



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

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

MATTER OF C-C-O-A-, INC.

DATE: JAN. 29, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a computer consulting and software development company, seeks to temporarily employ the Beneficiary as a “systems integration and user acceptance testing coordinator” 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, California Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

**I. ISSUES**

The Director denied the petition, concluding that the Petitioner did not establish that the Beneficiary is qualified to perform services in a specialty occupation. However, a beneficiary’s credentials to perform a particular job are relevant only when the job is found to qualify as a specialty occupation. U.S. Citizenship and Immigration Services (USCIS) is required to follow long-standing legal standards and determine first, whether the proffered position qualifies as a specialty occupation, and second, whether the beneficiary was qualified for the position at the time the nonimmigrant visa petition was filed. *Cf. Matter of Michael Hertz Assoc.*, 19 I&N Dec. 558, 560 (Comm’r 1988) (“The facts of a beneficiary’s background only come at issue after it is found that the position in which the petitioner intends to employ him falls within [a specialty occupation].”).

Therefore, we will first determine whether the proffered position qualifies as a specialty occupation.<sup>1</sup> We will then briefly address whether the Petitioner has established that it will have a valid employer-employee relationship with the Beneficiary. Lastly, we will briefly address whether the Petitioner has established that the Beneficiary is qualified for the proffered position.

**II. THE PROFFERED POSITION**

The Petitioner stated in its letter dated April 2, 2015, that the Beneficiary would work off-site for [REDACTED] (the Client) in [REDACTED] MI. The Petitioner further

<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).

indicated that the Beneficiary would work as a “systems integration and user acceptance testing coordinator” with the following responsibilities:

- Work with IT & Business Test Manager and other Test Analysts to plan and track testing tasks, plan, traceability, Quality Center updates, daily status reporting
- Coordinate with the project work streams and application teams in the creation, maintenance [a]nd execution of test cases and end to end business scenarios
- Ensure requirements traceability to test cases and test results
- Communication of test metrics for Testers, Coordinators, Project Managers, Vendors, Lines of Business and IT and Business Test Manager
- Escalate testing defects, problems, and issues to Project Manager and Vendor Test Manager for timely resolution
- Perform other testing duties as assigned

In response to the request for evidence (RFE), the Petitioner indicated that the requirement for the position is a “Bachelor’s degree in Computer Science, Science, Engineering, a related analytical or scientific discipline, or its equivalent in education or work-related experience.”

### III. SPECIALTY OCCUPATION

For an H-1B petition to be granted, the Petitioner must provide sufficient evidence to establish that it will employ the Beneficiary in a specialty occupation position. To meet its burden of proof in this regard, the Petitioner must establish that the employment it is offering to the Beneficiary meets the applicable statutory and regulatory requirements of a 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.

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. Analysis

As recognized by the court in *Defensor, supra*, where the work is to be performed for entities other than the Petitioner, evidence of the client companies' job requirements is critical. *See Defensor v. Meissner*, 201 F.3d at 387-388. The court held that the former Immigration and Naturalization Service had reasonably interpreted the statute and regulations as requiring the Petitioner to produce evidence that a proffered position qualifies as a specialty occupation on the basis of the requirements imposed by the entities using the Beneficiary's services. *Id.* at 384. Such evidence must be sufficiently detailed to demonstrate the type and educational level of highly specialized knowledge in a specific discipline that is necessary to perform that particular work.

In this case, the Client did not specify the requirements for the proffered position. Further, we find that the Petitioner's claimed requirement for the proffered position does not establish that the proffered position qualifies as a specialty occupation. In response to the RFE, the Petitioner indicated that the requirement for the position is a "Bachelor's degree in Computer Science, Science, Engineering, a related analytical or scientific discipline, or its equivalent in education or work-related experience."

In general, provided the specialties are closely related, e.g., chemistry and biochemistry, a minimum of a bachelor's or higher degree in more than one specialty is recognized as satisfying the "degree in the specific specialty (or its equivalent)" requirement of section 214(i)(1)(B) of the Act. In such a case, the required "body of highly specialized knowledge" would essentially be the same. Since there must be a close correlation between the required "body of highly specialized knowledge" and the position, however, a minimum entry requirement of a degree in two disparate fields, such as philosophy and engineering, for example, would not meet the statutory requirement that the degree be "in *the* specific specialty (or its equivalent)," unless the Petitioner establishes how each field is directly related to the duties and responsibilities of the particular position such that the required

“body of highly specialized knowledge” is essentially an amalgamation of these different specialties. Section 214(i)(1)(B) of the Act (emphasis added).

In other words, while the statutory “the” and the regulatory “a” both denote a singular “specialty,” we do not so narrowly interpret these provisions to exclude positions from qualifying as specialty occupations if they permit, as a minimum entry requirement, degrees in more than one closely related specialty. *See* section 214(i)(1)(B) of the Act; 8 C.F.R. § 214.2(h)(4)(ii). This also includes even seemingly disparate specialties providing, again, the evidence of record establishes how each acceptable, specific field of study is directly related to the duties and responsibilities of the particular position.

Here, the Petitioner states that its minimum educational requirement for the proffered position is a “bachelor’s degree in computer science, science, engineering, a related analytical or scientific discipline, or its equivalent in education or work related experience.” The issue is that this list of acceptable credentials includes broad categories that cover numerous and various specialties.<sup>2</sup> The Petitioner, who bears the burden of proof in this proceeding, does not establish either (1) that these various degrees are all closely related fields, or (2) that a general degree in one of these fields is directly related to the duties and responsibilities of the particular position proffered in this matter. Accordingly, as the evidence of record does not establish a standard, minimum requirement of at least a bachelor’s degree *in a specific specialty*, or its equivalent, for entry into the particular position, it does not support the proffered position as being a specialty occupation.

Further, the record of proceeding does not contain sufficient information regarding the specific job duties to be performed by the Beneficiary. For example, the Petitioner submitted a letter from the Client, but the Client describes the duties of the proffered position in generalized and abstract terms that do not convey sufficient substantive information to establish the relative complexity, uniqueness and/or specialization of the position. The overall responsibilities contain generalized functions without providing sufficient information regarding the particular work, and associated educational requirements, into which the duties would manifest themselves in their day-to-day performance. For example, the Client indicates that the Beneficiary will “[w]ork with IT & Business Test Manager and other Test Analysts to plan and track testing tasks, plan, traceability, Quality Center updates, daily status reporting” and “[e]nsure requirements traceability to test cases and test results.” There is no further explanation of what specific tasks the Beneficiary will perform in furtherance of these overarching duties or what body of knowledge is required to perform these duties.

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<sup>2</sup> For example, the term “science” is defined as “1a. The observation, identification, description, experimental investigation, and theoretical explanation of natural phenomena. . . . 2. Methodological activity, disciplines, or study <culinary science> 3. An activity that appears to require study and method.” Webster’s II New College Dictionary 1012 (2008). *U.S. News and World Report’s* guide for colleges designates science programs into various subcategories, including biological sciences, chemistry, earth sciences, mathematics, physics, and statistics. *See U.S. News and World Report*, available at <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-science-schools> (last visited Jan. 27, 2016).

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In addition, the Petitioner submitted an employment agreement; however, the agreement does not provide sufficient information to substantiate the Petitioner's claims regarding the Beneficiary's employment. More specifically, we observe that the document does not specify that the Beneficiary will be placed with the Client in [REDACTED] MI. The agreement states "[the Beneficiary] will be responsible for providing [the Petitioner] technical services to such clients as [the Petitioner] designates." Based on the agreement, it appears that the Beneficiary may be placed at other locations and assigned to other projects and, thus, not necessarily in [REDACTED] MI as indicated on the Form I-129 and LCA.

Further, the employment agreement states that the Beneficiary will work as a "consultant" for the Petitioner, but does not indicate that the Beneficiary will work as "systems integration and user acceptance testing coordinator" for the duration of the petition. Further, the letter from the Client indicates that "[the Beneficiary] is performing services . . . in the capacity of a consultant." "[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 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.

Moreover, the record reflects that the assignment at the Client is for only one year, which does not cover the validity date of requested H-1B employment period. Specifically, the Petitioner submitted a printout from Beeline.com which appears to indicate that the Beneficiary is assigned to [REDACTED] in [REDACTED] MI. Assuming that [REDACTED] and the Client are related entities, the printout indicates that the Beneficiary's assignment as a "senior systems integration and user acceptance testing coordinator-senior" is valid for only one year from March 23, 2015 to March 22, 2016. The Petitioner did not submit additional evidence to establish that the assignment has been extended for the validity of the Beneficiary's requested H-1B employment period.

Therefore, we find that the Petitioner has not established that the petition was filed for non-speculative work for the Beneficiary, for the entire period requested, that existed as of the time of the petition's filing. Without further information regarding specific projects to which the Beneficiary would be assigned that covers the duration of the period of employment requested, we are not able to ascertain what the Beneficiary would do, where the Beneficiary would work, as well as how this would impact circumstances of his relationship with the Petitioner. USCIS regulations affirmatively require a petitioner to establish eligibility for the benefit it is seeking at the time the petition is filed. *See* 8 C.F.R. 103.2(b)(1). A visa petition may not be approved based on speculation of future eligibility or after the Petitioner or Beneficiary becomes eligible under a new set of facts. *See Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg'l Comm'r 1978).<sup>3</sup>

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<sup>3</sup> The agency made clear long ago that speculative employment is not permitted in the H-1B program. For example, a 1998 proposed rule documented this position as follows:

Historically, the Service has not granted H-1B classification on the basis of speculative, or undetermined, prospective employment. The H-1B classification is not intended as a vehicle for an individual to engage in a job search within the United States, or for employers to bring in temporary

Based on all of the reasons discussed, we find that the evidence of record is insufficient to establish that the Beneficiary will be employed exclusively to work as a “systems integration and user acceptance testing coordinator” for the validity period requested. The inability to establish the substantive nature of the work to be performed by the Beneficiary consequently 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. Accordingly, as the Petitioner has not established that it has satisfied any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), it cannot be found that the proffered position qualifies as a specialty occupation.

#### IV. EMPLOYER-EMPLOYEE RELATIONSHIP

Further, we find that the record is not persuasive in establishing that the Petitioner will have an employer-employee relationship with the Beneficiary. The United States Supreme Court determined that where federal law fails to clearly define the term “employee,” courts should conclude that the term was “intended to describe the conventional master-servant relationship as understood by common-law agency doctrine.” *Nationwide Mut. Ins. Co. v. Darden*, 503 U.S. 318, 322-23 (1992) (quoting *Cnty. for Creative Non-Violence v. Reid*, 490 U.S. 730 (1989)). The Supreme Court stated:

In determining whether a hired party is an employee under the general common law of agency, we consider the hiring party’s right to control the manner and means by which the product is accomplished. Among the other factors relevant to this inquiry are the skill required; the source of the instrumentalities and tools; the

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foreign workers to meet possible workforce needs arising from potential business expansions or the expectation of potential new customers or contracts. To determine whether an individual is properly classifiable as an H-1B nonimmigrant under the statute, the Service must first examine the duties of the position to be occupied to ascertain whether the duties of the position require the attainment of a specific bachelor’s degree. See section 214(i) of the Immigration and Nationality Act (the “Act”). The Service must then determine whether the alien has the appropriate degree for the occupation. In the case of speculative employment, the Service is unable to perform either part of this two-prong analysis and, therefore, is unable to adjudicate properly a request for H-1B classification. Moreover, there is no assurance that the individual will engage in a specialty occupation upon arrival in this country.

Petitioning Requirements for the H Nonimmigrant Classification, 63 Fed. Reg. 30,419, 30,419-20 (proposed June 4, 1998) (to be codified at 8 C.F.R. pt. 214). While a petitioner is certainly permitted to change its intent with regard to non-speculative employment, e.g., a change in duties or job location, it must nonetheless document such a material change in intent through an amended or new petition in accordance with 8 C.F.R. § 214.2(h)(2)(i)(E).

location of the work; the duration of the relationship between the parties; whether the hiring party has the right to assign additional projects to the hired party; the extent of the hired party's discretion over when and how long to work; the method of payment; the hired party's role in hiring and paying assistants; whether the work is part of the regular business of the hiring party; whether the hiring party is in business; the provision of employee benefits; and the tax treatment of the hired party.

*Id.*; see also *Clackamas Gastroenterology Assocs., P.C. v. Wells*, 538 U.S. 440, 445 (2003) (quoting *Darden*, 503 U.S. at 323). As the common-law test contains “no shorthand formula or magic phrase that can be applied to find the answer, . . . all of the incidents of the relationship must be assessed and weighed with no one factor being decisive.” *Darden*, 503 U.S. at 324 (quoting *NLRB v. United Ins. Co. of Am.*, 390 U.S. 254, 258 (1968)).

As such, while social security contributions, worker's compensation contributions, unemployment insurance contributions, federal and state income tax withholdings, and other benefits are still relevant factors in determining who will control the Beneficiary, other incidents of the relationship, e.g., who will oversee and direct the work of the Beneficiary, who will provide the instrumentalities and tools, where will the work be located, and who has the right or ability to affect the projects to which the Beneficiary is assigned, must also be assessed and weighed in order to make a determination as to who will be the Beneficiary's employer.

Applying the *Darden* and *Clackamas* tests to this matter, the Petitioner has not established that it will be a “United States employer” having an “employer-employee relationship” with the Beneficiary as an H-1B temporary “employee.” A key element in this matter is who would have the ability to hire, fire, supervise, or otherwise control the work of the Beneficiary for the duration of the H-1B petition. Upon review, we find that the record of proceeding does not establish that the Petitioner will direct, supervise and control the Beneficiary's work.

Specifically, the Petitioner submitted a copy of an agreement for services with the Client. The agreement states the following, in part:

### 3. [THE CLIENT]'S RESPONSIBILITIES

(a) Generally. The services to be performed by employees provided by [the Petitioner] will be performed under the direction, supervision and control of [the Client].” [The Client] will provide [the Petitioner]'s employees with (i) a suitable workplace which complies with all applicable and health standards, statutes and ordinances, (ii) all necessary information, training and safety equipment with respect to hazardous substances, and (iii) adequate instructions, assistance, supervision and time to perform the services requested of them. [The Client] will be responsible for the acts or omissions of [the Petitioner]'s employees (a) working at premises at which there are no responsible [the Petitioner]'s supervisory personnel present, (b) working in situations lacking in appropriate internal controls and safeguards, or (c) handling

cash, negotiables, valuables, merchandise, credit cards, check-writing materials, keys or similar property. . . .

According to this agreement, it is the Client that will direct, supervise and control the Beneficiary's services. Further, it indicates that the Client will provide all applicable training as well as instrumentalities and tools, and will also be responsible for the acts or omissions of the employees working on its premises.

Further, while the employment agreement with the Beneficiary indicates that the Beneficiary will be notified if the "performance is unsatisfactory due to lack of ability" or failure to abide by its rules or fulfill the requirements of the assignment, it lacks information regarding the establishment of work and performance standards, the methods for assessing and evaluating the employees' performance, and the specific criteria for determining bonuses and salary adjustments. The Petitioner did not submit additional evidence to supplement this information. While an employment agreement may provide some insights into the relationship of a petitioner and a beneficiary, it must be noted that the "mere existence of a document styled" "employment agreement" shall not lead inexorably to the conclusion that the worker is an employee. *Clackamas*, 538 U.S. at 450.

Upon complete review of the record of proceeding, we find that the evidence in this matter is insufficient to establish that the Petitioner qualifies as a United States employer, as defined by 8 C.F.R. § 214.2(h)(4)(ii). The evidence of record does not sufficiently establish that the Petitioner would act as the Beneficiary's employer. Based on the tests outlined above, we find that the Petitioner has not established that it will be a "United States employer" having an "employer-employee relationship" with the Beneficiary as an H-1B temporary "employee." 8 C.F.R. § 214.2(h)(4)(ii).

## V. BENEFICIARY'S QUALIFICATIONS

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. 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, 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, in any event, the credential evaluations of the Beneficiary's education and experience submitted by the Petitioner are insufficient to establish that the Beneficiary possesses the equivalent of a U.S. bachelor's degree in any specific specialty.

Specifically, the provision at 8 C.F.R. § 214.2(h)(4)(iii)(D)(I) requires an evaluation from an official who 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

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individual's training and/or work experience. The Petitioner submitted credential evaluations from two evaluators; [REDACTED] and [REDACTED]. However, the Petitioner has not established that the evaluators are officials that meet the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(D)(I).

For [REDACTED] the record contains a letter from the dean of the [REDACTED] School of Business, which states that [REDACTED] "authorizes the granting of credit to students for completion of degree program requirements." However, it does not indicate that [REDACTED] has the authority to grant college level credit for training and/or experience in the specialty.

For [REDACTED] the record contains a letter from the dean of the [REDACTED] School of Business. The letter indicates that [REDACTED] "authorizes the granting of 'life science' credits through the [REDACTED] degree completion program offered through the School of Continuing and Professional Studies." However, there is no information regarding the extent of the dean's participation in or personal knowledge of the [REDACTED] program, which is administered by an entity other than the Business School, namely, the School of Continuing and Professional Studies. Therefore, we find that the letter from the dean is of limited value since the dean does not provide substantive information or documentation to support his conclusory declaration.

Further, we find that, even taken at face value, the letter from the dean does not establish that [REDACTED] involvement in the [REDACTED] program qualifies him as "an official who has authority to grant college-level credit for training and/or experience in the specialty." Specifically, the letter indicates that [REDACTED] is authorized to grant "life experience" credits, *not* "college-level credit" and *not* "college-level credit in the [pertinent] specialty" as specified at 8 C.F.R. § 214.2(h)(4)(iii)(D)(I). It is the Petitioner's burden to establish both what constitutes "life experience" as defined for credit-assessment in the [REDACTED] program, and also that "life experience" evaluated for credit in the [REDACTED] program is substantially the same as "training and/or work experience" which must be the basis of college-credit awarded by a person whom a Petitioner holds out as qualifying as an 8 C.F.R. § 214.2(h)(4)(iii)(D)(I) official.

Further, while the claimed equivalency was based in part on the Beneficiary's experience, the experience letters provided are not sufficiently detailed to demonstrate that the Beneficiary has recognition of expertise in the specialty through progressively responsible positions related to the specialty. *See* 8 C.F.R. § 214.2(h)(4)(iii)(C)(4). For example, the letter from [REDACTED] states that "[the Beneficiary] has been employed by us on a permanent full time basis as a Consultant Database Administrator from January 2004 to August 2005," but does not provide information regarding the Beneficiary's duties in the position. Similarly, a letter from [REDACTED] states that the Beneficiary was employed as a programmer analyst and they found "her services to have been very useful to our projects," but does not provide additional information about substantive nature of her employment. Therefore, we find that the conclusions from the credential evaluations are not sufficiently substantiated. As such, since evidence was not presented that the Beneficiary has at least a U.S. bachelor's degree in any specific specialty, or its equivalent, the petition could not be approved even if eligibility for the benefit sought had been otherwise established.

## VI. CONCLUSION

We may deny an application or petition that does not comply with the technical requirements of the law even if the Director does not identify all of the grounds for denial in the initial decision. *See Spencer Enters., Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001); *see also Matter of Simeio Solutions, LLC*, 26 I&N Dec. 542 (AAO 2015) (noting that we conduct appellate review on a *de novo* basis).

Moreover, when we deny a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if it shows that we abused our discretion with respect to all of the enumerated grounds. *See Spencer Enters., Inc. v. United States*, 229 F. Supp. 2d at 1037; *see also BDPCS, Inc. v. FCC*, 351 F.3d 1177, 1183 (D.C. Cir. 2003) (“When an agency offers multiple grounds for a decision, we will affirm the agency so long as any one of the grounds is valid, unless it is demonstrated that the agency would not have acted on that basis if the alternative grounds were unavailable.”).

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 C-C-O-A-, Inc.*, ID# 15802 (AAO Jan. 29, 2016)