



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

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

In Re: 21686893

Date: MAY 10, 2022

Appeal of California Service Center Decision

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

The Petitioner seeks to temporarily employ the Beneficiary 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 proffered position qualifies as a specialty occupation. We initially rejected the Petitioner's appeal for untimely filing. Thereafter, the Petitioner filed a combined motion to the Director, requesting to reopen and reconsider the Director's decision to deny the petition. The Director dismissed the combined motion. Unrelated to the motion filed to the Director, we reopened the Petitioner's appeal under 8 C.F.R. §103.5(a)(5).¹

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit 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 sustain the appeal.

In this matter, the record demonstrates that the proffered position is a specialty occupation. We conclude that the nature of the specific duties is so specialized and complex that more likely than not the knowledge required to perform them is usually associated with the attainment of a bachelor's or higher degree in a specific specialty, or its equivalent. Specifically, the Petitioner has sufficiently articulated the scope of its business operations and explained why the Beneficiary's duties are specialized and complex. The Petitioner has also established that the duties require specialized knowledge usually associated with a bachelor's or higher degree directly related to the position.

¹ By filing an appeal, the Petitioner placed the proceeding under the jurisdiction of our office pursuant to 8 C.F.R. § 103.3(a)(1)(iv). Although we initially rejected the appeal, we reopened it on a service motion. Since we have appellate authority over the service centers and we reopened the proceedings, our decision supersedes the Director's decision on the combined motion.

Therefore, the record satisfies the criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A)(4). Further, the Petitioner has established that the proffered position qualifies for classification as a specialty occupation as defined by section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), and 8 C.F.R. § 214.2(h)(4)(ii).

ORDER: The appeal is sustained.