



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

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

In Re: 9683693

Date: SEPT. 28, 2020

Appeal of Vermont Service Center Decision

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

The Petitioner, an online insurance management platform, seeks to temporarily employ the Beneficiary as a “business intelligence analyst” 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 Vermont Service Center Director denied the petition, concluding that the record did not establish that the proffered position qualifies as a specialty occupation. The matter is now before us on appeal.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. 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 dismiss the appeal.

I. 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) 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). We construe the term “degree” 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

The Petitioner stated that the Beneficiary will be employed as a “business intelligence analyst” and that a minimum of a bachelor’s degree in mathematics, physics, engineering, or similar quantitative field is required for entry into the position. The Petitioner provided multiple descriptions of the duties of the proffered position, and while we will not list each duty here, we have reviewed and considered each one.

III. ANALYSIS

Upon review of the record in its totality and for the reasons set out below, we conclude that the Petitioner has not demonstrated that the proffered position qualifies as a specialty occupation.¹ Specifically, the record does not establish that the job duties require an educational background, or its equivalent, commensurate with a specialty occupation.

A. First Criterion

The criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(1) 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 will consider the information contained in the U.S. Department of Labor’s (DOL) *Occupational Outlook Handbook (Handbook)* regarding the duties and educational

¹ 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.

requirements of the wide variety of occupations it addresses.² The Petitioner designated the proffered position on the labor condition application (LCA) as a Standard Occupation Classification (SOC) code 15-1199 “Computer Occupations, All Other” occupation. The Petitioner asserted that the duties of the proffered position are consistent with the duties of the “Business Intelligence Analysts” subcategory corresponding to SOC code 15-1199.08.

The *Handbook* is a career resource offering information on hundreds of occupations. However, there are occupational categories which the *Handbook* does not cover in detail and instead provides only summary data.³ The subchapter of the *Handbook* titled “Data for Occupations Not Covered in Detail” states, in relevant part, that the “[t]ypical entry-level education” for a variety of occupations within the category of “[c]omputer and mathematical occupations” is a “Bachelor’s degree,” without indicating that the bachelor’s degree must be in a specific specialty.⁴ Thus, the *Handbook* is not probative in establishing that these positions comprise an occupational group for which the normal minimum requirement for entry is at least a bachelor’s degree in a *specific specialty*, or its equivalent.

The Petitioner referenced DOL’s Occupational Information Network (O*NET) summary report for “Business Intelligence Analysts” - SOC code 15-1199.08 in support of this criterion. The O*NET Summary Report provides general information regarding the occupation, but it does not support the Petitioner’s assertion regarding the educational requirements for the occupation. For example, the Job Zone Four designation indicates that most, but some do not, require a four-year bachelor’s degree. It does not specify the specific field of study, if any, from which the degree must come. The occupation’s Specialized Vocational Preparation (SVP) rating of 7 < 8 is even less persuasive. An SVP rating of 7 to less than (“<”) 8 indicates that the occupation requires “over 2 years up to and including 4 years” of training. While the SVP rating indicates the total number of years of vocational preparation required for a particular position, it is important to note that it does not describe how those years are to be divided among training, experience, and formal education which, by definition, includes high school education and commercial or shop training.⁵ The SVP rating also does not specify the particular type of degree, if any, that a position would require.

Further, the Petitioner asserts that O*NET indicates that most of the positions for Business Intelligence Analysts require at least a bachelor’s degree.”⁶ Although the summary report provides the educational requirements of “respondents,” it does not account for 100% of the “respondents.” Moreover, those

² We do not 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 we regularly review the *Handbook* on the duties and educational requirements of the wide variety of occupations that it addresses. Nevertheless, 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.

³ Bureau of Labor Statistics, U.S. Dep’t of Labor, *Occupational Outlook Handbook*, Data for Occupations Not Covered in Detail, <https://www.bls.gov/ooh/about/data-for-occupations-not-covered-in-detail.htm> (last visited Sept. 18, 2020). Here, the *Handbook* does not provide specific information for various occupations which might be classified within the occupational category.

⁴ The *Handbook* also indicates that this occupation does not require work experience in a related occupation or typical on-the-job training. *Id.*

⁵ For additional information, see the O*NET Online Help webpage available at <http://www.onetonline.org/help/online/svp>.

⁶ We are unable to verify the Petitioner’s assertion that “90%” of the positions require at least a bachelor’s degree. A review of the education section of the summary report, which surveys “respondents,” reveals that 58% of “respondents” report having a bachelor’s degree, and 29% of “respondents” report having a master’s degree, which would total 87%.

survey results were based on a relatively small sample size: according to O*NET, that statistic was compiled based on 24 responses to a survey.⁷ Additionally, the respondents' positions within the occupation are not distinguished by career level (e.g., entry-level, mid-level, senior-level). Furthermore, the graph in the summary report does not indicate that the "education level" for the respondents must be in a specific specialty. For all of these reasons, O*NET does not establish the proffered position as a specialty occupation.

The Petitioner submits a position evaluation prepared by [redacted] Professor Emeritus of the Department of Computer and Information Services at [redacted] University [redacted] [redacted] concludes that a bachelor's degree in mathematics, physics, engineering, or a related quantitative field is a normal minimum requirement for entry into the proffered position.⁸ [redacted] [redacted], however, does not articulate or offer evidence to support his conclusion that "after examining the responsibilities of the Business Intelligence Analyst position in detail, it becomes apparent that a minimum of a Bachelor's Degree in Mathematics, Physics, Engineering, or a similar quantitative field or the equivalent"⁹ is needed to perform the duties of the position. While he comments on the types of courses an individual would study when pursuing degrees in mathematics, physics or engineering, and attempts to equate the knowledge obtained by study such courses to the requirements of the proffered position, it remains unclear, for example, how a physics degree would qualify an individual to "monitor market data sources" and "write SQL inquiries to monitor company reporting." Upon review, [redacted] does not present an analysis or foundation for his opinion. He does not refer to other methods that do not include a specialty bachelor's degree that would also prepare an individual to enter this occupation or the Petitioner's particular position. He does not support his conclusion with the results of formal surveys, research, statistics, or other objective quantifying information to substantiate his opinion. Further, [redacted] relies on the *Handbook* and the O*NET reports as supportive of his conclusions; however, as noted above, we determined that these sources indicate that this particular occupation does not normally require a bachelor's degree in a specific discipline, or its equivalent.

We may, in our discretion, use opinion statements submitted by the Petitioner as advisory.¹⁰ However, where an opinion is not in accord with other information or is in any way questionable, we are not required to accept or may give less weight to that evidence.¹¹ Based on the lack of analysis and lack of independent sources substantiating [redacted]'s conclusion, we do not assign any probative value to his opinion regarding this criterion.

The Petitioner cites to *RELX, Inc. v. Baran*, 397 F. Supp. 3d 41 (D.D.C. Aug. 5, 2019), to support its argument that a position may be specialized even when the position permits more than one specific specialty for entry into it. As the foregoing discussion demonstrates, while we agree that the bachelor's

⁷ Employment & Training Administration, Dep't of Labor, Occupational Information Network, O*NET Resource Center, O*NET 24.2 Database, Education, Training, and Experience (click desired download format), *available at* https://www.onetcenter.org/dictionary/24.2/excel/education_training_experience.html (last visited Sept. 18, 2020).

⁸ We note that [redacted]'s opinion states the identical minimum educational requirements imposed by the Petitioner, without regard for other potentially qualifying degrees or avenues through which an individual may become qualified to perform the duties of such a position.

⁹ [redacted] repeats the general statement of duties provided by the Petitioner in its initial letter of support.

¹⁰ *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988).

¹¹ *Id.*

degree does not have to be a degree in a *single* specific specialty, we do not agree with the analytical framework set forth by the *RELX* court.

The *RELX* court concluded that “if the position requires the beneficiary to apply practical and theoretical specialized knowledge and a higher education degree[,] it meets the requirements” of the definition of the term “specialty occupation.” *RELX*, 397 F. Supp. 3d at 55. However, while that interpretation encompasses the requirements of section 214(i)(1)(A) of the Act, it does not establish section 214(i)(1)(B)’s requirement that the higher education degree must be “in the specific specialty.”¹²

The *RELX* court then examined two district court decisions:

Nowhere in the statute does it require the degree to come solely from one particular academic discipline. As other courts have explained “[d]iplomas rarely come bearing occupation-specific majors. What is required is an occupation that requires highly specialized knowledge and a prospective employee who has attained the credentialing indicating possession of that knowledge.” *See Residential Finance Corp. v. U.S. Citizenship & Immigration Servs.*, 839 F. Supp. 2d 985, 997 (S.D. Ohio 2012) (stating that when determining whether a position is a specialized occupation “knowledge and not the title of the degree is what is important.”);¹³ *see also Tapis Int’l v. I.N.S.*, 94 F. Supp.2d 172, 175-76 (D. Mass. 2000) (rejecting a similar agency interpretation because it would preclude any position from satisfying the “specialty occupation” requirements where a specific degree is not available in that field).

RELX, 397 F. Supp. 3d at 55.

¹² The USCIS regulation at 8 C.F.R. § 214.2(h)(4)(ii) largely restates this statutory definition. Notably, when the agency promulgated the regulation in 1991, it reiterated the statutory requirement of the specific specialty, when multiple commenters asserted that the “specific specialty” language was too restrictive. The agency stated the following:

Most of these commenters suggested that the definition should be expanded to include those occupations which did not require a bachelor’s degree in the specific specialty. The definition of specialty occupation contained in the statute contains this requirement.

56 Fed. Reg. 61111, 61112 (Dec. 2, 1991).

This “specific specialty” requirement has been recognized repeatedly. For example, in *Caremax Inc v. Holder*, 40 F. Supp. 1182, 1187-88 (N.D. Cal. 2014), the court stated that “a position that requires applicants to have any bachelor’s degree, or a bachelor’s degree in a large subset of fields, can hardly be considered specialized.”

¹³ With regard to *Residential Finance*, to which the Petitioner also cites on appeal, it is worth noting that the judge’s decision appears to have been based largely on the many factual errors made by the Director in the decision denying the petition. We further note that the Director’s decision was not appealed to us. Based on the district court’s findings and description of the record, if that matter had first been appealed through the available administrative process, we may very well have remanded the matter to the service center for a new decision for many of the same reasons articulated by the district court if these errors could not have been remedied by us in our *de novo* review of the matter. To that end, we observe that when another H-1B petitioner challenged our reading of *Residential Finance* in the District Court for the Southern District of Ohio two years later, that court agreed with our interpretation of its earlier decision. *See Health Carousel, LLC v. USCIS*, No. 1: 13- CV-23, 2014 WL 29591 (S.D. Ohio 2014).

While we may agree with these statements, the *RELX* court appears to have taken them out of their proper statutory context. For example, if the Director in this matter had stated that the requisite bachelor's degree was required to have come bearing an occupation-specific major, we would withdraw that finding because it would have been incorrect. We agree that the knowledge and not the title of the degree is what is important, and had the Director stated that an occupation for which a specific degree is not available was precluded from qualifying as a specialty occupation we would have withdrawn that statement. Neither the *Residential Finance* nor the *Tapis Int'l* court implied that the "specific specialty" requirement contained in section 214(i)(1)(B) was optional. To the contrary, both courts found that the plaintiffs had *satisfied* the requirement.¹⁴

While the statutory "the" and the regulatory "a" both mandate a requirement for a bachelor's degree in a singular "specific 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. 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. 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. However, since there must be a close correlation between the required "body of highly specialized knowledge" and the position, a minimum entry requirement of a degree in two disparate fields, such as philosophy and engineering, 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.

We also disagree with the court's statements regarding the *Handbook* and the O*NET. Specifically, the court stated that:

The explicit O*NET cross reference to Business Intelligence Analyst (SOC Code 15-1199.08) contained in the [*Handbook*] listing for "Computer Occupations, All Other" defines the technological and educational requirements for the position and explains that "[m]ost of these occupations require a four-year bachelor's degree, but some do not" with further detail that more than 90% of Business Intelligence Analyst positions require at least a bachelor's degree.

The [*Handbook*] itself also explains that the typical entry level education for "Computer occupations, all other" is a "Bachelor's Degree." Since the [*Handbook*] indeed does provide specific detailed information regarding educational requirements for the computer operations category, and the detailed information states most of the occupations require a four-year bachelor's degree, the agency's rationale was both factually inaccurate and not supported by the record.

¹⁴ As the Petitioner also cites to *Residential Finance* for reasons similar to that which it cites to *RELX*, we incorporate herein by reference our discussion of closely related specialties as it pertains to our analysis of the *RELX* case.

The court did not acknowledge that neither the *Handbook* nor O*NET indicate that the bachelor's degree must be in a specific specialty, as mandated by section 214(i)(1)(B) of the Act. Nor do we concur with the heavy weight the court assigned to the survey results contained in O*NET's summary report for the occupational category at issue in *RELX*. As noted by the court, 90% of the respondents to that survey stated that their organizations required a bachelor's degree for these positions. However, those survey results, like those discussed earlier in this decision, were based on a relatively small sample size: according to O*NET, that statistic was compiled based on 24 responses to a survey.¹⁵

We therefore disagree with the *RELX* court that the *Handbook's* entry for positions located within the "Computer Occupations, All Other" occupational category, and O*NET's entry for positions located within the "Business Intelligence Analysts" occupational category, were sufficient (whether considered together or independently from one another) to satisfy the "specific specialty" requirement mandated by Congress in section 214(i)(1)(B) of the Act.¹⁶

Because the *Handbook* and O*NET do not describe the normal minimum educational requirements with sufficient specificity to establish that the positions falling within the occupational category meet the statutory and regulatory definition of a specialty occupation, we disagree with the heavy weight the court assigned them. Instead, we believe that, absent support from either the *Handbook* and O*NET, the court should have analyzed whether the petitioner had sufficiently demonstrated that its particular position was one for which a bachelor's degree in a specific field would normally be required and whether the stated field(s) of study directly relate to the performance of the duties.¹⁷ In other words, though we agree with the *RELX* court that the bachelor's degree does not have to be a degree in a single specialty, our agreement is predicated upon the fields of study being closely related to the duties of the position and the record reflecting evidence sufficient to establish such relation.

We therefore cannot agree with the reasoning contained in the *RELX* decision and conclude that the Petitioner's reliance upon it does not support its eligibility.¹⁸

The Petitioner also cites to *Raj and Co. v. USCIS*, 85 F. Supp. 3d 1241 (W.D. Wash. 2015). We reviewed the decision; however, the Petitioner has not established that the duties and responsibilities, level of judgment, complexity, supervisory duties, independent judgment, or amount of supervision in

¹⁵ Employment & Training Administration, Dep't of Labor, Occupational Information Network, O*NET Resource Center, O*NET 24.2 Database, Education, Training, and Experience (click desired download format), *available at* https://www.onetcenter.org/dictionary/24.2/excel/education_training_experience.html (last visited Jul. 16, 2020).

¹⁶ See also *Irish Help at Home LLC v. Melville*, No. 13-cv-00943-MEJ, 2015 WL 848977 at *5 (N.D. Cal., Feb. 24, 2015), *aff'd* 679 Fed. App'x 634 (9th Cir. 2017) ("The AAO found that O*NET was not particularly useful in determining whether a baccalaureate degree in a specific specialty or its equivalent is a minimum entry requirement because it makes no mention of the specific field of study from which a degree must come").

¹⁷ Though the *RELX* court briefly discusses the duties of the position, it did not engage in analysis of whether the duties actually required 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. Rather, after disposing of the authority set forth in *Royal Siam Corp.*, the court accepted the petitioner's stated standards concerning its position. See generally *Defensor*, 201 F.3d 384, 387.

¹⁸ We further note that the Director's decision in *RELX* was not appealed to us. Based on the district court's findings and description of the record, if that matter had first been appealed through the available administrative process, we may very well have remanded the matter to the service center for a new decision to address many of the concerns articulated by the district court if they could not have been remedied by us in our *de novo* review of the matter.

that case are analogous to the position proffered here. There is little indication that the positions are similar.

In any event, the Petitioner has furnished no evidence to establish that the facts of the instant petition are analogous to those in *Raj*.¹⁹ We also note that, 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, 719-20 (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.*

As the foregoing demonstrates, the Petitioner has not provided sufficient documentation from a probative source to substantiate its assertion regarding the minimum requirement for entry into this particular position. 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 contemplates 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 generally consider the following sources of evidence to determine if there is such a common degree requirement: 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) (considering these “factors” to inform the commonality of a degree requirement)).

¹⁹ As in *RELX*, it is noted that the district judge's decision in that case appears to have been based largely on the many factual errors made by the Director in the decision denying the petition. We further note that the Director's decision was not appealed to us. Based on the district court's conclusions and description of the record, if that matter had first been appealed through the available administrative process, we may very well have remanded the matter to the service center for a new decision for many of the same reasons articulated by the district court if these errors could not have been remedied by us in our *de novo* review of the matter.

As previously discussed, the Petitioner has not established that its proffered position is one for which the *Handbook*, or other authoritative source, reports a 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.

The Petitioner submitted a letter from [redacted] Associate Director of IT & Digital for [redacted] [redacted] a global recruitment company. [redacted] states that based on his company's years of experience in placing over 300 business intelligence analysts, the Petitioner's job requirements for the proffered position are typical of its competitors, and he would "estimate that at least 80% of the Business Intelligence Analysts and related positions that [redacted] has placed and recruited for require, at a minimum, a bachelor's degree in a quantitative field like Mathematics, Physics, or Engineering. . . ." [redacted] provides no additional documentation to corroborate its claims, nor does he elaborate on the nature of his company's business and the various businesses/industries it claims to assist. While he claims that "this case falls within the typical hiring practices and requirements for the role and field as well as the industry," he provides no additional documentation to support this assertion. While the statements of [redacted] are noted, his unsupported assertions do not establish an industry standard of hiring specialty degreed individuals for the position of business intelligence analyst.

We have again reviewed the opinion letter from [redacted]. Although he asserts that a minimum of a bachelor's degree in mathematics, physics, or engineering, or a similar quantitative field, is required for entry into the proffered position, he does not demonstrate that he has experience or expertise regarding current recruiting and hiring practices for similar firms within the Petitioner's industry. Rather, he cites generally to careeronestop.org and itcareerfinder.com, career resources websites which indicate that individuals in positions within the IT industry "usually" have a bachelor's degree. We note, however, that these websites do not state that this type of degree is required, nor does it state that the bachelor's degree must be in a specific specialty. Instead, the site lists possible programs that can prepare a person for such an occupation, but it does not indicate that the programs comprise an exhaustive or exclusive list or that such programs are required in order to enter the occupation.

The Petitioner also submitted job vacancy announcements for our consideration under this prong. To be relevant for consideration, the job vacancy announcements must advertise "parallel positions," and the announcements must have been placed by organizations that (1) conduct business in the Petitioner's industry and (2) are also "similar" to the Petitioner. These job vacancy announcements do not satisfy that threshold. Upon review of the documents, we conclude that the Petitioner's reliance on the job announcements is misplaced.

We will first consider whether the advertised job opportunities are from organizations that conduct business in the Petitioner's industry. The Petitioner initially submitted five advertisements from the following organizations: The Boyd Companies, Spectrum, Perfection Learning Corp., All Web Leads Inc., and Vaco, LLC. Of these five postings, only one organization – Perfection Learning Corp. – provided information on its business operations, indicating that it is a developer of curriculum solutions for grades K-12. In response to the RFE, the Petitioner submitted additional postings from the following organizations: Apple, PUMA, RiskSpan, Nabler Web Solutions, Crossmedia, Evite, Inc., and Next Insurance. We are not persuaded that these organizations conduct business in the Petitioner's industry. The Petitioner states that it is an online insurance management platform. PUMA, however, is an athletic apparel and footwear designer, whereas Evite, Inc. is a social planning website. Perfection Learning

Corp., as noted above, is an educational curriculum developer. Finally, most of the submitted postings provide little to no information regarding the industry in which the posting organization conducts business. For this reason, we cannot conclude that these advertisements are from organizations conducting business in the Petitioner's industry.

The Petitioner has not established that these job vacancy announcements are relevant for consideration under this prong. Nevertheless, we additionally note that the record lacks evidence demonstrating that the positions advertised are parallel to that offered to the Beneficiary. While we acknowledge that many of the postings are for the position title "Business Intelligence Analyst," several of the postings advertise different position titles, such as "Data Analyst/Financial Analyst" by RiskSpam, "Digital Analyst" by Nabler Web Solutions, and "Product Data Analyst" by Next Insurance.²⁰ All of the submitted postings provide generalized information regarding the duties associated with the advertised positions, thus precluding us from determining that the posted positions are similar to the one proffered here.

In addition, we note that the postings encompass a broad range of degree requirements for the advertised positions. For example, the posting by The Boyd Companies will accept a bachelor's degree in computer science, mathematics, statistics, finance, logistics, or a related technical field. Apple will accept a bachelor's degree in computer science, statistics, mathematics, engineering, economics, or a related field. RiskSpan accepts degrees in finance, statistics, economics, engineering, applied mathematics, physics, information management systems, or computer science. These postings indicate that a range of disciplines is acceptable for entry into the occupation, and do not establish a standard industry requirement for a degree in a specific specialty, or its equivalent.

Moreover, the posting by Spectrum indicates that it will accept an individual with a degree in economics, mathematics, or business administration. As explained above, we interpret 8 C.F.R. § 214.2(h)(4)(iii)(A) as requiring a degree in a specific specialty that is directly related to the proposed position. We have consistently stated that, although a general-purpose bachelor's degree, such as a degree in business administration, may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify a conclusion that a particular position qualifies for classification as a specialty occupation. *Royal Siam Corp.*, 484 F.3d at 147.

Finally, we note that the posting by Perfection Learning Corp. simply states that a bachelor's degree with 3+ years of professional experience is required. A petitioner must demonstrate that the proffered position requires a precise and specific course of study that relates directly and closely to the position in question. There must be a close correlation between the required specialized studies and the position; thus, the mere requirement of a degree, without further specification, does not establish the position as a specialty occupation. *Cf. Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm'r 1988) ("The mere requirement of a college degree for the sake of general education, or to obtain what an employer perceives to be a higher caliber employee, also does not establish

²⁰ We also note the Petitioner's submission of LinkedIn profiles for individuals serving in the role of Data Scientist, Product manager, Product VP, and Product Manager at various companies it deems similar. We are not persuaded by these profiles, as these individuals are not employed in the proffered position of business intelligence analyst. We find their educational credentials irrelevant here, as they are not employed in the same position as the one proffered here and, moreover, it is unclear what the duties of these positions entail. As a result, these profiles do not support the Petitioner's assertion that a specialty degree requirement for parallel positions within similar organizations exists within the Petitioner's industry.

eligibility.”). Thus, while a general-purpose bachelor’s degree may be a legitimate prerequisite for a particular position, requiring such a degree, without more, will not justify a conclusion that a particular position qualifies for classification as a specialty occupation. *Royal Siam Corp.*, 484 F.3d at 147. Therefore, the Petitioner’s reliance on this post as establishing an industry standard is misplaced.

For the above stated reasons, we do not find that the job advertisements establish a common degree requirement within the Petitioner’s 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.²¹ That is, not every deficit of every piece of evidence has been addressed.²² The Petitioner does not establish that, more likely than not, there is a common industry requirement for a bachelor’s degree in a specific specialty, or its equivalent, for parallel positions among similar organizations. 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

The second alternative prong of 8 C.F.R. § 214.2(h)(4)(iii)(A)(2) 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. The Petitioner does not assert eligibility under this prong of this criterion, nor does it submit additional evidence to refute the Director’s findings under this criterion.

Nevertheless, we note that the evidence of record does not establish that this position is significantly different from other business intelligence analyst positions that can be performed without a degree in a specific specialty. In other words, the record lacks sufficiently detailed information to distinguish the proffered position as unique from or more complex than business intelligence analyst or other closely related positions that can be performed by persons without 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.

²¹ The Petitioner did not provide any independent evidence of how representative the job postings are of the particular advertising employers’ recruiting history for the type of job advertised. As the advertisements are only solicitations for hire, they are not evidence of the actual hiring practices of these employers.

²² Even if all of the job postings indicated that a requirement of a bachelor’s degree in a specific specialty is common to the industry in parallel positions among similar organizations (which they do not), the Petitioner does not demonstrate what statistically valid inferences, if any, can be drawn from the job postings with regard to the common educational requirements for entry into parallel positions in similar organizations. See generally *Earl Babbie, The Practice of Social Research* 186-228 (7th ed. 1995).

The record must establish that a petitioner's stated degree requirement is not a matter of preference for high-caliber candidates but is necessitated instead by performance requirements of the position. *See Defensor v. Meissner*, 201 F.3d at 387-88. Were USCIS limited solely to reviewing the 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 Petitioner created a token degree requirement. *Id.* Evidence provided in support of this criterion may include, but is not limited to, documentation regarding the Petitioner's past recruitment and hiring practices, as well as information regarding employees who previously held the position.

The Petitioner submitted the LinkedIn profiles, educational credentials, and paystubs for several employees it claims occupy the same or similar positions in its organization as the one proffered here. Specifically, the Petitioner submitted profiles for individuals working on its Business Intelligence Team. Although the Petitioner submitted profiles for individuals employed as a "business intelligence analyst" and "senior business intelligence analyst," the fact that such individuals share the same job title is insufficient.²³ The Petitioner did not submit job descriptions or position overviews for these individuals, such that we may determine that they occupy the same position as the one proffered to the Beneficiary. The Petitioner also did not submit any information regarding the complexity of the job duties, supervisory duties (if any), independent judgment required, or the amount of supervision received. Accordingly, it is unclear whether the duties and responsibilities of these individuals were the same or similar to the proffered position.

The Petitioner also submitted profiles for individuals working in its Product & Operations Department. Upon review, we note that several of the profiles indicate that these individuals occupied the positions of VP and general manager, director of product, operations analyst, and data analyst, which do not appear akin to the proffered position of business intelligence analyst. While we acknowledge the Petitioner's statement that these profiles were intended to demonstrate that all its employees possess degrees in the field, they do support the Petitioner's assertion that it routinely hires only specialty degreed individuals for the position.

Moreover, while we acknowledge that each of these individuals has at least a bachelor's degree, we also note that the degrees are in disparate fields, including mathematics, industrial engineering, economics, and business administration, thereby undermining the Petitioner's position that it routinely hires only specialty degreed individuals for the position.

For the reasons set forth above, the Petitioner has not satisfied the third criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

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

²³ We additionally note that the salary information for each individual is concealed, which precludes a determination that the individuals with the same job title as the proffered position are compensated at the same (or a similar) rate of pay as the salary offered for the proffered position.

usually associated with the attainment of a baccalaureate or higher degree in a specific specialty, or its equivalent.

The Petitioner contends that the proffered position qualifies as a specialty occupation on the basis that its duties are so specialized and complex, and provided numerous documents outlining its business operations and the role of a business intelligence analyst therein. However, the duties as described lack sufficient specificity to distinguish the proffered position from other business intelligence analyst positions for which a bachelor's or higher degree in a specific specialty, or its equivalent, is not required to perform their duties. Although some tasks may connote a requirement of familiarity with general quantitative principles, the record is insufficient to establish that the duties require anything more than a few basic courses and a broad educational background. While a few such courses may be beneficial in performing certain duties of the position, the Petitioner, who bears the burden of proof, 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.

We return to the opinion of [REDACTED] wherein he opines that a minimum of a bachelor's degree in mathematics, physics, or engineering or a related area is required to perform the duties of the proffered position. Again, [REDACTED] repeats the Petitioner's description of duties and concludes with minimal analysis that it is because the nature of the responsibilities and knowledge is so specialized and complex that the knowledge is usually associated with the attainment of a bachelor's degree in such fields. While [REDACTED] may draw inferences that the Beneficiary's coursework may be beneficial in performing certain duties of the position, we disagree with any inference that the Beneficiary's degree is required in order to perform the duties of the proffered position. Put simply, stating that a person with the Beneficiary's degree could perform the duties of the position is not the same as stating that such a degree is required to perform the duties.

[REDACTED] concludes that the duties described are specialized and require the theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor's degree in a specific specialty. Again, however, he does not acknowledge or discuss other methods that appear to be readily available such as a general bachelor's degree, certifications, or experience, that lead to a sufficiently similar knowledge-set, to perform the duties described. As previously stated, as a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. For the reasons discussed, the position evaluation proffered here does little to assist in establishing that the proposed position is specialized and complex or unique and satisfies the statutory and regulatory definitions of a specialty occupation.

The record does not establish that the nature of the proffered position's duties requires the theoretical and practical application of highly specialized knowledge and attainment of at least a bachelor's degree in a specific specialty or its equivalent. We conclude that the Petitioner has not established 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).

Consequently, the Petitioner has not satisfied any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A).

IV. CONCLUSION

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has not met that burden.

ORDER: The appeal is dismissed.