

Specialty Occupation & Related Degrees Guidance

To qualify as a specialty occupation, the position must satisfy the statutory definition at section 214(i)(1) of the Act of 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 CFR 214.2(h)(4)(ii) largely restates this statutory definition, but adds a non-exhaustive list of fields of endeavor:

Specialty occupation means an occupation which [(1)] requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which [(2)] requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

In addition, the proffered position must also meet at least one of the following criteria at 8 CFR 214.2(h)(4)(iii)(A):

- A bachelor or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- 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 a person with a degree;
- The employer normally requires a degree or its equivalent for the position; or
- The nature of the duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree.

To be consistent with the statute at 214(i)(1) and the regulatory definition at 8 CFR 214.2(h)(4)(ii), we construe the term “degree” in the criteria above to mean not just any degree, but a bachelor’s or higher degree in a specific specialty (or its equivalent) that is directly related to the proposed position.

Analyzing “Specific Specialty”

While the statutory “the” and the regulatory “a” are both interpreted to denote a singular “specialty,” this should not be misconstrued with necessarily requiring a singular academic major or field of study.

In general, provided the required fields of study are closely related, e.g., electrical engineering and electronics engineering for the position of an electrical engineer, a minimum of a bachelor's or higher degree in more than one field of study 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. Each academic major is in a “specific specialty” directly related to the position.

In addition, a minimum entry requirement of a bachelor’s or higher degree in multiple disparate fields of study does not automatically disqualify a position from being a specialty occupation. For example, a petitioner may be able to establish that a bachelor’s degree in either education or chemistry (each a body of highly specialized knowledge) is directly related to the duties and responsibilities of a chemistry teacher.

Application

In cases where the petitioner lists multiple disparate fields of study as the minimum entry requirement for a position, the petitioner must establish how each field of study is in a “specific specialty” that is directly related to the duties and responsibilities of the particular position (i.e., the applied body or bodies of highly specialized knowledge) in order to establish eligibility under the statutory and regulatory definitions and under one of the four criteria at 8 CFR 214.2(h)(4)(iii)(A).

However, if the *Occupational Outlook Handbook (OOH)* lists disparate fields of study as sufficient to qualify for the occupation, some of which do not relate to a body of highly specialized knowledge required to be applied by the occupation, the petitioner will generally not be able to demonstrate eligibility under the first criterion based on the *OOH*. This holds true even if the petitioner demonstrates that each of the disparate fields of study listed in the *OOH* is directly related to the position. This is because the position would still not be “...one that by its nature demands a bachelor's degree or its equivalent in a specific specialty.” See *Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 147 (1st Cir. 2007). However, the petitioner may still be able to demonstrate eligibility under the first criterion by providing evidence from another authoritative source that

demonstrates that it is more likely so than not that, based on a review of typical requirements for similar positions in the same occupation, the particular position requires a bachelor's or higher degree in a specific specialty (or its equivalent) as a minimum for entry into that position.

Summary

The statutory and regulatory language does not require that the specific specialty be limited to the attainment of a degree in a single, sole field of study or academic major.

Requiring a degree in more than one field of study does not automatically disqualify a position from being a specialty occupation.

The petitioner must demonstrate that each field of study they list as a qualifying field of study for the position is directly related to the duties and responsibilities of the position by the preponderance of the evidence standard. This is true when the petitioner lists only one field of study, multiple related fields of study, or multiple disparate fields of study.

If the *OOH* lists disparate fields of study as sufficient to qualify for the occupation, the petitioner will generally not be able to demonstrate eligibility under the first criterion.