



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

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

In Re: 20031048

Date: MAR. 17, 2022

Appeal of Vermont Service Center Decision

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

The Petitioner seeks to 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 Vermont Service Center Director denied the Form I-129, Petition for a Nonimmigrant Worker, concluding that the record did not establish that the Beneficiary is qualified for the proffered position. The matter is now before us on appeal. On appeal, the Petitioner submits a brief and asserts that the Director erred in denying the petition. 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 sustain the appeal.

Based upon our review of the entire record of proceedings, we find that the Petitioner has overcome the basis of the Director's denial. In this matter, the record demonstrates that the proffered position is a specialty occupation. Our review of the Beneficiary's academic credentials, the opinions regarding the duties, the requirements necessary to perform those duties, and the documents submitted on appeal establishes that the Beneficiary is qualified to perform the duties of the proffered position. The totality of the record establishes, by a preponderance of the evidence, that 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 in the United States. The record establishes 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 bachelor's or higher degree in a specific specialty, or its equivalent, and therefore 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.