



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

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

In Re: 9733986

Date: JUNE 9, 2020

Appeal of California Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (H-1B)

The Petitioner seeks to temporarily employ the Beneficiary as a support engineer II 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 of the California Service Center denied the petition, concluding that the record did not establish that the position qualified as a specialty occupation under any of the criteria in 8 C.F.R. § 214.2(h)(4)(iii)(A). The matter is now before us on appeal. On appeal, the Petitioner asserts that the Director's decision was in error.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *See* Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will sustain the appeal.

The record demonstrates that the proffered position is a specialty occupation. The Petitioner submitted evidence to establish that, more likely than not, it normally requires a bachelor's degree in a specific specialty, or its equivalent, for the position. Therefore, the record satisfies the third criterion of the regulation at 8 C.F.R. § 214.2(h)(4)(iii)(A). The Petitioner also appropriately accounted for the level of experience and responsibility of the position with the certification of the wage level on the labor condition application.

Our review of the Beneficiary's academic credentials, the Petitioner's detailed description of the duties and the requirements necessary to perform those duties, as well as evidence of the relationship between the duties and the Beneficiary's academic degree establish that the Beneficiary is also qualified to perform the duties of the proffered position.

The totality of the record establishes that, more likely than not, the Petitioner's particular position requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entering into the occupation. And further, that the Beneficiary's academic degree is directly related to the duties of the proffered position.

ORDER: The appeal is sustained.