



AMERICAN  
IMMIGRATION  
LAWYERS  
ASSOCIATION

July 21, 2014

Standard Occupational Classification Policy Committee  
U.S. Bureau of Labor Statistics  
Suite 2135  
2 Massachusetts Avenue NE  
Washington, DC 20212

Submitted via [soc@BLS.gov](mailto:soc@BLS.gov)

**Re: Notice of Solicitation of Comments for the 2018 SOC Revision  
79 Fed. Reg. 29620 (May 22, 2014)**

Dear SOC Policy Committee:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the Notice of Solicitation of Comments for the 2018 Standard Occupational Classification (SOC) Revision, published in the Federal Register on May 22, 2014.

**Introduction**

AILA is a voluntary bar association of more than 13,000 attorneys and law professors practicing, researching and teaching in the field of immigration and nationality law. Since 1946, our mission has included the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. U.S. employers are required to use the SOC in both the H-1B nonimmigrant (temporary) process and also in the permanent labor certification application process. Given the important role the SOC plays in the implementation of U.S. immigration law and policy, we appreciate the time and effort the Bureau of Labor Statistics (BLS) expends to ensure the SOC is relevant and reflects current occupations in the United States, and similarly appreciate the opportunity to submit comments on the SOC revision which has a direct effect on the ability of U.S. employers to comply with our laws and to attract and retain the world's best and brightest talent.

An updated SOC that reflects the current realities of an ever-changing workforce is important for a number of reasons. First, in the H-1B context, Immigration and Naturalization Act (INA) §212(n)(1) requires employers to file a Labor Condition Application (LCA) using an SOC occupational classification "based on the best information available." The Department of Labor's

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(DOL) “Prevailing Wage Determination Policy Guidance” notes the complexity of this process.<sup>1</sup> If the SOC lacks relevant, current occupational classifications, employers have no choice but to attempt to fit the job into an SOC occupation that is less than accurate, thus compromising its compliance with H-1B regulations. The 2018 SOC revision is particularly important because the existing SOC has not kept pace with changes in the economy and in an increasingly global workforce.

Second, in the labor certification application process (normally the first step to obtaining lawful permanent resident status), employers must ask DOL to assign the appropriate SOC classification to the particular job. This SOC classification dictates not only the required salary but also the O\*NET “job zone” classification, which determines the level of education, training and experience employers can list as “normal” for a job. When SOC codes lack current data regarding duties, education, training, and supervision it greatly impacts a U.S. employer’s ability to retain international talent, and can result in wage requirements that do not reflect the actual market rate.

Third, BLS must clarify the interpretation of specific vocational preparation (SVP) as dictated by its five job zones. For example, for O\*NET Job Zone 4, what does SVP 7<8 mean? An SVP of 7 converts to a range of 2 to 4 years while an SVP of 8 converts to a range of 4 to 10 years. The 1999 DOL O\*NET report, “Stratifying Occupational Units by Specific Vocational Preparation (SVP),” discusses the distribution of SVP scores for multiple occupations from the Dictionary of Occupational Titles (DOT) that had been compressed to make up a single SOC category.<sup>2</sup> These jobs typically represent a range of occupations that require different levels of preparation. For example, SOC 17-2072 (Electronics Engineer) is derived from a group of 14 engineering occupations in the DOT, most of which were accorded an SVP of 8, permitting 4 to 10 years of education, training, and experience.<sup>3</sup> However, DOL currently accords Electronics Engineer a Job Zone 4 to allow 2 to 4 years of training, rather than 2 to 10 years. This interpretation fails to take into consideration the higher SVP rating of 8 that comprise many of the occupations consolidated into today’s SOC codes.

Finally, we would be remiss to not address the fact that a bachelor’s degree has become the new norm for entry into many career fields.<sup>4</sup> Nevertheless, the SOC still states that a bachelor’s degree is not required as a minimum requirement for entry into a number of complex professions. It is of critical importance that the SOC be revised to recognize the true hiring

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<sup>1</sup> [http://www.flcdatacenter.com/download/NPWHC\\_Guidance\\_Revised\\_11\\_2009.pdf](http://www.flcdatacenter.com/download/NPWHC_Guidance_Revised_11_2009.pdf)

<sup>2</sup> [http://www.onetcenter.org/dl\\_files/SVP.pdf](http://www.onetcenter.org/dl_files/SVP.pdf)

<sup>3</sup> See attached list of engineering occupations with corresponding SVP 8 levels.

<sup>4</sup> <http://economix.blogs.nytimes.com/2012/12/04/degree-inflation-jobs-that-newly-require-b-a-s/>; [https://docs.google.com/spreadsheet/pub?key=0AmGiCh4DhV8AdHNDeHV2OFE0S0VBdjNfekpHRFBYWXc&single=true&gid=0&output=html](https://docs.google.com/spreadsheet/pub?key=0AmGiCh4DhV8AdHNDeHV2OFE0S0VBdjNfekpHRFBYWXc&si ngle=true&gid=0&output=html); [http://www.nytimes.com/2013/02/20/business/college-degree-required-by-increasing-number-of-companies.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/02/20/business/college-degree-required-by-increasing-number-of-companies.html?pagewanted=all&_r=0), last visited July 3, 2014.

requirements for all occupations, and where the normal requirement for a particular occupation for most employers is a bachelor's degree, the SOC should reflect this reality.

With this background in mind, our comments address three areas relevant to the 2018 SOC revisions:

- I. The "All Other" Classifications
- II. Suggested Revisions to Existing SOC Categories
- III. Suggested Occupations to Add to the SOC

## **I. THE "ALL OTHER" CLASSIFICATIONS**

The "All Other" classifications under the SOC has traditionally been reserved for emerging occupations where BLS and the Census Bureau have difficulty obtaining sufficient data to treat the particular occupation as its own SOC category. However, in assigning prevailing wages for immigration purposes, DOL is often hesitant to rely on an occupation contained under the "All Other" classification, out of concern regarding the accuracy or reliability of the occupational description or related wage data.

Consequently, while we applaud BLS for its planned 2018 SOC revision, we request that BLS review the occupations listed under the "All Other" classifications on a frequent and regular basis with the goal of moving occupations to their own classification as soon as BLS is comfortable with the reliability of the data. This should occur on an ongoing basis and should not be dependent on a revision of the entire SOC that occurs only every few years. The delays associated with the current system have a direct negative effect on the ability of employers to obtain the high-skilled talent needed to continue our economic recovery. By allowing these occupations to languish for years in the "All Other" classification, employers are unable to have occupations classified correctly, and consequently are held to prevailing wage standards that are not reflective of the occupation the employee is actually performing. A more frequent assessment and transition of those occupations to their own occupational categories would greatly improve the degree to which the SOC actually aligns with the realities of the modern economy.

In the event that a reclassification of these occupations cannot occur immediately, we urge BLS to move some of the occupations that are sufficiently common in today's economy to their own occupational classifications as part of the 2018 SOC revision. These include:

### **a. Information Technology Project Managers (15-1199.09)**

Information Technology Project Managers plan, initiate, and manage information technology (IT) projects. In the modern technology industry, there is a substantial difference between an Information Technology Project Manager, who manages a particular and scope-limited technology project, and a Computer and Information Systems Manager (11-3021.00), who manages an entire technology department for a company.

Unfortunately, the current SOC classification provides no alternative for an information technology professional who manages projects other than classification as a Computer and Information Systems Manager. From a practical standpoint, this lack of an appropriate occupational category results in OFLC assigning prevailing wages that are often \$20,000 or more per year greater than the actual market wages. BLS can solve this very real problem by making Information Technology Project Managers its own occupational category, utilizing the already well-developed description currently included for this occupation under the “All Other” category.

**b. Software Quality Assurance Engineers and Testers (15-1199.01)**

Software Quality Assurance Engineers and Testers develop and execute software test plans in order to identify software problems and their causes. This is a distinctly different occupation than Software Developers (15-1132.00 and 15-1133.00), which involve the actual design and development of computer software applications and systems. The design and development of software is generally a more advanced engineering role than that of software quality assurance and testing, and involves substantially different job duties. Moreover, the market wages for these occupations are dramatically different, and the current lack of a standalone SOC occupational category for Software Quality Assurance Engineers and Testers results in DOL being forced to classify individuals performing quality assurance and testing duties as Software Developers. AILA urges BLS to create a standalone occupational classification for the occupation of Software Quality Assurance Engineers and Testers.

**c. Web Administrators (15-1199.03)**

Web Administrators manage web environment design, deployment, development, and maintenance activities. Unlike Web Developers (15-1134), they do not focus on the design of websites, but rather focus on the more technical aspects of web deployment and maintenance. Because web technology is such a fast developing area, the current BLS classifications tend to lump all individuals working on website issues together as a single occupation. Doing so, however, is akin to treating an executive chef, a waiter, and a dishwasher as all the same occupation since all are involved in providing dinner at a restaurant. AILA asks that BLS provide more distinct options for classifying web professionals, and moving Web Administrators to its own occupational classification would be an appropriate first step.

**d. Sustainability Specialists (13-1199.05)**

The movement toward renewable resources, “green” practices, and environmental sustainability has become a major focus of many businesses, evidenced by such coveted credentials as LEED (Leadership in Energy & Environmental Design) certification. Despite this significant change in business focus, the current SOC is virtually devoid of occupations

focusing on the business processes associated with environmental sustainability. To begin to address this issue, BLS should move Sustainability Specialists, who address organizational sustainability issues, from the “All Other” category to its own standalone occupational category.

**e. Risk Management Specialists (13-2099.02)**

Risk Management Specialists identify, measure, and make decisions on operational or enterprise risks for an organization. This has become an important occupation across a variety of industries, including finance, banking, manufacturing, medicine, and logistics, among others, as companies work to identify and reduce risks to their business operations. Unfortunately, the current SOC has no good match for this occupation, and consequently, it is often lumped with substantively different occupations such as Financial Analyst, Management Analyst, or Operations Research Analyst. By moving the occupation of Risk Management Specialist from the “All Other” Category to its own standalone occupational classification, BLS would provide employers with the ability to more accurately and appropriately categorize and classify these workers.

**f. Hospitalists (29-1069.03)**

A Hospitalist is a physician who possesses the specific skill set and knowledge required to treat and care for patients in the hospital setting. Over the past decade, the United States has witnessed a rapid rise in Hospitalists nation-wide resulting in the American Board of Internal Medicine developing the Focused Practice in Hospital Medicine (FPHM) certification.<sup>5</sup> Nevertheless, BLS still lists “Hospitalists” under the “Physician, Surgeon, All Others” category. In practice, because the OFLC does not rely on the “All Other” classifications, it pulls the required wage for Hospitalists from “Internal Medicine Physicians” (29-1063) despite a distinct SOC code for Hospitalists. Because Hospitalists are a common – and mandatory - part of our primary care health system today and the occupation is no longer emerging, BLS should break out Hospitalists as a stand-alone occupation to ensure employers are able to appropriately classify physicians providing primary care in an in-patient, hospital setting. For similar reasons, we recommend that BLS also provide a stand-alone SOC code for the other medical subspecialties not currently assigned one, and that BLS regularly review medical specialties and add additional SOC codes on an ongoing basis to reflect occupational developments in the medical profession.

**g. Treasurers and Controllers (11-3031.01)**

Treasurers and Controllers are responsible for the financial operations for all or part of an organization. These are senior level positions that control access to corporate funds and exercise important fiduciary responsibilities. In many situations, the Controller must

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<sup>5</sup> <http://www.abim.org/specialty/hospital-medicine.aspx>.

approve company expenditures. Nevertheless, BLS still lists “Treasurers and Controllers” under the “Financial Managers” category. A Financial Manager typically would not have the same level of fiduciary responsibility as a Controller or a Treasurer. BLS should break out Treasurers and Controllers and Financial Managers as separate occupations to ensure employers are able to appropriately classify individuals with this level of fiduciary responsibility.

**h. Manufacturing Engineers (17-2199.04), Biochemical Engineers (17-2199.01), and Mechatronics Engineers (17-2199.05)**

The “Engineers, All Other” (17.2199) category contains a wide range of engineering specialties that have over time developed into their own unique engineering occupations. At a minimum, this includes Manufacturing Engineers (17-2199.04), Biochemical Engineers (17-2199.01), and Mechatronics Engineers (17-2199.05), which are increasingly common occupations within engineering and which are not treated as “generic” engineering positions by employers. We urge BLS to review the entire list of engineering occupations currently subsumed under the “Engineers, All Other” category, and break out as many of those into their own standalone engineering SOC categories, in order to better reflect the specialization needed in an increasingly technology intensive economy.

**II. CHANGES TO EXISTING CATEGORIES**

The SOC currently lists 840 occupations. However, over time the nature of positions evolve particularly relating to the training, education, degree of supervision, and combination of duties. Moreover, as our economy continues to expand globally, travel is more commonplace than ever in many professional roles. As such, we recommend BLS review the following occupations to ensure that definitions mirror common business standards, particularly as they relate to the O\*NET Job Zone, the normal job duties, and the Education and Training Code. Like the suggested changes to occupations currently listed under the “All Other” categories, this would serve not only to modernize and ensure the accuracy of these existing categories, but would also ensure that when OFLC reviews these roles for purposes of assigning a prevailing wage, the wage will more correctly reflect the true market rate.

**a. Computer and Information Systems Managers (11-3021.00)**

The current SOC description for this occupation is “Plan, direct, or coordinate activities in such fields as electronic data processing, information systems, systems analysis, and computer programming.” It is assigned an O\*NET Job Zone of 4 and an Education and Training Code of a bachelor’s degree. This is the case despite the fact that this is virtually the only occupational category available for someone who performs a managerial role within the information technology field. It simply is not business reality that technology companies, investment firms, and manufacturing companies consider it “normal” to hire a manager for a multimillion dollar technology department who has only a bachelor’s degree



and limited experience. Moreover, Computer and Information Systems Managers *supervise* Software Developers, Computer Programmers, and Systems Analysts, which are also O\*NET Job Zone 4 with a normal Education and Training Code of a bachelor's degree. It makes little sense that the normal occupational requirements for a manager would be identical to the normal occupational requirements for the positions being managed. We urge BLS to update this occupational classification to reflect an O\*NET Job Zone of 5, and an Educational and Training Code of a Master's degree.<sup>6</sup> Furthermore, the description for this occupation should specifically state that Computer and Information Systems Managers may supervise and direct Software Developers, Computer Programmers, Systems Analysts and other technology professionals. This change would modernize this occupation, and provide a more realistic match between true industry requirements and the SOC classification.

**b. General and Operations Managers (11-1021.00)**

The occupational category of General and Operations Managers is the only SOC code that is applicable to most senior managers who are responsible for the overall operations of a company but who are not the Chief Executive Officer. Despite the fact that an individual performing a role that falls within this classification may be responsible for overseeing the activities of hundreds of employees and be responsible for a budget of millions of dollars, the occupation carries an O\*NET Job Zone of 3, meaning that just a year or two of experience would be all that is considered normal. This is simply incorrect and is not reflective of reality. The O\*NET Job Zone should be revised to accurately reflect the substantial responsibility and extensive experience needed to perform a General and Operations Manager role.

**c. Market Research Analysts and Marketing Specialists (13-1161.00)**

In an increasingly competitive and global marketplace, companies invest tremendous resources in developing and executing marketing strategy. This involves researching competitors, designing marketing strategies and managing the implementation of those strategies. These activities are correctly included within the current description of Market Research Analysts and Marketing Specialists, but the current description fails to state that Market Research Analysts and Marketing Specialists may manage or supervise marketing projects and staff involved with marketing campaigns. Consequently, in assigning prevailing wages for marketing positions, OFLC tends to default to using the Marketing Manager (11-2021.00) category for any marketing role that involves any amount of supervision or oversight. AILA requests that BLS update the description for Market

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<sup>6</sup> A requirement of an advanced degree together with substantial experience for the occupation of Computer and Information Systems Manager is supported by the sample real-world job advertisements which are attached. As these advertisements demonstrate, it is common for employers to require far more than a simple bachelor's degree and two years of experience for these advanced and complex roles.

Research Analysts and Marketing Specialists to note that individuals in this occupation may manage or supervise marketing projects and staff as a normal part of the job duties.

**d. Software Developers, Systems Software (15-1133.00) and Software Developers, Applications (15-1132.00)**

In its recent transition from the general occupational classification of Software Engineer to the more specific categories of Software Developers, Systems Software (15-1133.00) and Software Developers, Applications (15-1132.00), BLS correctly provided more focused descriptions of software engineering activities that are more consistent with the kinds of technology development involved. In addition, in its description for Software Developers, Applications (15-1132.00), BLS correctly noted that a Software Developer “[m]ay supervise computer programmers.” However, no such notation regarding management or supervision was made for Software Developers, Systems Software (15-1133.00), which would appear to be an error since the kind of technology involved does not affect whether a Software Developer would supervise others. We ask BLS to update the Software Developers, Systems Software (15-1133.00) description to reflect a similar likelihood of management of computer programmers, as this component of the role is not dependent on the type of technology (systems vs. applications) involved. More broadly, BLS should consider making more explicit that both Software Developers, Systems Software (15-1133.00) and Software Developers, Applications (15-1132.00) are positions that often involve management and supervision, both of projects and of other workers, by adding the phrase “May manage and direct technology projects and staff in development initiatives.” This would better reflect the responsible nature of this occupation, and would help to differentiate between the management components of a Software Developer role and those of a Computer and Information Systems Manager role. Finally, BLS should consider updating the Education and Training Code for both categories of Software Developers to reflect a master’s degree as the normal education requirement.<sup>7</sup> Master’s degree programs in this area have grown at an exponential rate and it has become the exception, rather than the rule, where a Software Developer possesses only a bachelor’s degree.

**e. Financial Managers (11-3031.00)**

The current SOC provides neither an O\*NET Job Zone nor an Education or Training Code for Financial Managers, who “[p]lan, direct, or coordinate accounting, investing, banking, insurance, securities, and other financial activities of a branch, office, or department of an establishment.” Given the huge growth in the financial services industry, as well as the growth of financial management activities within companies in other industries, it is critical

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<sup>7</sup> A requirement of an advanced degree together with experience for Software Developer roles is supported by the sample real-world job advertisements which are attached. As these advertisements demonstrate, it is common for employers to require at least a master’s degree, or a bachelor’s degree and substantial experience, for software development roles.



that both codes be assigned, and this should be done well in advance of the planned 2018 SOC revision. Moreover, in assigning these codes, BLS should recognize the importance, complexity, and sophistication of these roles, which particularly in financial services firms often have ultimate responsibility for hundreds of millions of dollars. An O\*NET Job Zone of 5 and an Education and Training Code of a master's degree would be appropriate for these senior roles.

**f. Natural Sciences Managers (11-9121.00), Medical and Health Services Managers (11-9111.00), and Education Administrators, Postsecondary (11-9033.00)**

The current SOC provides an Education and Training Code of a bachelor's degree for all three of the managerial roles of Natural Sciences Managers (11-9121.00), Medical and Health Services Managers (11-9111.00), and Education Administrators, Postsecondary (11-9033.00). Given the complexity of the subject matter being managed in each of these roles – complex scientific research, the delivery of advanced medical care, and the education of college students – it is difficult to imagine employers for these roles seeking out individuals with only a bachelor's degree. A master's degree, and perhaps a Ph.D. or terminal degree, is a more accurate expectation. BLS should consider updating the Education and Training Code for these three occupations to reflect a master's degree as a normal educational requirement.

**g. Chemical Engineers (17-2041.00), Electrical Engineers (17-2071.00), and Mechanical Engineers (17-2141.00), Electronics Engineers, Except Computer (17-2072.00), and Biomedical Engineers (17-2031.00)**

Like Natural Sciences Managers (11-9121.00), Medical and Health Services Managers (11-9111.00), and Education Administrators, Postsecondary (11-9033.00), the current version of the SOC fails to reflect modern business requirements for the highly complex subject matter addressed by Chemical Engineers (17-2041.00), Electrical Engineers (17-2071.00), Mechanical Engineers (17-2141.00), Electronics Engineers, Except Computer (17-2072.00), and Biomedical Engineers (17-2031.00). These five occupations also currently list an Education and Training Code of a bachelor's degree as a normal educational requirement. In fact, most employers seeking to hire engineers in these five core categories require the more advanced and complex theoretical training and instruction commonly found in a master's degree program.<sup>8</sup> By updating the Education and Training Code for these five core engineering occupations, BLS would much more accurately reflect the educational preparation needed for a career in engineering.

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<sup>8</sup> A requirement of an advanced degree for engineering roles is supported by real-world hiring. Sample job advertisements for Electrical Engineering positions, as an example, are attached. As these advertisements demonstrate, it is common for employers to require an advanced degree for Electrical Engineering roles. Similar requirements exist for other engineering roles as well.

**h. Animal Scientists (19-1011.00), Food Scientists (19-1012.00), and Materials Scientists (19-2032.00)**

Just as BLS should update the normal educational requirements for engineering and technical management roles, it should do the same for scientists. Animal Scientists (19-1011.00), Food Scientists (19-1012.00), and Materials Scientists (19-2032.00) are all occupations that involve conducting scientific research on complex areas of science, but all three of these occupational categories currently carry an Education and Training Code of a bachelor's degree. Scientific research positions are virtually never performed by individuals with only a bachelor's degree, and the current SOC educational preparation for this kind of role needs to be updated to reflect the current state of this field. BLS should consider updating the Education and Training Code for all three of these occupations to a master's degree.

**i. Music Directors and Composers (27-2041.00) and Music Composers and Arrangers (27.2041.04)**

The current occupational category of Music Directors and Composers (27-2041.00) and Music Composers and Arrangers (27.2041.04) would greatly benefit from more clarification of the distinct occupations that exist under this broader category. The current SOC classification combines Music Directors (who direct an orchestra or chorus) with Composers (who create and write original works of music). Something of an effort at differentiation appears to be made with the subcategory of Music Composers and Arrangers, but that subcategory unfortunately combines Composers with Arrangers, who simply transcribe musical scores. This results in the incorrect conclusion that not even a bachelor's degree is required for a musical composer, which ignores the complexity and years of education and training composers normally receive. In the 2018 SOC revision, BLS should correct this problem by making Composers its own distinct occupational category, and assigning an O\*NET Job Zone of 5 and an Education and Training Code of a bachelor's degree. This would restore this to the definition provided in the 2011 OES All Industries database, and would be a much more accurate reflection of these occupations.

**j. Education Administrators, Postsecondary (11-9033.00)**

The current version of the SOC lumps together into a single occupation all Postsecondary Education Administrators. The occupation currently has a very broad description, including anyone who "plans, directs, or coordinates research, instructional, student administration and services, and other educational activities at postsecondary institutions, including universities, colleges, and junior and community colleges." This treats every college administrator the same, whether that individual is an entry-level assistant registrar or a university president. In revising the SOC, AILA urges BLS to provide more categories to better capture the specific occupations performed by college and university administrators. Doing so would help to modernize the SOC and would recognize that just like other

organizations and industries, colleges and universities have also continued to evolve and better define roles and occupations.

**k. Biological Technicians (19-4021.00)**

Biological Technicians “assist biological and medical scientists in laboratories” and they “set up, operate, and maintain laboratory instruments and equipment, monitor experiments, make observations, and calculate and record results.” While the current version of the SOC classifies this occupation as an O\*NET Job Zone 4, it sets no level for the Education and Training Code. Most Biological Technician roles require at least a bachelor’s degree, if not an advanced degree, especially when a Biological Technician is employed by a college or university. BLS should update this category to reflect that a degree is necessary, and that it is not uncommon for an advanced degree to be required.

**III. NEW OCCUPATIONS**

As our economy adapts to new technologies and global workforce needs, so too must the SOC incorporate occupations that reflect these changes. We suggest the following additions to the 2018 SOC.

**a. ACWIA Database - Academic Clinical Physicians**

The INA *requires* employers who are ACWIA eligible to use the ACWIA database specifically because wages paid by academic centers tend to be significantly lower than those in the private sectors.<sup>9</sup> Notably absent from the ACWIA database are SOC classifications for Academic Medical Physicians (29-1061 through 29-1069), roles that are commonplace in every academic medical center where physicians both teach and provide direct patient care, often simultaneously. In the immigration context, this results in OFLC citing a non-ACWIA clinical SOC for occupational classification purposes while using an ACWIA SOC for wage purposes. For example, OFLC will cite 29-1069, “Physicians and Surgeons, All Other” for the SOC classification yet cite 25-1071.00, “Health Specialties Teachers, Postsecondary” for the wage under the theory that the duties are a combination of occupations. This presents a myriad of problems for employers who in good faith try to use the SOC system for both the H-1B program and the permanent labor certification process. Specifically, in the H-1B context, employers lack a suitable ACWIA SOC classification to comply with DOL regulations. If employers try to use the OFLC process detailed above, USCIS may challenge or deny the H-1B petition on the ground that the job duties for the SOC code listed on the certified LCA do not match the duties that the H-1B beneficiary will perform in the position. This forces employers to rely on private wage surveys or an OFLC-issued prevailing wage determination that reflects a wage that addresses only teaching and not the clinical duties of the position. The United States is

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<sup>9</sup> INA §212(p)(1), 8 U.S.C. §1182.

facing a serious shortage of physicians and is undergoing a focused effort to increase the number of medical schools and training programs to ensure our system meets medical needs nation-wide. We urge BLS to create an ACWIA-specific SOC classification with a position description that recognizes the academic clinical physicians who are simultaneously providing clinical care and training for our next generation physicians in academic medical centers.

**b. ACWIA Database - Medical Residents and Fellows**

As with Academic Clinical Physicians, there is currently no SOC classification for medical residents and fellows. Instead, employers default to the SOC classification for the relevant physician specialty which does not account for the fact that medical residents and fellows are not independently authorized to practice medicine but must instead be directly supervised by an attending physician. Moreover, in many instances employers have no choice but to rely on non-BLS wage data, most often data compiled by the AAMC Survey of Resident/Fellow Stipends and Benefits. However, because the AAMC data is collected regionally, employers often have difficulty convincing OFLC of the legitimacy of the data, despite it being the data source used predominantly by medical training centers nation-wide. Because medical residents are a large segment of our economy, we urge BLS to create ACWIA SOC classifications for medical residents and fellows. It is simply incorrect and unfair to lump Medical Residents and Fellows in with Physicians.

**c. Product Managers**

In manufacturing, software development, engineering, and other industries, the occupation of Product Manager is relatively common. A Product Manager is normally tasked with overall responsibility for the development cycle of a new product, or changes and improvements to an existing product. This is an occupation that brings together elements of engineering, marketing, finance, quality assurance, and logistics. An individual performing this role is not an Engineering Manager, as his/her responsibilities will go far beyond engineering. A Product Manager is also not a Marketing Manager or Finance Manager, as they are focused on multiple areas going far beyond those limited-scope occupations. BLS should update and modernize the SOC by formally recognizing the occupation of Product Manager, and giving Product Manager its own occupational code.

**d. Department Managers**

As new technologies, businesses, and even industries are established and grow to prominence, it is not uncommon for an individual to have responsibility for managing a department of the business, however, that role may fall neither into a traditional management area (such as Administrative Services Managers) nor be broad enough to be classified as a General and Operations Manager. The current version of the SOC provides no category for this kind of Department Manager, forcing employers to attempt to pigeon-

hole new department management operations into the existing limited structure. This could be corrected by creating a more flexible Department Manager occupational classification, thus allowing the SOC to correctly reflect the Department Manager occupation that exists in many growing businesses.

**e. Foreign Legal Specialists**

With the globalization of the economy, it has become increasingly common for law firms and private businesses to employ individuals who are specialists in the legal system of a foreign country. These individuals are not Lawyers (23-1011.00), as they do not advise on U.S. laws nor do they require admission to the bar. However, they play a more advanced role than that of a Paralegal (23.2011.00) and the role virtually always requires at least a bachelor's degree. The current version of the SOC provides no occupational category for someone in this kind of role, and BLS should address this in the upcoming SOC revision by creating a separate occupational category for the role of Foreign Legal Specialist.

**f. Sales Professionals**

The current version of the SOC primarily categorizes sales positions as non-professional roles for which a bachelor's degree is not required. A small exception is made for the occupation of Sales Engineer (41-9031.00), which is a sales role where a degree in engineering is typically required. However, as the economy has grown and diversified, product and service offerings by companies have become much more complex, and it is increasingly common that a degree in a specialty area is needed even where the product or service being sold is not engineering. This may include, for instance, logistical services, Internet marketing strategies, alternative medical products, risk management strategies, or a host of other complex products or services. The SOC should be revised to create a distinct occupation for Sales Professionals, to capture professional sales positions that require a degree but are not focused on engineering.

**Conclusion**

AILA greatly appreciates the opportunity to provide comments and suggestions regarding the upcoming SOC revision. The changes outlined above would greatly improve and modernize the SOC, and would better reflect the current economy. While the SOC is used for a variety of areas within the government, a particularly important use is the classification of positions for immigration purposes. Employers seeking desperately needed high-skilled foreign talent need the SOC to reflect the realities of modern business practice. Outdated occupational descriptions, O\*NET Job Zones, and Education and Training Zones that are not consistent with current hiring practices make it difficult to utilize high-skilled foreign talent to meet skills gaps that currently exist in the United States. Leaving these positions unfilled slows economic growth, prevents businesses from expanding, and ultimately costs American jobs. Updating the SOC – especially



those areas where changes can be made before 2018 – would greatly help to avoid these problems.

Thank you for your attention to this matter.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION