary, the petitioner stated that the proffered position's job duties include the following:

- Coordinate the activities of [the petitioner's] staff in preparing group meetings, business seminars, and conventions.
- Prepare cost estimates, calculations, forecasts and price/cost comparisons.
- Planning and preparing [the petitioner's] displays and materials for events and meetings.
- Making necessary arrangements such as booking facilities, vendors, catering, etc.
- Making necessary travel arrangements for keynote speakers and other VIP guests.
- Actively supporting training events and seminars by taking the stage.
- Adapting [the petitioner's] publicity materials as necessary for specific events. Confer with management in this regard to ensure effectiveness and compliance with [the petitioner's] corporate image.
- Distributing . . . materials [in the petitioner's style] as required for event setting.
- Planning and preparing [the petitioner's] displays and materials for training events and seminars.
- Actively supporting training events and seminars by taking the stage.
- Ensuring compliance with [the petitioner's] guidelines, satisfaction of participants, and resolution of any problems that arise.
- Consulting with [the petitioner's] management to determine objectives and requirements for events such as meetings, conferences, and conventions.

Neither the petitioner nor counsel stated the educational requirement of the proffered position in their letters submitted with the petition.

The director found the initial evidence insufficient to establish eligibility for the benefit sought, and issued an RFE on December 2, 2011. The petitioner was asked to submit additional

evidence to establish that the proffered position qualifies for classification as a specialty occupation. The director outlined the specific evidence to be submitted.

In response to the director's RFE, counsel for the petitioner submitted, *inter alia*: (1) a letter from counsel dated December 20, 2011; (2) an evaluation of the educational requirement for the position of meeting and convention planner by Dr. [REDACTED]; (3) a letter from the petitioner dated December 5, 2011; (4) a copy of the petitioner's job advertisement for the proffered position; (5) a letter from the chief financial officer of [REDACTED] dated December 6, 2011; (6) a copy of the Occupational Information Network's (O*NET) Summary Report for 13-1121.00 – Meeting, Convention, and Event Planners; (7) a copy of an offer letter to an employee of the petitioner, [REDACTED]; (8) a copy of Ms. [REDACTED] curriculum vitae; (9) copies of job advertisements for positions posted on the Internet claiming to be "similar" to the proffered position; (10) a resume of an employee of the petitioner who allegedly performed the duties offered to the beneficiary; (11) the petitioner's 2011 and 2012 event calendars; (12) brochures and leaflets pertaining to the petitioner's events; and (13) the petitioner's organizational chart.

The petitioner's advertisement for the proffered position and counsel's December 20, 2011 letter state that a minimum of a "Bachelor [sic] Degree in Business and/or Event management" is required for the proffered position.

In its letter dated December 5, 2011, the petitioner explained that it is an "international shopping system which brings buyers and merchants together, and thus achieves purchasing discounts that benefits all participants in the system." The petitioner also stated that "meetings, conventions and other business events are the very essence of our business model because that is how we inform the public, our business partners, and merchants about the system and how to benefit from it." The petitioner also provided the following expanded list of duties and approximate percentages of time to be spent on each duty:

- Coordinate the activities of [the petitioner's] staff in preparing group meetings, business seminars, and conventions. Meetings and conventions bring people together for a common purpose, and the Meeting and Convention Planner ensures that this purpose is achieved seamlessly. The Planner coordinates every detail of meetings and conventions, from the speakers and meeting location to arranging for printed materials and audio-visual equipment. The Planner searches for prospective meeting sites, primarily hotels and convention or conference centers. When choosing a site, the Planner considers who the prospective attendees are and how they will get to the meeting. Being close to a major airport is important for organizations that have attendees traveling long distances who are pressed for time. The planner may also select a site based on its attractiveness to increase the number of attendees. APPROXIMATE PERCENTAGE OF TIME: 40%.
- Prepare cost estimates, calculations, forecasts and price/cost comparisons. Once he/she has narrowed down possible locations for the meeting, the Planner issues requests for proposals to all possible meeting sites in which

they are interested. These requests state the meeting dates and outline the planner's needs for the meeting or convention, including meeting and exhibit space, lodging, food and beverages, telecommunications, audio-visual requirements, transportation, and any other necessities. The establishments respond with proposals describing what space and services they can supply, and at what price. The Planner reviews these proposals and either make recommendations to the management. There also is a financial management component of the work. Planners negotiate contracts with facilities and suppliers. These contracts, which have become increasingly complex, are often drawn up more than a year in advance of the meeting or convention. Contracts often include clauses requiring the planner to book a certain number of rooms for meetings in order to qualify for the space discounts and imposing penalties if the rooms are not filled. Therefore, it is important that the Planner closely estimates how many people will attend the meeting based on previous meeting attendance and current circumstances. Planners must also oversee the finances of meetings and conventions. They are given overall budgets by their organizations and must create a detailed budget, forecasting what each aspect of the event will cost. APPROXIMATE PERCENTAGE OF TIME: 20%.

- Planning and preparing [the petitioner's] displays and materials for events and meetings. The first step in planning a meeting or convention is determining the purpose, message, or impression that [the petitioner] wants to communicate. Planners increasingly focus on how meetings affect the goals of [the petitioner]; for example, they may survey prospective attendees to find out what motivates them and how they learn best. APPROXIMATE PERCENTAGE OF TIME: 20%.
- Making necessary arrangements such as booking facilities, vendors, catering, etc. Once the location is selected, meeting and convention planners arrange support services, coordinate with the facility, prepare the site staff for the meeting, and set up all forms of electronic communication needed for the meeting or convention, such as e-mail, voice mail, video, and online communication. APPROXIMATE PERCENTAGE OF TIME: 10%.
- Making necessary travel arrangements for keynote speakers and other VIP guests. APPROXIMATE PERCENTAGE OF TIME: 5%.
- Actively supporting training events and seminars. Meeting logistics, the management of the details of meetings and conventions, such as labor and materials, is another major component of the job. Planners register attendees and issue name badges, coordinate lodging reservations, and arrange transportation. They make sure that all necessary supplies are ordered and transported to the meeting site on time, that meeting rooms are equipped with sufficient seating and audio-visual equipment, that all exhibits and booths are set up properly, and that all materials are printed. They also make sure that the meeting adheres to fire and labor regulations and oversee food and beverage distribution. APPROXIMATE PERCENTAGE OF TIME: 5%

Additional tasks which are difficult to classify in terms of time spent are:

- Adapting [the petitioner's] publicity materials as necessary for specific events. Confer with management in this regard to ensure effectiveness and compliance with [the petitioner's] corporate image.
- Distributing . . . materials [in the petitioner's style] as required for event setting.
- Planning and preparing [the petitioner's] displays and materials for training events and seminars.
- Actively supporting training events and seminars by taking the stage.
- Ensuring compliance with [the petitioner's] guidelines, satisfaction of participants, and resolution of any problems that arise.
- Consulting with [the petitioner's] management to determine objectives and requirements for events such as meetings, conferences, and conventions.

The petitioner's letter also states that "the other person holding this position at our company is Ms. [REDACTED]" The evaluation by Dr. [REDACTED] states that the position offered to the beneficiary "generally requires one to have at least a bachelor's degree, primarily in business management, communications, or specifically in convention planning."

Although the petitioner claimed that the beneficiary would serve in a specialty occupation, the director determined that the petitioner failed to establish how the proffered position's duties would necessitate services at a level requiring the theoretical and practical application of at least a bachelor's degree level of a body of highly specialized knowledge in a specific specialty. The director denied the petition on January 6, 2012. Counsel for the petitioner submitted a timely appeal of the denial of the H-1B petition.

On appeal, counsel for the petitioner contends that the proffered position qualifies for classification as a specialty occupation.

As a preliminary matter, the petitioner's claim that a bachelor's degree in business is a minimum requirement for entry into 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 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. *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 a 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 a specific specialty that is directly related to the proposed position. 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).¹

Again, the petitioner in this matter claims that the duties of the proffered position can be performed by an individual with only a general-purpose bachelor's degree, i.e., a bachelor's degree in business. This assertion is tantamount to an admission that the proffered position is not in fact a specialty occupation. The director's decision must therefore be affirmed and the petition denied on this basis alone.

Nevertheless, for the purpose of performing a comprehensive analysis of whether the proffered position qualifies as a specialty occupation, the AAO turns next to the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I) and (2): a baccalaureate or higher degree in a specific specialty or its equivalent is normally the minimum requirement for entry into the particular position; and a degree requirement in a specific specialty is common to the industry in parallel positions among similar organizations or a particular position is so complex or unique that it can be performed only by an individual with a degree in a specific specialty. Factors considered by the AAO when determining these criteria include: whether the *Handbook*, on which the AAO routinely relies for the educational requirements of particular occupations, reports the industry requires a degree in a specific specialty; whether the industry's professional association has made a degree in a specific specialty 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)).

The AAO will first address the requirement under 8 C.F.R. § 214.2(h)(4)(iii)(A)(I): A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position. The AAO recognizes the *Handbook* as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses.² The

¹ Specifically, the United States Court of Appeals for the First Circuit explained in *Royal Siam* that:

[t]he courts and the agency consistently have stated that, although a general-purpose bachelor's degree, such as a business administration degree, may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify the granting of a petition for an H-1B specialty occupation visa. See, e.g., *Tapis Int'l v. INS*, 94 F.Supp.2d 172, 175-76 (D.Mass.2000); *Shanti*, 36 F. Supp.2d at 1164-66; cf. *Matter of Michael Hertz Assocs.*, 19 I & N Dec. 558, 560 (Comm'r 1988) (providing frequently cited analysis in connection with a conceptually similar provision). This is as it should be: otherwise, an employer could ensure the granting of a specialty occupation visa petition by the simple expedient of creating a generic (and essentially artificial) degree requirement.

Id.

² All of the AAO's references are to the 2012-2013 edition of the *Handbook*, which may be accessed at the Internet site <http://www.bls.gov/oco/>.

petitioner claims in the LCA that the proffered position falls under the occupational category "Meeting, Convention, and Event Planners." The *Handbook* describes this occupational category as follows:

What Meeting, Convention, and Event Planners Do

Meeting, convention, and event planners coordinate all aspects of professional meetings and events. They choose meeting locations, arrange transportation, and coordinate other details.

Duties

Meeting, convention, and event planners typically do the following:

- Meet with clients to understand the purpose of the meeting or event
- Plan the scope of the event, including time, location, program, and cost
- Solicit bids from places and service providers (for example, florists or photographers)
- Work with the client to choose where to hold the event and whom to contract with for services
- Inspect places to ensure they meet the client's requirements
- Coordinate event services such as rooms, transportation, and food service
- Confer with on-site staff to coordinate details
- Monitor event activities to ensure the client and event attendees are satisfied
- Review event bills and approve payment

Whether it is a wedding, educational conference, or business convention, meetings and events bring people together for a common purpose. Meeting, convention, and event planners work to ensure that this purpose is achieved seamlessly.

They coordinate every detail of events, from beginning to end. Before a meeting, for example, planners will meet with clients to estimate attendance and determine the meeting's purpose. During the meeting, they handle meeting logistics such as registering guests and setting up audio/visual equipment for speakers. After the meeting, they survey attendees to find out what topics interested them the most.

Meeting, convention, and event planners also search for potential meeting sites, such as hotels and convention centers. They consider the lodging and services that the facility can provide, how easy it will be for people to get there, and the attractions that the surrounding area has to offer. More recently, planners also consider whether an online meeting can achieve the same objectives as a face-to-face meeting.

Once a location is selected, planners arrange meeting space and support services. For example, they negotiate contracts with suppliers to provide meals for

attendees and coordinate plans with on-site staff. They organize speakers, entertainment, and activities. They also oversee the finances of meetings and conventions. On the day of the event, planners may register attendees, coordinate transportation, and make sure meeting rooms are set up properly.

The following are types of meeting, convention, and event planners:

Association planners organize annual conferences and trade shows for professional associations. Because member attendance is often voluntary, marketing the meeting's value is an important aspect of their work.

Corporate planners organize business meetings, usually under tight deadlines.

Government meeting planners organize meetings for government officials and agencies. Being familiar with government regulations, such as procedures for buying materials and booking hotels, is vital to their work.

Convention service managers help organize major events as employees of hotels and convention centers. They act as liaisons between the meeting facility and the planners who work for associations, businesses, or governments. They present food service options to outside planners, coordinate special requests, and suggest hotel services, depending on the planner's budget.

Event planners arrange the details of a variety of events, including weddings and large parties.

U.S. Dep't of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2012-13 ed., "Meeting, Convention, and Event Planners," <http://www.bls.gov/ooh/business-and-financial/meeting-convention-and-event-planners.htm#tab-2> (last visited Feb. 8, 2013).

However, the *Handbook* does not indicate that meeting, convention, and event planners constitute an occupational group for which normally the minimum requirement for entry is a specialty occupation level of education, that is, at least a U.S. bachelor's degree *in a specific specialty*, or its equivalent. This is also evident from the discussion in the "How to Become a Meeting, Convention, and Event Planner" section of its chapter "Meeting, Convention, and Event Planner." This section of the *Handbook* states the following regarding the requirements for this occupation:

How to Become a Meeting, Convention, and Event Planner

Applicants should have at least a bachelor's degree and some work experience related to planning.

Education

Many employers prefer applicants who have a bachelor's degree and related work experience in hotels or planning. The proportion of planners with a bachelor's degree is increasing because work responsibilities are becoming more complex and because there are more college degree programs. If an applicant's degree is not related to hospitality management, employers are likely to require at least 1 to 2 years of related work experience.

Meeting, convention, and event planners come from a variety of academic disciplines. Some related undergraduate majors include marketing, public relations, communications, business, and hospitality management. Planners who have studied hospitality management may start out with greater responsibilities than those from other academic disciplines. College students may also gain experience through an internship or by planning meetings for a university club. In addition, some colleges offer continuing education courses in meeting and event planning.

Work Experience

Some event planners enter the profession by gaining experience in a related occupation, such as a catering coordinator. For example, catering coordinators may begin planning smaller events, including weddings. As they gain experience and establish their reputation, they may start their own wedding planning business.

Once hired, planners learn many skills through experience. Entry-level planners generally begin by performing small tasks under the supervision of senior meeting professionals. Those who start at small organizations have the opportunity to learn more quickly because they must take on a larger variety of tasks.

Advancement

To advance in their careers, planners should volunteer to take on more responsibility and find better ways of doing their job. The most important factors in advancement are demonstrated skill, determination, and respect from peers. Because formal education is also increasingly important, those with limited experience may enhance their standing by enrolling in event planning courses offered by universities or professional associations.

As meeting, convention, and event planners establish themselves, they are given greater responsibility. This may mean taking on a wider range of duties or moving to another planning specialty to gain more experience. For example, a talented planner may be promoted from conference coordinator, with responsibility for meeting logistics, to program coordinator, with responsibility for speakers and event programming. The

next step up may be to meeting manager, with responsibility for supervising all parts of the meeting. Entry-level planners tend to focus on meeting logistics, such as registering guests and setting up audio/visual equipment, while experienced planners manage interpersonal tasks, such as client relations and contract negotiations. With significant experience, meeting, convention, and event planners can become independent consultants or executive directors of associations.

Certification

The Convention Industry Council offers the Certified Meeting Professional (CMP) credential, a voluntary certification for meeting and convention planners. Although the CMP is not required, it is widely recognized in the industry and may help in career advancement. To qualify, candidates must have a minimum of 3 years of meeting management experience, recent employment in a meeting management job, and proof of continuing education credits. Those who qualify must then pass an exam that covers topics such as adult learning, financial management, facilities and services, logistics, and meeting programs.

The Society of Government Meeting Professionals (SGMP) offers the Certified Government Meeting Professional (CGMP) credential for meeting planners who work for, or contract with, federal, state, or local government. This certification is not required to work as a government meeting planner; however, it may be helpful for those who want to show that they know government buying policies and travel regulations. To qualify, candidates must have worked as a meeting planner for at least 1 year and have been a member of SGMP for 6 months. To become a certified planner, members must take a 3-day course and pass an exam.

Important Qualities

Communication skills. Meeting, convention, and event planners communicate with clients, suppliers, and event staff. They must have excellent written and oral communication skills and be able to convey the needs of their clients effectively.

Composure. Planners often work in a fast-paced environment and must be able to think on their feet and remain calm under pressure.

Computer skills. Planners must be familiar with computers, database software, budgets, and online social media.

Customer-service skills. Planners must understand their clients' needs. They must act professionally in a variety of situations, know how to keep an audience engaged, and help participants network with peers.

Interpersonal skills. Planners must be good at establishing and maintaining positive relationships with clients and suppliers. They should also be able to help event participants network with peers.

Negotiation skills. Planners must be able to negotiate service contracts that get the best prices for their clients.

Organizational skills. To provide high quality meetings, planners must be detail-oriented, good at multitasking, and able to meet tight deadlines. Many meetings are planned more than a year in advance, so long-term thinking ability is vital.

Problem-solving skills. When problems arise, planners must be able to come up with creative solutions that satisfy clients.

Id. at <http://www.bls.gov/ooh/business-and-financial/meeting-convention-and-event-planners.htm#tab-4> (last visited Feb. 8, 2013). Thus, while the *Handbook* states that "many employers prefer applicants who have a bachelor's degree," it does not indicate that the bachelor's degree must be in a specific specialty or more importantly that a bachelor's degree or higher in a specific specialty is normally the minimum requirement for entry. The *Handbook* also indicates that baccalaureate degrees in various fields are acceptable for entry into the occupation. Specifically, the *Handbook* states that "[m]eeting, convention, and event planners come from a *variety of academic disciplines*" and that some meeting, convention, and event planners have a background in "business." As noted above, although a general-purpose bachelor's degree, such as a degree in business or business administration, may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify a finding that a particular position qualifies for classification as a specialty occupation. See *Royal Siam Corp. v. Chertoff*, 484 F.3d at 147. Therefore, the *Handbook's* recognition that a general, non-specialty "background" in business is sufficient for entry into the occupation strongly suggests that a bachelor's degree *in a specific specialty* is not a normal, minimum entry requirement for this occupation. Accordingly, as the *Handbook* indicates that working as a meeting, convention, and event planner does not normally require at least a bachelor's degree in a specific specialty or its equivalent for entry into the occupation, it does not support the proffered position as being a specialty occupation. Based upon the record of proceeding, the petitioner has failed to establish eligibility under 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 calls for a petitioner to establish that a requirement of a bachelor's or higher degree in a specific specialty, or its equivalent, 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.

As stated earlier, 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 at 1165 (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. at 1102).

Here, and as already discussed, the petitioner has not established that its proffered position is one for which the *Handbook* reports an industry-wide requirement of at least a bachelor's degree in a specific specialty or its equivalent. In support of its assertion that the degree requirement is common to the petitioner's industry in parallel positions among similar organizations, as briefly addressed above, the petitioner submitted a letter from [REDACTED] the Chief Financial Officer of [REDACTED]. However, the letter and the information submitted regarding [REDACTED] do not demonstrate that [REDACTED] is a similar organization to the petitioner. In fact, it appears that Amega and the petitioner are different types of business altogether. As noted above, the petitioner describes itself as an "international shopping system which brings buyers and merchants together, and thus achieves purchasing discounts that benefits all participants in the system." [REDACTED] on the other hand, describes itself in Internet print-outs submitted by the petitioner as a "market leader in wellness technologies, where we *manufacture and distribute wellness products* and services through the network marketing system direct to our customers." (emphasis added).

For the petitioner to establish that an organization is similar, it must demonstrate that the petitioner and the organization share the same general characteristics. Without such evidence, documentation submitted by a petitioner is generally outside the scope of consideration for this criterion, which encompasses only organizations that are similar to the petitioner. When determining whether the petitioner and an organization share the same general characteristics, such factors may include information regarding the nature or type of organization, and, when pertinent, the particular scope of operations, as well as the level of revenue and staffing (to list just a few elements that may be considered). It is not sufficient for the petitioner to claim that an organization is similar and in the same industry without providing a legitimate basis for such an assertion. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

Moreover, [REDACTED] letter states that it "expect[s]" its job candidates to hold a "college degree in financial management, hospitality management, or business" but it does not state what, if any, specific specialty in the business related field is required.

Thus, the letter does not establish that a bachelor's degree (or higher) in a specific specialty, or its equivalent, is common to the industry in parallel positions among similar organizations.

Furthermore and for the reasons discussed below, the petitioner's reliance upon the job vacancy advertisements it submitted is misplaced. In support of its assertion that the degree requirement is common to the petitioner's industry in parallel positions among similar organizations, the petitioner submitted copies of six advertisements as evidence that its degree requirement is standard amongst its peer organizations for parallel positions. Specifically, the petitioner submitted advertisements for the following positions posted on the Internet:

1. Meeting Planner for [REDACTED] requiring, *inter alia*, a "[b]achelor's degree" and "two to three years experience as a Meeting Planner";
2. Sr. Meeting Planner – Corporate for [REDACTED] *preferring* a "[b]achelor's degree" and requiring "8+ years in meeting planning experience";
3. Sr. Conference / Event Planner & Travel Staff for [REDACTED] requiring, *inter alia*, a "[b]achelor's degree" and "[a]t least 5 year(s)" of experience;
4. Conference Planner for [REDACTED] requiring, *inter alia*, a "[b]achelor's degree in related field" and "3-5 years + experience in event, conference, or meeting planning and logistics";
5. Conference Planning Manager (Interim) for [REDACTED] requiring, *inter alia*, an "Associate [sic] Degree or Bachelor Degree in Hospitality or other related field" and "3-5 years meeting planning experience"; and
6. Corporate Meeting Planner for [REDACTED] *preferring* a "[b]achelor's degree . . . with 4-5 years meeting planning or related experience."

The advertisements provided, however, establish at best that a bachelor's degree is generally required for most of the positions posted, but a bachelor's degree or the equivalent in a *specific specialty* is not.

Specifically, the first and third advertisements state only that a bachelor's degree (no specific specialty) is required. The fifth advertisement states that an associate's degree is acceptable for the advertised position. The second and sixth advertisements state that bachelor's degrees are preferred. Obviously, a preference for a candidate with a bachelor's degree is not a requirement that the individual have such a degree to qualify for the position. The fourth advertisement states that the advertised position requires a bachelor's degree in a "related field" without specifying what that advertiser accepts as being related to the advertised position.

Furthermore, the advertisements appear to be for organizations that are not similar to the petitioner and the petitioner has not provided any probative evidence to suggest otherwise. That is, the petitioner has not provided any information regarding which aspects or traits (if any) it shares with the advertising organizations.

Lastly, all of the advertised positions are for experienced candidates whereas the proffered position is an entry level position for an employee who has only basic understanding of the occupation, as indicated on the LCA where the petitioner designated the proffered position as a Level I position. See U.S. Dep't of Labor, Emp't & Training Admin., *Prevailing Wage Determination Policy Guidance, Nonagric. Immigration Programs* (rev. Nov. 2009), available at http://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf.

The documentation provided does not establish that a bachelor's degree (or higher) in a specific specialty, or its equivalent, is common to the industry in parallel positions among similar organizations.³

³ 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 just six job advertisements with regard to

The petitioner also has not satisfied 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." The record does not demonstrate any complexity or unique nature of the proffered position that distinguishes it from similar but non-degreed or non-specialty degreed employment under the second prong of the criterion. A review of the record indicates that the petitioner has failed to credibly demonstrate that the duties the beneficiary will be responsible for or perform on a day-to-day basis entail such complexity or uniqueness as to constitute a position so complex or unique that it can be performed only by a person with at least a bachelor's degree in a specific specialty or its equivalent.

Specifically, the petitioner failed to demonstrate how the duties described require the theoretical and practical application of a body of highly specialized knowledge such that a bachelor's or higher degree in a specific specialty or its equivalent is required to perform them. For instance, the petitioner did not submit information relevant to a detailed course of study leading to a specialty degree and did not establish how such a curriculum is necessary to perform the duties it claims are so complex and unique. While a few related courses may be beneficial, or even required, to perform certain duties of the proffered position, the petitioner has failed to demonstrate how an established curriculum of such courses leading to a baccalaureate degree or higher in a specific specialty or its equivalent is required to perform the duties of the particular position here proffered.

Therefore, the evidence of record does not establish that this position is significantly different from other positions in the occupation such that it refutes the *Handbook's* information to the effect that there is a spectrum of preferred degrees acceptable for such positions, including degrees not in a specific specialty. In other words, the record lacks sufficiently detailed information to distinguish the proffered position as unique from or more complex than positions that can be performed by persons without at least a bachelor's degree in a specific specialty, or its equivalent. As the petitioner fails to demonstrate how the proffered position of meeting and convention planner is so complex or unique relative to other meeting, convention, and event planner positions or other closely related positions that can be performed by persons without at

determining the common educational requirements for entry into parallel positions in similar companies. See generally Earl Babbie, *The Practice of Social Research* 186-228 (1995). Moreover, given that there is no indication that the advertisements were randomly selected, the validity of any such inferences could not be accurately determined even if the sampling unit were sufficiently large. See *id.* at 195-196 (explaining that "[r]andom selection is the key to [the] process [of probability sampling]" and that "random selection offers access to the body of probability theory, which provides the basis for estimates of population parameters and estimates of error").

As such, even if the job announcements supported the finding that the position of meeting and convention planner for an "international shopping network" required a bachelor's or higher degree in a specific specialty or its equivalent, it cannot be found that such a limited number of postings that appear to have been consciously selected could credibly refute the findings of the *Handbook* published by the Bureau of Labor Statistics that such a position does not require at least a baccalaureate degree in a specific specialty for entry into the occupation in the United States.

least a bachelor's degree in a specific specialty or its equivalent, it cannot be concluded that the petitioner has satisfied the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

Next, the record of proceeding does not establish that the petitioner normally requires a bachelor's or higher degree in a specific specialty or its equivalent for the proffered position. While counsel for the petitioner claims that it has hired Ms. [REDACTED], who holds a 3-year degree in Event Management and has six years of work experience, Ms. [REDACTED] credentials are irrelevant as the petitioner claims that the duties of the proffered position can be performed by an individual with only a general-purpose bachelor's degree, i.e., a bachelor's degree in business. Furthermore, it appears that Ms. [REDACTED] position is different from that offered to the beneficiary. Specifically, the petitioner's organizational chart indicates that Ms. [REDACTED] is the "Head of" the petitioner's "EVENTS" department. Previously hiring only one employee with a degree claimed to be equivalent to a degree in event management does not establish a pattern that the petitioner normally requires, as opposed to simply prefers, to hire someone with at least a bachelor's degree or the equivalent in a specific specialty for the proffered position.

It is also noted that counsel claims that the petitioner's office manager, Mr. [REDACTED], who is claimed to hold a "BA in Political Science" and an "MBA from [REDACTED]" previously performed the duties of the proffered position. However, Mr. [REDACTED] degrees are irrelevant as he did not hold the proffered position of meeting and convention planner. Therefore, 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 or its equivalent. Again, relative specialization and complexity have not been sufficiently developed by the petitioner as an aspect of the proffered position. In other words, the proposed duties have not been described with sufficient specificity to show that they are more specialized and complex than meeting, convention, and event planner positions that are not usually associated with a degree in a specific specialty.⁵

⁴ 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").

⁵ Moreover, as noted above, the petitioner has designated the proffered position as a Level I position on the submitted LCA, indicating that it is an entry-level position for an employee who has only basic understanding of the occupation. *See* U.S. Dep't of Labor, Emp't & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), *available at*

The AAO notes that the O*NET Summary Report, referenced by counsel, is insufficient to establish that the proffered position qualifies as a specialty occupation normally requiring at least a bachelor's degree or its equivalent in a specific specialty. Contrary to the assertions of counsel, O*NET OnLine does not state a requirement for a bachelor's degree. Rather, it assigns this occupation a Job Zone "Four" rating, which groups it among occupations of which "most," but not all, "require a four-year bachelor's degree." Further, O*NET OnLine does not indicate that four-year bachelor's degrees required by Job Zone Four occupations must be in a specific specialty directly related to the occupation. Therefore, O*NET OnLine information is not probative of the proffered position being a specialty occupation.

Lastly, the AAO will briefly address the opinion by Dr. [REDACTED]. The AAO finds no probative value in the opinion rendered as it is not based upon sufficient information about the meeting and convention planner position proposed here. 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'r 1988).

Specifically, the content of his letter does not demonstrate that his opinion is based upon sufficient information about the particular position at issue. First, there is no indication that Dr. [REDACTED] has any experience as a meeting and convention planner, or any experience in the petitioner's industry. Second, the letter reveals that his knowledge of the position is limited to the duties provided to him by the petitioner. Third, Dr. [REDACTED] does not relate any personal observations of the petitioner's operations or of the work that the beneficiary would perform, nor does he state that he has reviewed any projects or work products related to the proffered position. Fourth, his opinion does not relate his conclusions to specific, concrete aspects of this petitioner's business operations to demonstrate a sound factual basis for their conclusions about the educational requirements for the particular position here at issue.

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, it cannot be found that the proffered position qualifies as a specialty occupation. The appeal will be dismissed and the petition denied for this reason.

The AAO does not need to examine the issue of the beneficiary's qualifications, because the petitioner has not provided sufficient evidence to demonstrate that the position is a specialty occupation. In other words, the beneficiary's credentials to perform a particular job are relevant only when the job is found to be a specialty occupation. As discussed in this decision, the

http://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf. Therefore, it is simply not credible that the position is one with specialized and complex duties, as such a higher-level position would likely be classified at a higher level, such as a Level IV position, requiring a significantly higher prevailing wage. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

petitioner did not submit sufficient evidence regarding the proffered position to determine that it is a specialty occupation and, therefore, the issue of whether it will require a baccalaureate or higher degree, or its equivalent, in a specific specialty also cannot be determined. Therefore, the AAO need not and will not address the beneficiary's qualifications further.

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

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