



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **MAR 25 2014** OFFICE: CALIFORNIA SERVICE CENTER

IN RE: Petitioner:  
Beneficiary:

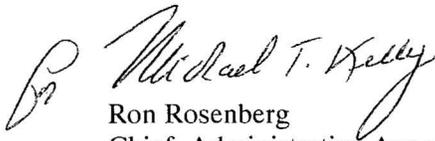
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The California 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 sustained.

The petitioner filed a Petition for a Nonimmigrant Worker (Form I-129) with the California Service Center, seeking to classify the beneficiary as an H-1B 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, concluding that the evidence of record did not establish the proffered position as a specialty occupation.

Counsel for the petitioner submitted a timely appeal of the director's decision.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon reviewing the entire record of proceeding as supplemented by the petitioner's submissions on appeal, we find that the record now contains sufficient evidence to overcome the basis for the director's decision.

Specifically, we find that the totality of the evidence now establishes that the nature of the proffered position's specific duties is so complex and specialized that their performance would require the theoretical and practical application of a body of highly specialized knowledge usually associated with attainment of at least a bachelor's degree in a specific specialty. Therefore, we conclude that the evidence of record now satisfies by a preponderance of the evidence the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4). Further, the petitioner has established that the proffered position otherwise qualifies for classification as a specialty occupation as that term is defined by section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), and 8 C.F.R. § 214.2(h)(4)(ii).

Also, we find that the evidence of record establishes that the beneficiary's educational credentials qualify him to perform the services of the pertinent specialty occupation in accordance with the relevant regulations.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has been met.

**ORDER:** The appeal is sustained. The director's decision dated September 12, 2013 is withdrawn, and the petition is approved.