



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF I-S-F-, INC.

DATE: DEC. 14, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a community health care clinic, seeks to temporarily employ the Beneficiary as a “health and patient educator” under the H-1B nonimmigrant classification. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The Director, Vermont Service Center, denied the petition. The Petitioner filed a combined motion to reopen and motion to reconsider. The Director granted the motion, but affirmed her decision to deny the petition. The matter is now before us on appeal. The appeal will be dismissed.

I. ISSUE

The issue before us is whether the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions.<sup>1</sup>

II. SPECIALTY OCCUPATION

A. Legal Framework

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.

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<sup>1</sup> We conduct appellate review on a *de novo* basis. *Matter of Simeio Solutions, LLC*, 26 I&N Dec. 542 (AAO 2015); *see also* 5 U.S.C. § 557(b) (“On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule.”); *Dor v. INS*, 891 F.2d 997, 1002 n.9 (2d Cir. 1989).

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 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. Fed. 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 result, 8 C.F.R. § 214.2(h)(4)(iii)(A) must therefore be read as providing supplemental criteria that must be met in accordance with, and not as alternatives to, the statutory and regulatory definitions of specialty occupation.

As such and 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 individuals 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 individual, 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 or 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.

#### B. Proffered Position

In the letter of support dated October 8, 2012, the Petitioner stated that the Beneficiary would perform the following job duties in the proffered position:

In this position, [the Beneficiary’s] specific duties will include: (i) assisting in educating patients about evaluations and treatment programs prescribed by the physician for their particular disease process, including but not limited to nutrition program, exercise program, medication purpose and schedule; (ii) implementing, monitoring and following up on prescribed parameters; (iii) helping in enrolling patients in programs that help provide them with free or discounted medications if necessary; and (iv) coordinating health maintenance referrals.

In addition, the Petitioner stated that the proffered position requires “a Bachelor’s degree in Sociology, Social Work, or a related field.”

C. Analysis

Upon review of the record of proceedings, we find that there are inconsistencies and discrepancies in the petition and supporting documents, which undermine the Petitioner's credibility with regard to the services the Beneficiary will perform, as well as the actual nature and requirements of the proffered position. When a petition includes numerous discrepancies, those inconsistencies will raise serious concerns about the veracity of the Petitioner's assertions.

For example, the Petitioner has provided inconsistent information regarding the requirements for the proffered position. Specifically, in the letter of support, the Petitioner stated that the proffered position requires "a Bachelor's degree in Sociology, Social Work, or a related field." However, in response to the request for evidence (RFE), the Petitioner provided copies of newspaper advertisements for the proffered position, which indicated varied requirements. For instance, one posting requires a master's degree in health science; another requires a master's degree in health services; and one posting states that a master's degree in health science or a bachelor's degree plus 5 years in medicine is required for the health and patient educator position. No explanation for these inconsistencies was provided by the Petitioner.

Further, a crucial aspect of this matter is whether the Petitioner has sufficiently described the duties of the proffered position such that USCIS may discern the nature of the position and whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge attained through at least a baccalaureate degree in a specific discipline. Upon review, we find that the Petitioner has not done so.

For example, the Petitioner initially described the proposed duties in terms of generalized and generic functions that did not convey sufficient substantive information to establish the relative complexity, uniqueness and/or specialization of the proffered position or its duties. The abstract level of information provided about the proffered position and its constituent duties is exemplified by the Petitioner's assertion that the Beneficiary will be "assisting in educating patients about evaluations and treatment programs prescribed by the physician for their particular disease process. . . ." However, the statement did not provide any insight into the Beneficiary's actual duties, nor does it include any information regarding the specific tasks that the Beneficiary will perform.

Further, the Petitioner claimed in pertinent part that the Beneficiary will be "implementing, monitoring and following up on prescribed parameters" and "helping in enrolling patients in programs that help provide them with free or discounted medications if necessary." Notably, the Petitioner did not demonstrate how the performance of these duties, as described in the record, would require the attainment of a bachelor's or higher degree in a specific specialty, or its equivalent.

The Petitioner also claimed the Beneficiary will be "coordinating health maintenance referrals." The Petitioner's statement did not convey any pertinent details as to the actual work involved in this task. The Petitioner did not convey how a baccalaureate level of education (or higher) in a specific

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specialty, or its equivalent, would be required to perform these tasks. Thus, the overall responsibilities for the proffered position contained generalized functions without providing sufficient information regarding the particular work and the associated educational requirements into which the duties would manifest themselves in their day-to-day performance within the Petitioner's business operations.

Such generalized information does not in itself establish a necessary correlation between any dimension of the proffered position and a need for a particular level of education, or educational equivalency, in a body of highly specialized knowledge in a specific specialty. It is not evident that the proposed duties as initially described in this record of proceeding, and the position that they comprise, merit recognition of the proffered position as a specialty occupation. To the extent that they were described, the proposed duties did not provide a sufficient factual basis for conveying the substantive matters that would engage the Beneficiary in the actual performance of the proffered position for the entire three-year period requested, so as to persuasively support the claim that the position's actual work would require the theoretical and practical application of any particular educational level of highly specialized knowledge in a specific specialty directly related to the duties and responsibilities of the proffered position.

However, in response to the RFE and on appeal, the Petitioner expanded the duties for the proffered position. For example, on appeal, the proposed duties now include "[s]upervise professional and technical staff in implementing health programs, objectives, and goals," "collaborate with health specialists and civic groups to determine community health needs and the availability of services and to develop goals for meeting needs," "[p]rovide input to [h]ealth care agencies to develop appropriate health education needs and improve delivery of health education programs," and "design and conduct evaluations and diagnostic studies to assess the quality and performance of health education programs." We note that when responding to a request for evidence or on appeal, the Petitioner cannot materially change a position's level of authority within the organizational hierarchy, or its associated job responsibilities. The information provided on appeal did not clarify or provide more specificity to the original duties of the position, but rather added new generic duties to the job description.

Moreover, although on appeal the Petitioner provides a number of contracts and articles related to its business operations, the Petitioner has not specifically explained the duties and role of the proffered position in the context of any of these projects. For example, the Petitioner submitted two Statements of Work (SOW) with the [REDACTED] as examples of projects to which it intends to assign the Beneficiary. However, nowhere is the Beneficiary's name or the proffered position title mentioned in these documents. We further note that the SOWs with the [REDACTED] are for work that was expected to be completed by August 31, 2013, even though the Petitioner requested an H-1B validity period through November 1, 2015.

Further, in the letter dated August 12, 2013, filed in support of the motion, the Petitioner claimed that the Beneficiary is the "lead person" for a diabetes prevention program funded by the [REDACTED]

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Notably, the SOW indicates that the project will run from September 1, 2012, to August 31, 2013. We take administrative notice of regulatory requirements in Texas for diabetes education, which requires the Beneficiary to (1) have either been certified as a diabetes educator by the National Certification Board for Diabetes Educators; or (2) completed 24 hours of training.<sup>2</sup> The Petitioner submitted an Educator Certificate of Completion for the Beneficiary dated March 21, 2013, which is approximately five months after the instant petition was filed. Therefore, it appears that the Beneficiary was not qualified to be the “lead person” for the program which according to the SOW, started on September 1, 2012, and in turn, undermines that Petitioner’s claim that the Beneficiary is the lead person for this program. Moreover, the Beneficiary was also not qualified to lead this program at the time of filing this petition on October 29, 2012. The Petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. 8 C.F.R. § 103.2(b)(1). A visa petition may not be approved at a future date after the Petitioner or Beneficiary becomes eligible under a new set of facts. *See Matter of Michelin Tire Corp.*, 17 I&N Dec. 248, 249 (Reg’l Comm’r 1978).

In addition, we find that there are discrepancies between what the Petitioner claims regarding the occupational classification and level of responsibility inherent in the proffered position when compared with the occupational classification and level of responsibility conveyed by the Level I wage indicated on the Labor Condition Application (LCA) submitted in support of the petition.

The LCA designation for the proffered position corresponds to the occupational classification of “Health Educators” - SOC (ONET/OES Code) 21-1091, at a Level I (entry-level) wage.<sup>3</sup> This designation is appropriate for positions for which the Petitioner expects the Beneficiary to have a basic understanding of the occupation. That is, in accordance with the relevant U.S. Department of Labor (DOL) explanatory information on wage levels, this wage rate indicates that the Beneficiary will be expected to perform routine tasks that require limited, if any, exercise of judgment; that he will be closely supervised and his work closely monitored and reviewed for accuracy; and that he will receive specific instructions on required tasks and expected results. Notably, a position

<sup>2</sup> TEX. INS. CODE ANN. Art. §1358.055.

<sup>3</sup> The wage levels are defined in the U.S. Department of Labor (DOL’s) “Prevailing Wage Determination Policy Guidance.” A Level I wage rate is described as follows:

**Level I** (entry) wage rates are assigned to job offers for beginning level employees who have only a basic understanding of the occupation. These employees perform routine tasks that require limited, if any, exercise of judgment. The tasks provide experience and familiarization with the employer’s methods, practices, and programs. The employees may perform higher level work for training and developmental purposes. These employees work under close supervision and receive specific instructions on required tasks and results expected. Their work is closely monitored and reviewed for accuracy. Statements that the job offer is for a research fellow, a worker in training, or an internship are indicators that a Level I wage should be considered.

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](http://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf).

classified at a Level IV (fully competent) position is designated by DOL for employees who “use advanced skills and diversified knowledge to solve unusual and complex problems.”<sup>4</sup>

However, the Petitioner claimed that the proffered position involves complex, unique, and/or specialized duties. For example, in the letter dated October 8, 2012, the Petitioner claimed that “[d]ue to the complex and demanding requirements,” “only a person of exceptional ability and skills in health services is capable of qualifying for the position.” In response to the RFE, the Petitioner asserted that “the nature of these specific responsibilities and knowledge is so specialized and complex.” However, the wage level designated by the Petitioner in the LCA for the proffered position is not consistent with claims that the position would entail any particularly complex, unique and/or specialized duties as to require the services of a person with at least a bachelor’s degree in a specific specialty, or its equivalent.<sup>5</sup>

Further, the Petitioner stated in response to the RFE that “the ability to hire an individual who can carry on the responsibility of the position with little or no supervision is not only a critical asset, but also a requirement.” As mentioned, the Petitioner also claimed that the Beneficiary is the lead person for a diabetes program. On appeal, the Petitioner also claimed that the Beneficiary will “[s]upervise professional and technical staff in implementing health programs, objectives, and goals.” We note that such requirement and responsibilities surpass the expectations of a Level I position, where the employee works under close supervision, performing routine tasks that require only a basic understanding of the occupation and limited exercise of judgment. Here, rather than the Beneficiary’s work being “monitored and reviewed for accuracy,” it appears that the Petitioner expects the Beneficiary to lead programs for its organization and exercise independent judgement. Additionally, the Petitioner’s requirement for a master’s degree in the newspaper advertisements for the proffered position appears to exceed what is normally expected for a Level I, entry-level position.<sup>6</sup>

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<sup>4</sup> For additional information regarding wage levels as defined by DOL, 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](http://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf).

<sup>5</sup> The Petitioner’s designation of this position as a Level I, entry-level position undermines its claim that the position is particularly complex, specialized, or unique compared to other positions *within the same occupation*. Nevertheless, a Level I wage-designation does not preclude a proffered position from classification as a specialty occupation, just as a Level IV wage-designation does not definitively establish such a classification. In certain occupations (e.g., doctors or lawyers), a Level I, entry-level position would still require a minimum of a bachelor’s degree in a specific specialty, or its equivalent, for entry. Similarly, however, a Level IV wage-designation would not reflect that an occupation qualifies as a specialty occupation if that higher-level position does not have an entry requirement of at least a bachelor’s degree in a specific specialty, or its equivalent. That is, a position’s wage level designation may be a relevant factor but is not itself conclusive evidence that a proffered position meets the requirements of section 214(i)(1) of the Act.

<sup>6</sup> Wage levels should be determined only after selecting the most relevant Occupational Information Network (O\*NET) occupational code classification. Then, a prevailing wage determination is made by selecting one of four wage levels for an occupation based on a comparison of the employer’s job requirements to the occupational requirements, including tasks, knowledge, skills, and specific vocational preparation (education, training and experience) generally required for acceptable performance in that occupation.

Prevailing wage determinations start with a Level I (entry) and progress to a wage that is commensurate with that of a

This characterization of the position and the claimed duties and responsibilities as described in the record of proceeding conflict with the wage-rate element of the LCA selected by the Petitioner, which is indicative of a comparatively low, entry-level position relative to others within the occupation. This aspect of the LCA undermines the credibility of the petition, and, in particular, the credibility of the Petitioner's assertions regarding the demands, level of responsibilities and requirements of the proffered position.<sup>7</sup> "[I]t is incumbent upon the petitioner to resolve the inconsistencies by independent objective evidence." *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA

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Level II (qualified), Level III (experienced), or Level IV (fully competent) after considering the job requirements, experience, education, special skills/other requirements and supervisory duties. Factors to be considered when determining the prevailing wage level for a position include the complexity of the job duties, the level of judgment, the amount and level of supervision, and the level of understanding required to perform the job duties. DOL emphasizes that these guidelines should not be implemented in a mechanical fashion and that the wage level should be commensurate with the complexity of the tasks; independent judgment required, and amount of close supervision received.

A point system is used to assess the complexity of the job and assign the wage level. Step 1 requires a "1" to represent the job's requirements. Step 2 addresses experience and must contain a "0" (for at or below the level of experience and SVP range), a "1" (low end of experience and SVP), a "2" (high end), or "3" (greater than range). Step 3 considers education required to perform the job duties, a "1" (more than the usual education by one category) or "2" (more than the usual education by more than one category). Step 4 accounts for Special Skills requirements that indicate a higher level of complexity or decision-making with a "1" or a "2" entered as appropriate. Finally, Step 5 addresses Supervisory Duties, with a "1" entered unless supervision is generally required by the occupation.

<sup>7</sup> The regulation at 8 C.F.R. § 214.2(h)(4)(i)(B)(2) specifies that certification of an LCA does not constitute a determination that an occupation is a specialty occupation:

Certification by the Department of Labor [DOL] of a labor condition application in an occupational classification does not constitute a determination by that agency that the occupation in question is a specialty occupation. The director shall determine if the application involves a specialty occupation as defined in section 214(i)(1) of the Act. The director shall also determine whether the particular alien for whom H-1B classification is sought qualifies to perform services in the specialty occupation as prescribed in section 214(i)(2) of the Act.

While DOL is the agency that certifies LCA applications before they are submitted to USCIS, DOL regulations note that the Department of Homeland Security (DHS) (i.e., its immigration benefits branch, USCIS) is the department responsible for determining whether an LCA filed for a particular Form I-129 actually supports that petition. *See* 20 C.F.R. § 655.705(b), which states, in pertinent part (emphasis added):

For H-1B visas . . . DHS accepts the employer's petition (DHS Form I-129) with the DOL certified LCA attached. *In doing so, the DHS determines whether the petition is supported by an LCA which corresponds with the petition*, whether the occupation named in the [LCA] is a specialty occupation or whether the individual is a fashion model of distinguished merit and ability, and whether the qualifications of the nonimmigrant meet the statutory requirements of H-1B visa classification.

The regulation at 20 C.F.R. § 655.705(b) requires that USCIS ensure that an LCA actually supports the H-1B petition filed on behalf of the beneficiary. Here, the Petitioner did not submit a valid LCA that corresponds to the claimed duties and requirements of the proffered position, that is, specifically, that corresponds to the level of work, responsibilities and requirements that the Petitioner ascribed to the proffered position and to the wage-level corresponding to such a level of work, responsibilities and requirements in accordance with the pertinent LCA regulations.

1988). Any attempt to explain or reconcile such inconsistencies will not suffice unless the Petitioner submits competent objective evidence pointing to where the truth lies. *Id.* at 591-92.

The Petitioner has not provided sufficient details regarding the nature and scope of the Beneficiary's employment or substantive evidence regarding the actual work that the Beneficiary would perform. Without a meaningful job description, the record lacks evidence sufficiently concrete and informative to demonstrate that the proffered position requires a specialty occupation's level of knowledge in a specific specialty. The tasks as described do not communicate: (1) the actual work that the beneficiary would perform; (2) the complexity, uniqueness and/or specialization of the tasks; and/or (3) the correlation between that work and a need for a particular level education of highly specialized knowledge in a specific specialty.

As the Petitioner has not established the substantive nature of the work to be performed by the Beneficiary, this precludes a finding that the proffered position satisfies any criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A), because it is the substantive nature of that work that determines (1) the normal minimum educational requirement for the particular position, which is the focus of criterion 1; (2) industry positions which are parallel to the proffered position and thus appropriate for review for a common degree requirement, under the first alternate prong of criterion 2; (3) the level of complexity or uniqueness of the proffered position, which is the focus of the second alternate prong of criterion 2; (4) the factual justification for a petitioner normally requiring a degree or its equivalent, when that is an issue under criterion 3; and (5) the degree of specialization and complexity of the specific duties, which is the focus of criterion 4.

For the reasons related in the preceding discussion, the Petitioner has not established 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.

### III. ADDITIONAL BASIS

Since the identified basis for denial is dispositive of the Petitioner's appeal, we need not address another ground of ineligibility we observe in the record of proceeding. Nevertheless, we will briefly note and summarize it here with the hope and intention that, if the Petitioner seeks again to employ the Beneficiary or another individual as an H-1B employee in the proffered position, it will submit sufficient independent objective evidence to address and overcome this additional ground in any future filing.

We do not need to examine the issue of the Beneficiary's qualifications because the Petitioner has not provided sufficient evidence to demonstrate that the proffered position is a specialty occupation. In other words, a 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 Petitioner did not submit sufficient evidence regarding the proffered position to determine whether it will require a baccalaureate or higher degree in a specific specialty or its equivalent. Absent this determination that a baccalaureate or higher degree in a specific specialty, or its equivalent, is required to perform the duties of the proffered position, it also cannot be determined whether the Beneficiary possesses that degree, or its equivalent. Therefore, we need not and will not address the Beneficiary's qualifications further, except to note that the combined evaluation of the Beneficiary's education and work experience submitted on appeal by the Petitioner is insufficient to establish that the Beneficiary possesses the equivalent of a U.S. bachelor's degree in any specific specialty. Specifically, the claimed equivalency was based in part on experience; however, there is no evidence that the evaluator has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience, and that the Beneficiary also has recognition of expertise in the specialty through progressively responsible positions directly related to the specialty. *See* 8 C.F.R. § 214.2(h)(4)(iii)(C)(4) and (D)(1).

#### IV. CONCLUSION AND ORDER

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 not been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of I-S-F-, Inc.*, ID# 15014 (AAO Dec. 14, 2015)