



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

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

MATTER OF A-F-A-

DATE: JUNE 24, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, a private school, seeks to temporarily employ the Beneficiary as an “admissions office communication specialist” under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both (a) the theoretical and practical application of a body of highly specialized knowledge and (b) the attainment of a bachelor’s or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner did not sufficiently establish that the proffered position qualifies as a specialty occupation. The Petitioner then filed a motion to reopen and reconsider the Director’s decision. The Director granted the motion, but again found that the proffered position does not qualify as a specialty occupation.

The matter is now before us on appeal. In its appeal, the Petitioner asserts that the Director erred and abused her discretion in finding that the proffered position is not a specialty occupation.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

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) largely restates this statutory definition, but adds a non-exhaustive list of fields of endeavor. In addition, the regulations provide that the proffered position must meet one of the following criteria to qualify as a specialty occupation:

- (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.

8 C.F.R. § 214.2(h)(4)(iii)(A). U.S. Citizenship and Immigration Services (USCIS) has consistently interpreted 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 proposed 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”); *Defensor v. Meissner*, 201 F.3d 384, 387 (5th Cir. 2000).

II. PROFFERED POSITION

In the H-1B petition, the Petitioner stated that the Beneficiary will serve as an “admissions office communication specialist.” In the letter of support, the Petitioner provided the following job duties for the position (verbatim):

- Responsible for adhering to all school policies and procedures
- Directly responsible for applicant screening by phone and through the internet
- Respond to requests for information from the public and potential international students.
- Manage visits/tours (on campus, Skype, phone or approved alternative), candidate interviews, processing or applications and communications with families.
- Write press releases or other media communications to promote diverse Academy admissions.
- Maintain cooperative relationships with representatives of academic community, and public interest groups.

- Participate and advise with the Admissions committee to make final decisions. Maintain and increase relationship with educational consultants, agents and feeder schools.
- Maintain and increase relationship with alumni, current families and students
- Initiate the development of new markets
- Responsible for developing and editing materials relating to Admissions, including fact sheets, websites, directories, surveys and general school information presented to the public.
- Study the objectives, policies or needs of the Academy to develop public relations strategies that will influence public opinion and promote admissions of foreign national students.
- Update and maintain University's admissions office content posted on the Web.
- Assist the Academy Advancement office with development opportunities
- Assist with strategic planning for the Admissions Office
- Assist with I-20's or other letters needed to expedite visa process for international students
- Oversee with the business office staff to ensure student funding is legitimate through certified bank statement, wire transfer, full payment, or agreed upon alternative with Business Manager
- Work with the business office regarding Financial Aid procedures and status
- Confer with admissions advisors and counselors to identify trends or concerns to provide advice on admissions decisions.
- Prepare admission publications, such as brochures, travel pieces, and admission pieces.
- Travel nationally and internationally, as required, on behalf of the school (within budget)
- Attend off-campus conferences, seminars and recruiting events.
- Assist with the development of a recruiting and marketing plan to promote the school and reach admission goals.

The Petitioner also stated that it "requires the candidate for this position to hold a minimum of a bachelor's degree, or its equivalent, in Communications, or a related field."

III. ANALYSIS

Upon review of the record in its totality and for the reasons set out below, we determine that the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation.¹ Specifically, the record (1) does not describe the position's duties with sufficient detail; and (2) does

¹ Although some aspects of the regulatory criteria may overlap, we will address each of the criteria individually.

not establish that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.²

A. First Criterion

We turn first to the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(I), which requires that a baccalaureate or higher degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry into the particular position. To inform this inquiry, we recognize the U.S. Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)* as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses.³

On the labor condition application (LCA) submitted in support of the H-1B petition, the Petitioner designated the proffered position under the occupational category "Public Relations Specialist" corresponding to the Standard Occupational Classification code 27-3031.⁴

The subchapter of the *Handbook* entitled "How to Become a Public Relations Specialist" states, in part, the following about this occupation:

Education

Public relations specialists typically need a bachelor's degree in public relations, journalism, communications, English, or business. Through such programs, students produce a portfolio of work that demonstrates their ability to prospective employers.

² The Petitioner submitted documentation to support the H-1B petition, including evidence regarding the proffered position and its business operations. While we may not discuss every document submitted, we have reviewed and considered each one.

³ All of our references are to the 2016-2017 edition of the *Handbook*, which may be accessed at the Internet site <http://www.bls.gov/ooh/>. We do not, however, maintain that the *Handbook* is the exclusive source of relevant information. That is, the occupational category designated by the Petitioner is considered as an aspect in establishing the general tasks and responsibilities of a proffered position, and USCIS regularly reviews the *Handbook* on the duties and educational requirements of the wide variety of occupations that it addresses. To satisfy the first criterion, however, the burden of proof remains on the Petitioner to submit sufficient evidence to support a finding that its particular position would normally have a minimum, specialty degree requirement, or its equivalent, for entry.

⁴ The Petitioner classified the proffered position at a Level I wage (the lowest of four assignable wage levels). We will consider this selection in our analysis of the position. The "Prevailing Wage Determination Policy Guidance" issued by the DOL provides a description of the wage levels. A Level I wage rate is generally appropriate for positions for which the Petitioner expects the Beneficiary to have a basic understanding of the occupation. This wage rate indicates: (1) that the Beneficiary will be expected to perform routine tasks that require limited, if any, exercise of judgment; (2) that she will be closely supervised and her work closely monitored and reviewed for accuracy; and (3) that she will receive specific instructions on required tasks and expected results. U.S. Dep't of Labor, Emp't & Training Admin., *Prevailing Wage Determination Policy Guidance*, Nonagric. Immigration Programs (rev. Nov. 2009), available at http://flcdcenter.com/download/NPWHC_Guidance_Revised_11_2009.pdf. A prevailing wage determination starts with an entry level wage and progresses to a higher wage level after considering the experience, education, and skill requirements of the Petitioner's job opportunity. *Id.*

Training

Entry-level workers typically begin by maintaining files of material about an organization's activities, skimming and retaining relevant media articles, and assembling information for speeches and pamphlets. After gaining experience, public relations specialists begin to write news releases, speeches, articles for publication, or carry out public relations programs.

U.S. Dep't of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2016-17 ed., Public Relations Specialists, available on the Internet at <http://www.bls.gov/oooh/media-and-communication/public-relations-specialists.htm#tab-4> (last visited June 23, 2016).

The *Handbook* does not support the assertion that a baccalaureate or higher degree *in a specific specialty*, or its equivalent, is normally the minimum requirement for entry into the occupation. Here, although the *Handbook* indicates that a bachelor's or higher degree is required, it also indicates that bachelor's degrees in various fields such as public relations, journalism, communications, English or business, are acceptable for entry into the occupation.

To demonstrate 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 specific specialty, or its equivalent. 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. In addition to recognizing degrees in disparate fields, i.e., English and business, the *Handbook* also states that a general business degree is acceptable. Although a general-purpose bachelor's degree, such as a degree in business, 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 business degree is sufficient for entry into the occupation strongly suggests that a bachelor's degree *in a specific specialty* is not normally the minimum requirement for entry for this occupation.

When, as here, the *Handbook* does not support the proposition that the proffered position satisfies this first criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A), it is incumbent upon the Petitioner to provide persuasive evidence that the proffered position otherwise satisfies the criterion, notwithstanding the absence of the *Handbook's* support on the issue. In such cases, it is the Petitioner's responsibility to provide probative evidence (e.g., documentation from other authoritative sources) that supports a favorable finding with regard to this criterion. The regulation at 8 C.F.R. § 214.2(h)(4)(iv) provides that “[a]n H-1B petition involving a specialty occupation shall be accompanied by [d]ocumentation . . . or any other required evidence sufficient to establish . . . that the services the beneficiary is to perform are in a specialty occupation.” However, as will be discussed below, the Petitioner did not establish that the proffered position satisfies this criterion.

First, in response to the Director's request for evidence (RFE), the Petitioner stated that, according to O*NET OnLine, “one-hundred percent (100%) of persons employed in this field hold a Bachelor's

degree or higher” However, O*NET OnLine is insufficient to establish that the proffered position qualifies as a specialty occupation. In fact, it assigns this occupation a Job Zone “Four” rating, which groups it among occupations for which “most . . . require a four-year bachelor’s degree, but some do not.”⁵ 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 evidence to establish that the proffered position is a specialty occupation.

Next, in the appeal, the Petitioner cites to a recent district court case, *Raj and Co. v. U.S. Citizenship and Immigration Services*, 85 F. Supp. 3d 1241(W.D. Wash. 2015) and claims that it is relevant here.⁶ Specifically, the Petitioner claims that “since [the *Handbook*] requires a bachelor’s level degree in a limited number of related fields such as communications, public relations, journalism, business or English, the position must be classified as a specialty occupation.”

In *Raj*, the court stated that a specialty occupation requires the attainment of a bachelor’s degree or higher in a specific specialty, or its equivalent. The court confirmed that this issue is well-settled in case law and with USCIS’s reasonable interpretation of the regulatory framework. In the decision, the court noted that “permitting an occupation to qualify simply by requiring a generalized bachelor degree would run contrary to congressional intent to provide a visa program for specialized, as opposed to merely educated, workers.” The court stated that the regulatory provisions do not restrict qualifying occupations to those for which there exists a single, specifically tailored and titled degree program; but rather, the statute and regulations contain an equivalency provision.

We agree with the court that a specialty occupation is one that requires the attainment of a bachelor’s or higher degree in a specific specialty or its equivalent. The occupational category designated by a petitioner is considered as an aspect in establishing the general tasks and responsibilities of a proffered position, and USCIS regularly reviews the *Handbook* on the duties and educational requirements of the wide variety of occupations that it addresses.

However, to satisfy the first criterion, the burden of proof remains on the Petitioner to submit sufficient evidence to support a finding that its particular position would normally have a minimum, specialty degree requirement or its equivalent for entry. That is, to determine whether a particular job qualifies as a specialty occupation, USCIS does not simply rely on a position’s title or designated occupational category. 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

⁵ For more information see O*NET OnLine Summary Report for “27-3031.00 – Public Relations Specialists,” <http://www.onetonline.org/link/summary/27-3031.00>; O*NET OnLine Help – Job Zones, <http://www.onetonline.org/help/online/zones> (last visited June 23, 2016).

⁶ In contrast to the broad precedential authority of the case law of a United States circuit court, we are not bound to follow the published decision of a United States district court in matters arising even within the same district. *See Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993). Although the reasoning underlying a district judge’s decision will be given due consideration when it is properly before us, the analysis does not have to be followed as a matter of law. *Id.* at 719.

ultimate employment of the beneficiary, and determine whether the position qualifies as a specialty occupation. *See generally Defensor v. Meissner*, 201 F.3d 384.

Here, the duties and requirements of the position as described in the record of proceedings do not indicate that this particular position proffered by the Petitioner is one for which a baccalaureate or higher degree in a specific specialty, or its equivalent, is normally the minimum requirement for entry. For example, the Beneficiary's duties include "applicant screening by phone, respond[ing] to requests for information," and "manage visits/tours." The Petitioner did not sufficiently define how these tasks entail the need for a particular level of education, or educational equivalency, in a body of highly specialized knowledge in a specific specialty.⁷

Thus, the Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

B. Second Criterion

The second criterion presents two, alternative prongs: "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[.]" 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) (emphasis added). The first prong casts its gaze upon the common industry practice, while the alternative prong narrows its focus to the Petitioner's specific position.

1. First Prong

To satisfy this first prong of the second criterion, the Petitioner must establish that the "degree requirement" (i.e., a requirement of a bachelor's or higher degree in a specific specialty, or its equivalent) is common to the industry in parallel positions among similar organizations.

We reviewed the job advertisements submitted by the Petitioner. Notably, the Petitioner did not provide any independent evidence of how representative these job advertisements are of the particular advertising employer's recruiting history for the type of job advertised. Further, as they are only solicitations for hire, they are not evidence of what qualifications were ultimately required for the positions. Moreover, upon review of the documents, we find that they do not establish that a requirement for a bachelor's degree, in a specific specialty, is common to the Petitioner's industry in similar organizations for parallel positions to the proffered position.

⁷ Upon review of the above job duties, the Petitioner did not provide sufficient information with regard to the order of importance and/or frequency of occurrence with which the Beneficiary will perform the functions and tasks. Thus, the Petitioner did not specify which tasks were major functions of the proffered position and it did not establish the frequency with which each of the duties would be performed (e.g., regularly, periodically or at irregular intervals). As a result, the Petitioner did not establish the primary and essential functions of the proffered position.

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For example, the advertisements include positions with the [REDACTED] (a board with the goal to help the entire educational system in the state of [REDACTED] (higher education), and the [REDACTED] (higher education), which are all universities and therefore not similar to the Petitioner. Although one job advertisement is for [REDACTED] the Petitioner did not submit documentation that this school is sufficiently similar to the Petitioner. Further, while these employers are in the education field, the Petitioner has not provided information regarding which aspects or traits it shares with the advertising organizations. Consequently, the record lacks sufficient information regarding the advertising employers to conduct a legitimate comparison of these organizations to the Petitioner.

The Petitioner refers to *Young China Daily v. Chappell*, 742 F. Supp. 552 (N.D. Cal. 1989) to state that “[a]buse of discretion may be found if there is no evidence to support the decision of it’s the decision is based on an improper understanding of the law.” The Petitioner asserts that the Director erroneously focused on irrelevant factors such as the size of the Petitioner in reviewing the petition and reaching her decision. However, in this matter, we find that it is proper to consider the size of an employer’s business to determine if the degree requirement in a specific specialty is common to the industry in parallel positions among similar organizations.

As the documentation does not establish that the Petitioner has met this prong of the regulations, further analysis regarding the specific information contained in each of the job postings is not necessary. That is, as the evidence does not establish that similar organizations in the same industry routinely require at least a bachelor’s degree in a specific specialty, or its equivalent, for parallel positions, not every deficit of every job posting has been addressed.⁸

Thus, the Petitioner has not satisfied the first alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

2. Second Prong

We will next consider the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2), which is satisfied if the Petitioner shows that its particular position is so complex or unique that it can be performed only by an individual with at least a bachelor’s degree in a specific specialty, or its equivalent.

⁸ It must be noted that even if all of the job postings indicated that a bachelor’s degree in a specific specialty, or its equivalent, is common to the industry in parallel positions among similar organizations (which they do not), the Petitioner has not demonstrated what inferences, if any, can be drawn from these advertisements with regard to determining the common educational requirements for entry into parallel positions in similar organizations. See generally Earl Babbie, *The Practice of Social Research* 186-228 (1995).

As such, even if the job announcements supported the finding that the position required a bachelor’s or higher degree in a specific specialty, or its equivalent (for organizations in the same industry that are similar to the petitioner), it cannot be found that such a limited number of postings that appear to have been consciously selected outweigh the findings of the *Handbook* published by the Bureau of Labor Statistics that such a position does not normally require at least a baccalaureate degree in a specific specialty, or its equivalent, for entry into the occupation in the United States.

Here, the record lacks sufficient evidence to demonstrate that the Petitioner's organization actually has the need for a degreed individual to perform the proposed duties. As discussed, some duties do not appear to be of complexity that requires a bachelor's degree in a specific specialty or its equivalent.

In a letter of support, the Petitioner explained that it is a boarding and day school that attracts students from an average of 28 countries and 17 states and the admissions office communications specialist is responsible for promoting the school nationally and internationally. The Petitioner also stated that the "Communications curriculum provides graduates with the skills that are needed to succeed in this position," such as "excellent written and oral communication skills, as well as strong marketing skills." However, the need for writing and oral communication skills does not indicate that the position is so complex and unique that it can only be performed by an individual with at least a bachelor's degree in a specific specialty.

To establish eligibility, the Petitioner must describe the specific duties and responsibilities to be performed by the Beneficiary in the context of its business operations, demonstrate that a legitimate need for an employee exists, and substantiate that it has H-1B caliber work for the Beneficiary for the duration of the employment period requested in the petition. *See Defensor v. Meissner*, 201 F.3d at 387 (A "common sense reading" of the regulations indicates an intention to fully implement the definition of "specialty occupation"); *see generally* 8 C.F.R. § 214.2(h)(4)(i)(A)(1), (iii)(B)(2), and (iv)(A). Here, the job description does not communicate: (1) the tasks that the Beneficiary would perform on a day-to-day basis; (2) the complexity, uniqueness and/or specialization of those responsibilities; and (3) the correlation between that work and a need for highly specialized knowledge and a particular level of education in a specific specialty. *See generally* section 214(i)(1) of the Act; 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) and (4).

Moreover, the Petitioner designated the proffered position as an entry-level position within the occupational category (by selecting a Level I wage). This designation, when read in combination with the Petitioner's job description and the *Handbook's* account of the requirements for this occupation, further suggests that this particular position is not so complex or unique relative to other public relations specialists that the duties can only be performed by an individual with a bachelor's degree or higher in a specific specialty, or its equivalent. While a few related courses may be beneficial in performing certain duties of the position, the Petitioner has not demonstrated how an established curriculum of courses leading to a baccalaureate or higher degree in a specific specialty, or its equivalent, is required to perform the duties of the proffered position.

On appeal, the Petitioner emphasizes that the Beneficiary is qualified for the position. However, the test to establish a position as a specialty occupation is not the education or experience of a proposed Beneficiary, but whether the position itself requires at least a bachelor's degree in a specific specialty, or its equivalent. The Petitioner did not sufficiently develop relative complexity or uniqueness as an aspect of the duties of the position, and it did not identify any tasks that are so complex or unique that only a specifically degreed individual could perform them. Accordingly, the Petitioner has not satisfied the second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

C. Third Criterion

The third criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A) entails an employer demonstrating that it normally requires a bachelor's degree in a specific specialty, or its equivalent, for the position.

The Petitioner stated in a letter dated July 8, 2015, that it previously hired two individuals for the position of admissions office communication specialist. One individual had a bachelor's degree in media communications and the other individual had a bachelor's degree in communications. However, the Petitioner did not establish that these two individuals were actually employed in the same position as the Beneficiary. For example, the salaries indicated on these employees' Forms W-2 in 2014 differ significantly from the proffered salary in this petition as well as from each other. Specifically, the salaries for these two individuals in 2014 were \$91,833 and \$15,000, respectively. The proffered salary in this petition is \$18.08 per hour, which is \$37,606.40 when annualized based on a 40-hour work week. The Beneficiary's salary is much higher than one salary and much lower than the other, but the Petitioner did not explain the discrepancy in the wages for ostensibly the same position and so has not demonstrated that these two prior employees were actually employed in the same position performing the same proffered duties as the Beneficiary. "[G]oing 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 Cal.*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Further, the Petitioner indicated that it was established in 1933, but did not provide the total number of people it has employed to serve in the proffered position. Consequently, it cannot be determined how representative the Petitioner's claim regarding two individuals over an 82 year period is of the Petitioner's normal recruiting and hiring practices for the proffered position.

Therefore, the Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3).

D. Fourth Criterion

The fourth criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A) requires a petitioner to establish that the nature of the specific duties is so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent.

In support of this criterion, the Petitioner provided a description of the duties of the proffered position and information regarding its business operations. We reviewed the documentation and again note that the duties have not been sufficiently developed by the Petitioner to establish that they are more specialized and complex than public relations specialist positions that are not usually associated with at least a bachelor's degree in a specific specialty, or its equivalent.

We also incorporate our earlier discussion and analysis regarding the duties of the proffered position, and the designation of the position in the LCA as a Level I position (the lowest of four assignable

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wage-levels) relative to others within the same occupational category.⁹ The Petitioner has not demonstrated in the record that its proffered position is one with duties sufficiently specialized and complex to satisfy 8 C.F.R. § 214.2(h)(4)(iii)(A)(4).

IV. CONCLUSION

Because the Petitioner has not satisfied one of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A), it has not demonstrated that the proffered position qualifies as a specialty occupation.

The burden is on the Petitioner to show 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.

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⁹ 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.