



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

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

MATTER OF A-, LLC

DATE: MAY 11, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, a horse boarding and dressage business, seeks to temporarily employ the Beneficiary as a “barn manager” under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) § 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 proffered position is not a specialty occupation, and she affirmed that determination in response to a subsequent motion to reconsider.

The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and asserts that the Director reached her determinations in error.

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 a “barn manager.” The Petitioner provided the following job duties for the position at the time of filing:

The position that has been offered to [the Beneficiary] is that of a barn manager, which include[s] dietary management, including supplements and prescribed medications; daily non-invasive lameness evaluation; preventative non-invasive therapeutic treatments [which do not require licensure] including laser, magnetic pulse, massage, ultra-sound; scheduling of vendors including veterinary, blacksmith, farrier, dental visits, as well as hay, grain, supplements ordering; and scheduling of barn help.

The Petitioner states the following on appeal:

[D]ressage is a very specialized field of horse training. It is generally referred to as [an] equine ballet. Just as human ballerinas, dressage horses have special needs. A dressage barn manager must be able to “read” their special needs based on contemporary science, not just skills learned from the family on the farm. Everything about dressage horses is different from farm horses and even from jumpers, hunters, or other types of horses . . . . When it comes to these expensive, highly specialized ballerinas of the world, a Barn Manager, who is organizing and taking care of their

needs, coordinates a team of veterinarians, dentists, nutritionists, farriers, barn boys, etc. [T]he barn manager should be able to see and understand the whole picture and be able to talk on the specialized level of the service provider, not just to follow instructions.

According to the Petitioner, the position requires a master's degree in equine science, or the equivalent, and "at least a half year of experience in barn management."

### 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.<sup>1</sup> Specifically, the record does not establish that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.<sup>2</sup>

#### 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.<sup>3</sup>

On the labor condition application (LCA) submitted in support of the H-1B petition, the Petitioner designated the proffered position under the occupational category "Farmers, Ranchers, and other Agricultural Managers" corresponding to the Standard Occupational Classification code 11-9013.<sup>4</sup>

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

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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

The *Handbook* states the following about the educational requirements of positions located within the “Farmers, Ranchers, and other Agricultural Managers” occupational category:

Farmers, ranchers, and other agricultural managers usually have at least a high school diploma. As farm and land management has grown more complex and costly, farmers, ranchers, and other agricultural managers have increasingly needed postsecondary education, such as an associate’s degree or a bachelor’s degree in agriculture or a related field.

U.S. Dep’t of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2016-17 ed., “Farmers, Ranchers, and Other Agricultural Managers,” <http://www.bls.gov/ooh/management/farmers-ranchers-and-other-agricultural-managers.htm#tab-4> (last visited May 6, 2016).

The *Handbook* indicates that individuals employed in positions located within this occupational category usually have at least a high school diploma. Although the *Handbook* states that more individuals employed in positions within this occupational category have a degree in agriculture or a related field than did previously, it does not indicate that entry into such positions “normally” require such a degree. Moreover, it indicates that even for those positions that require a degree, an associate’s degree would suffice. The *Handbook* does not, therefore, support the proposition that a minimum of a bachelor’s degree in a specific specialty or its equivalent is normally the minimum requirement for entry into a farmer, rancher, or agricultural manager position.

Further, in designating the proffered position at a Level I wage, the Petitioner has indicated that the proffered position is a comparatively low, entry-level position relative to others within the occupation. That is, in accordance with the relevant DOL explanatory information on wage levels, this wage rate indicates that the Beneficiary is only required to have a basic understanding of the occupation and carries expectations that the Beneficiary perform routine tasks that require limited, if any, exercise of judgment; that she would be closely supervised; that her work would be closely monitored and reviewed for accuracy; and that she would receive specific instructions on required tasks and expected results. As noted above, according to DOL guidance, a statement that the job offer is for a research fellow, worker in training or an internship is indicative that a Level I wage should be considered. Given that typical positions located within the occupational category designated by the Petitioner do not normally require a bachelor’s degree in a specific specialty, or the equivalent, a Level I, an entry-level position would be even less likely to have such a requirement.

When the *Handbook* does not support the proposition that a proffered position is one that meets the statutory and regulatory provisions of a specialty occupation, it is incumbent upon the petitioner to

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[http://fldatacenter.com/download/NPWHC\\_Guidance\\_Revised\\_11\\_2009.pdf](http://fldatacenter.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.*

(b)(6)

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provide persuasive evidence that the proffered position more likely than not satisfies this or one of the other three criteria, 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 objective, authoritative sources) that supports a finding that the particular position in question qualifies as a specialty occupation. Whenever more than one authoritative source exists, an adjudicator will consider and weigh all of the evidence presented to determine whether the particular position qualifies as a specialty occupation.

In the instant case, the Petitioner provided evidence from the Department of Labor's O\*NET Internet site and various other websites. According to the O\*NET summary report for Farm and Ranch Managers, such positions fall within "Job Zone Four." However, the assignment of Farm and Ranch Managers to a "Job Zone Four" rating groups them among occupations in which "most," but not all, "require a four-year bachelor's degree." Further, the O\*NET does not indicate that even those Job Zone Four positions which do require four-year bachelor's degrees also require the degrees to be in a specific specialty closely related to the requirements of the occupation.

Printouts of content from the [REDACTED], [REDACTED] and [REDACTED] websites each address the educational requirements of barn manager positions.

The [REDACTED] excerpt submitted by the Petitioner states:

Many barn managers are able to work their way up from lower-skilled positions such as stable hand or entry-level farm laborer by accumulating years of quality work experience. Some barn manager positions require candidates to possess at least a bachelor's degree in a field related to the work before being considered for the job. A horse barn manager employer may require all qualified candidates to have a bachelor's in equine studies or a similar discipline. This may be in addition to three to five years of related work experience.

While this excerpt states that some employers *may* require a bachelor's degree in equine studies and that *some* barn manager candidates are required to have at least a related bachelor's degree, it also indicates that many barn managers enter those positions based on experience, with no indication that the requisite experience must be equivalent to a bachelor's degree. We note again that the Petitioner stated that the proffered position is an entry-level position relative to other positions located within the occupational category.

The [REDACTED] printout states:

Horses are the focus of associate's and bachelor's degrees in equine science. Programs are hands-on, with students spending a lot of time outdoors. Students learn about different styles of riding, equine health, and business management relevant to the field. After graduating, many find jobs as horse trainers, barn managers, equine nutritionists, and riding instructors.

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That site indicates that many students, after receiving an associate's or bachelor's degree in equine science, go on to obtain positions as horse trainers, barn managers, equine nutritionists, and riding instructors. It neither states nor implies that a bachelor's degree, or even an associate's degree, let alone one in a specific specialty, is necessary for entry into those positions.

The [REDACTED] site states, "A college degree is not a requirement for securing a barn manager position, though it does lend strength to the applicant's resume. Useful education would include a Bachelor's of Science degree in a field such as Equine Science, Animal Science, or Equine Business Management."

Although it indicates that a bachelor's degree in a related field would be useful, that site also explicitly states that a college degree is not a requirement for a barn manager position. It lends little support to the proposition that minimum of a bachelor's degree in a specific specialty or its equivalent is normally the minimum educational requirement for entry into a barn manager position.

Various other websites demonstrate that training horses in dressage is a very demanding skill and that horses thus trained command large sales prices. They do not indicate, however, that training horses in dressage requires a minimum of a bachelor's degree in a specific specialty or its equivalent.

Further, we find that, to the extent that they are described in the record of proceedings, the numerous duties that the Petitioner ascribes to the proffered position indicate a need for a range of knowledge of horses, horse training, and dressage, but do not establish any particular level of formal, postsecondary education leading to a bachelor's or higher degree in a specific specialty as minimally necessary to attain such knowledge.

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.

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In determining whether there is such a common degree requirement, factors often considered by USCIS include: whether the *Handbook* reports that the industry requires a degree; whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." See *Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D. Minn. 1999) (quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

Here and as already discussed, the Petitioner has not established that its proffered position is one for which the *Handbook* (or other independent, authoritative source) reports an industry-wide requirement for at least a bachelor's degree in a specific specialty or its equivalent. Thus, we incorporate by reference the previous discussion on the matter. Also, there are no submissions from the industry's professional association indicating that it has made a degree a minimum entry requirement.

The Petitioner did submit two letters from others in the horse training industry. A letter from [REDACTED] signed by [REDACTED] and [REDACTED] states, "As a matter of personal knowledge, we know that it is conventional for barn managers to have a baccalaureate degree or equivalent in a field related to equine science." However, they provide no basis for their assertions other than "personal knowledge." They did not describe how they determined that such a degree or equivalent is "conventional" for barn manager positions. They did not indicate whether exceptions to that convention might exist. Because they did not describe the amount or type of experience they would consider equivalent to a related bachelor's degree, it is unclear whether such experience would qualify as "equivalent" pursuant to the salient regulations. Nor did they address the Petitioner's assertion that the position is a Level I, entry-level position relative to other positions within the occupational category. Their letters do not establish that barn manager positions, let alone an entry-level barn manager position such as the one proffered here, require a minimum of a bachelor's degree in a specific specialty, or its equivalent, within the meaning of the salient regulations.<sup>5</sup>

Similarly, a letter from [REDACTED] of [REDACTED] states, "It has been my personal experience that in this extremely specialized industry, it is standard practice for barn managers to have achieved a Bachelor's Degree in equine science, or a comparable certification." He did not indicate how he determined this to be a "standard practice," the extent to which exceptions to this "standard practice" may exist, or what he would consider a "comparable certification." Nor did he address the Petitioner's assertion that the position is a Level I, entry-level position relative to other positions within the occupational category. This letter does not establish that barn manager positions require a minimum of a bachelor's degree in a specific specialty or its equivalent, within the meaning of the salient regulations.

The Petitioner also provided two Internet vacancy announcements for positions entitled "Assistant Barn Manager" and "Assistant Equine Facilities Barn Manager." However, the vacancy

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<sup>5</sup> These same deficiencies are also present in the "Petition" document submitted on appeal.

announcements submitted by the Petitioner do not establish that the degree requirement is common to the industry in parallel positions among similar organizations. First, we note that the Petitioner did not provide any independent evidence of how representative these job advertisements are of the particular advertising employers' recruiting history for the type of jobs advertised. Further, as they are only solicitations for hire, they are not evidence of the employers' actual hiring practices.

Second, upon review of the vacancy announcements, we find that they do not provide sufficient information about the advertising organizations to establish that they are of the same approximate size as, and otherwise similar to, the Petitioner. Without such evidence, these advertisements are generally outside the scope of consideration for this criterion, which encompasses only organizations that are similar to the Petitioner.

Further, one of those vacancy announcements states only that the position requires a bachelor's degree, without specifying that the degree must be in any specific specialty, or even in any range of specialties.

Finally, even if all of the vacancy announcements had been for parallel positions in organizations similar to the Petitioner and in the Petitioner's industry, and required a minimum of a bachelor's degree in a specific specialty or its equivalent, we would still find that the Petitioner had not demonstrated what statistically valid inferences, if any, could be drawn from two announcements with regard to the common educational requirements for entry into parallel positions in similar organizations.<sup>6</sup>

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.

A review of the record of proceedings finds that the Petitioner has not credibly demonstrated that the duties the Beneficiary will be responsible for or perform on a day-to-day basis constitute a position so complex or unique that it can only be performed by a person with at least a bachelor's degree in a specific specialty, or its equivalent. Even when considering the Petitioner's general descriptions of

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<sup>6</sup> USCIS "must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). As just discussed, the Petitioner has not established the relevance of the job advertisements submitted to the position proffered in this case. Even if their relevance had been established, the Petitioner still would not have demonstrated what inferences, if any, can be drawn from these few job postings with regard to determining the common educational requirements for entry into parallel positions in similar organizations in the same industry. See generally Earl Babbie, *The Practice of Social Research* 186-228 (1995).

the proffered position's duties, the evidence of record does not establish why a few related courses or industry experience alone is insufficient preparation for the proffered position. While a few related courses may be beneficial, or even required, in performing certain duties of the position, the Petitioner has not demonstrated how an established curriculum of such 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. The description of the duties does not specifically identify any tasks that are so complex or unique that only a specifically degreed individual could perform them. The record lacks sufficiently detailed information to distinguish the proffered position as more complex or unique from other positions that can be performed by persons without at least a bachelor's degree in a specific specialty, or its equivalent.

This is further evidenced by the LCA submitted by the Petitioner in support of the instant petition. As noted above, the Petitioner attested on the submitted LCA that the wage level for the proffered position is a Level I (entry-level) wage. Such a wage level is for a position which only requires a basic understanding of the occupation; the performance of routine tasks that require limited, if any, exercise of judgment; close supervision and work closely monitored and reviewed for accuracy; and the receipt of specific instructions on required tasks and expected results, is contrary to a position that requires the performance of complex duties.<sup>7</sup> It is, instead, a position for an employee who has only a basic understanding of the occupation. In order to attempt to show that parallel positions require a minimum of a bachelor's degree in a specific specialty or its equivalent, the Petitioner would be obliged to demonstrate that other wage Level I barn manager positions, entry-level positions requiring only a basic understanding of barn management, require a minimum of a bachelor's degree in a specific specialty or its equivalent, the proposition of which is not supported by the *Handbook*.

Therefore, the evidence of record does not establish that this position is significantly different from other positions in the occupation such that it refutes the *Handbook's* information to the effect that there is a spectrum of degrees acceptable for such positions, including associate's degrees and even high school diplomas. In other words, the record lacks sufficiently detailed information to distinguish the proffered position as unique from or more complex than positions that can be performed by persons without at least a bachelor's degree in a specific specialty, or its equivalent.

The Petitioner claims that the Beneficiary is well-qualified for the position, and references her qualifications. However, the test to establish a position as a specialty occupation is not the education

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<sup>7</sup> The issue here is that 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, it is important to note that a Level I wage-designation does not preclude a proffered position from classification as a specialty occupation. In certain occupations (doctors or lawyers, for example), an 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 consideration but is not a substitute for a determination of whether a proffered position meets the requirements of section 214(i)(1) of the Act.

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. As discussed, 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 has not expressly asserted eligibility nor submitted evidence under this criterion. Further, in a letter dated September 24, 2014, the Petitioner stated, "The Beneficiary of this visa petition is the first person in our seven year organizational history to have held the position of barn manager." While a first-time hiring for a position is certainly not a basis for precluding a position from recognition as a specialty occupation, it is unclear how an employer that has never recruited and hired for the position would be able to satisfy the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(3), which requires a demonstration that it normally requires at least a bachelor's degree in a specific specialty or its equivalent for the position. We cannot conclude that the Petitioner has satisfied the third criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A).<sup>8</sup>

### 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.

Relative specialization and complexity have not been sufficiently developed by the Petitioner as an aspect of the proffered position. We again refer to our earlier comments and findings with regard to the implication of the Petitioner's designation of the proffered position in the LCA as a Level I (the lowest of four assignable levels) wage. That is, the Level I wage designation is indicative of a low,

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<sup>8</sup> While a petitioner may believe or otherwise assert that a proffered position requires a degree in a specific specialty, that opinion alone without corroborating evidence cannot establish the position as a specialty occupation. Were USCIS limited solely to reviewing a petitioner's claimed self-imposed requirements, then any individual with a bachelor's degree could be brought to the United States to perform any occupation as long as the employer artificially created a token degree requirement, whereby all individuals employed in a particular position possessed a baccalaureate or higher degree in the specific specialty or its equivalent. *See Defensor v. Meissner*, 201 F. 3d at 387. In other words, if a petitioner's degree requirement is only symbolic and the proffered position does not in fact require such a specialty degree or its equivalent to perform its duties, the occupation would not meet the statutory or regulatory definition of a specialty occupation. *See* section 214(i)(1) of the Act; 8 C.F.R. § 214.2(h)(4)(ii) (defining the term "specialty occupation").

entry-level position relative to others within the occupational category, and hence one not likely distinguishable by relatively specialized and complex duties. Given that typical positions located within the occupational category selected by the Petitioner on the LCA do not normally require a bachelor's degree in a specific specialty, it is unlikely that an entry-level position relative to other positions located within the occupational category would possess such a requirement. Upon review of the totality of the record, the Petitioner has not established that the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent.

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).

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.

#### IV. CONCLUSION

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.

Cite as *Matter of A-, LLC*, ID# 16406 (AAO May 11, 2016)