



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

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

In Re: 27555147

Date: JUL. 10, 2023

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: (1) the proffered position qualifies as a specialty occupation, and (2) the Beneficiary met the qualification requirements for serving in an H-1B specialty occupation. Later, the Petitioner filed a motion with the Director asking her to reconsider the decision to deny the petition, which the Director dismissed. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *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 under 8 C.F.R. § 214.2(h)(4)(ii) and (iii)(A). Specifically, we conclude that the Petitioner has established that its particular position is so complex or unique that it can be performed only by an individual with a degree in a specific specialty, or its equivalent, as required by 8 C.F.R. § 214.2(h)(4)(iii)(A)(2). The record includes a description of the Petitioner's business and an explanation of the Beneficiary's proposed work. The proffered position, when reviewed within the context of the Petitioner's business operations, is sufficient to demonstrate that the complexity or uniqueness of the position requires a "body of highly specialized knowledge" attained through a precise and specific course of study that relates directly and closely to 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. 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), 8 C.F.R. § 214.2(h)(4)(ii), and (iii)(A)(2). Additionally, the record establishes that the Beneficiary is qualified to perform the duties of the proffered position. *See* Section 214(i)(2) of the Act; 8 C.F.R. § 214.2(h)(4)(iii)(C)(1).

ORDER: The appeal is sustained.