



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

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

In Re: 21462476

Date: JUL. 7, 2022

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Professional

The Petitioner, an automotive glass manufacturing company, seeks to employ the Beneficiary as an “assistant manager, lamination assembly equipment maintenance.” The company requests his classification under the third-preference, immigrant visa category for professionals. *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii).

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish the Beneficiary possesses the minimum educational requirements of the offered position. On appeal, the Petitioner asserts that the Director erred.

The Petitioner bears the burden of establishing eligibility for the requested benefit by a preponderance of evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 169, 175 (AAO 2010). Upon *de novo* review, we will dismiss the appeal.

I. EMPLOYMENT-BASED IMMIGRATION

Immigration as a professional generally follows a three-step process. First, a prospective employer must apply to the U.S. Department of Labor (DOL) for certification that: (1) there are insufficient U.S. workers able, willing, qualified, and available for an offered position; and (2) the employment of a noncitizen in the position won’t harm wages and working conditions of U.S. workers with similar jobs. *See* section 212(a)(5) of the Act, 8 U.S.C. § 1182(a)(5). Second, an employer must submit an approved labor certification with an immigrant visa petition to U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Among other things, USCIS determines whether a beneficiary meets the requirements of a certified position and a requested immigrant visa category. 8 C.F.R. § 204.5(l). Finally, if USCIS approves a petition, a designated noncitizen may apply for an immigrant visa abroad or, if eligible, “adjustment of status” in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

II. THE EDUCATIONAL REQUIREMENTS

A petition for a “professional” must demonstrate that a beneficiary holds at least a U.S. bachelor’s degree or a foreign equivalent degree. 8 C.F.R. § 204.5(l)(3)(ii)(C). The evidence must include “an

official college or university record showing the date the baccalaureate degree was awarded and the area of concentration of study.” *Id.*

A petitioner must also establish a beneficiary’s possession of all DOL-certified job requirements of an offered position by a petition’s priority date. *Matter of Wing’s Tea House*, 16 I&N Dec. 158, 160 (Acting Reg’l Comm’r 1977). In assessing a beneficiary’s qualifications, USCIS must examine the job-offer portion of an accompanying labor certification to determine a position’s minimum requirements. USCIS may neither ignore a certification term, nor impose additional requirements. *See, e.g., Madany v. Smith*, 696 F.2d 1008, 1015 (D.C. Cir. 1983) (holding that “DOL bears authority for setting the *content* of the labor certification”) (emphasis added).

The accompanying labor certification, Form ETA 9089, Application for Permanent Employment Certification (ETA 9089), states the minimum educational requirements of the offered position are a U.S. bachelor’s degree, or a foreign equivalent degree, in engineering technology or a closely related field. Furthermore, the certification provides that experience in an alternate occupation is acceptable, and that 24 months experience is required as an alternate occupation. Thus, the Petitioner’s ETA 9089 requires the minimum of a bachelor’s degree in engineering technology and 24 months of experience to perform the job duties of the position. The petition’s priority date is July 29, 2020, the date DOL accepted the labor certification application for processing. *See* 8 C.F.R. § 204.5(d) (explaining how to determine a petition’s priority date).

On the labor certification, the Beneficiary attested that, by the petition’s priority date, he had attained an unspecified degree in engineering technology from an institution in China. The Petitioner submitted an independent, professional evaluation (first evaluation) equating the Beneficiary’s fifteen years of work experience to a U.S. bachelor’s degree in engineering technology. The Petitioner also submitted: (1) a copy of the Beneficiary’s “Higher Education Graduation Certificate” indicating he took correspondence courses in business management from September 2014 to January 2017 from a university in China; (2). a copy of the Beneficiary’s certificate indicating the Beneficiary took courses at a three-year program in “Electrical Study” at a college in China; (3) A copy of the Beneficiary’s resume; and (4) Two letters verifying his prior employment.

In a request for additional evidence (RFE), the Director asked the Petitioner to provide evidence that the Beneficiary’s qualifications met the minimum academic requirements specified on the ETA 9089, which were a bachelor’s degree, or its foreign equivalent, in engineering technology or closely related field, and 24 months of experience. The Director also explained that the formula used in the first evaluation, which equated three years of work experience to one year of university-level studies, only applied in the context of nonimmigrant visa petitions, and not immigrant visa petitions. The Petitioner’s RFE response included another independent, professional evaluation (second evaluation), which equated the Beneficiary’s higher education coursework to a U.S. bachelor’s degree in business administration. The Petitioner also provided copies of the same educational certificates submitted prior, a July 15, 2003 register from the Beneficiary’s Chinese program verifying his diploma in “Electrical,” as well as information regarding his academic courses and grades he received during his six-semesters at that same institution.

The Director’s denial noted the evidence of record and quoted extensively from the Petitioner’s second evaluation. Furthermore, the Director reiterated that the first evaluation relied on the Beneficiary’s

work experience to equate his experience to a bachelor-level education, which is not permissible in the context of an immigrant visa petition. The Director also examined the educational programs that the Beneficiary attended in China and found the evidence insufficient to establish he qualified for the position as noted in Section H of the Petitioner's ETA-9089. A U.S. bachelor's degree usually requires at least four academic years of study. *Matter of Shah*, 17 I&N Dec. 244, 245 (Reg'l Comm'r 1977). The Director therefore concluded that the record did not demonstrate the Beneficiary's possession of the foreign equivalent of a U.S. baccalaureate degree in engineering technology or closely related field of study and 24 months experience in an alternate occupation.

On appeal, the Petitioner argues in a document titled "Motion to Reconsider" that the Director disregarded the second evaluation, which equates the Beneficiary's foreign degree to a U.S. bachelor's degree. The Petitioner additionally argues that the two certificates of graduation, along with the other evidence of the Beneficiary's coursework, establish the necessary underpinnings of the second evaluation, which concluded the Beneficiary had the foreign degree equivalent of a U.S. bachelor's degree in business administration.

In evaluating the evidence, we have consulted the Electronic Database for Global Education (EDGE). Federal courts consider EDGE a reliable source of information about foreign credentials equivalencies.¹ According to EDGE, a Zuanke (or Zhuanke) certificate corresponds to 2 to 3 years of study and does not reflect a bachelor's degree; and a Benke certificate reflects 4 to 6 years of study and would correspond to a bachelor's degree if the actual degree certificate is submitted. EDGE clarifies that the graduation certificate (Zhuanke or Benke) is given when the required coursework is completed. However, the degree certificate is awarded when all other requirements (such as foreign language requirements, a thesis requirement, etc.) are met in addition to the coursework required for the program.

The Petitioner's evidence is insufficient to determine whether the Beneficiary has completed the foreign equivalent of a U.S. bachelor's degree. The Petitioner submitted documents titled "certificates" to establish that the Beneficiary completed two higher education programs, which the submitted evaluations equate to a Benke and Zhuanke degree, respectively. However, the certificate from [redacted] Industry College of [redacted] does not evidence completion of a Zhuanke degree program. Instead, it states "[u]pon completing and passing all the required courses of the three-year program, he is granted graduation." This language is ambiguous and does not denote completion of a degree program. The Petitioner's second evaluation uses similarly ambiguous language to describe his studies at [redacted] stating:

("[the Beneficiary] completed university-level coursework which included specialized studies in the field of Electrical Study. Concentrated coursework in the above-mentioned areas, coupled with other specialized studies, comprise the required curriculum for a candidate seeking to complete the Zhuanke program at [redacted].

¹ EDGE was created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), a non-profit, voluntary group of more than 11,000 higher-education professionals representing about 2,600 institutions in more than 40 countries. See AACRAO, "Who We Are," <https://www.aacrao.org/who-we-are> (last visited June 28, 2022); see also, e.g., *Viraj, LLC v. U.S. Att'y Gen.*, 578 Fed. Appx. 907, 910 (11th Cir. 2014) (describing EDGE as "a respected source of information").

The studies are comparable to the standard curriculum required for completion of a university degree from an accredited institution of higher education in the [U.S.].”

Similarly, the certificate from [] University [] does not identify completion of a Benke degree. It states that the Beneficiary “completed and passed all the courses required by the associate program, and is hereby granted graduation.” However, this certificate is also insufficient to establish completion of a Benke degree because it is not, according to EDGE, sufficient evidence of completion of a degree. *See Matter of O-A, Inc.*, Adopted Decision 2017-03, slip op. *4 (AAO Apr. 17, 2017) (in the context of a provisional certificate, requiring a petitioner to demonstrate that “all of the substantive requirements for the degree were met and the degree was in fact approved by the responsible college or university body”).

USCIS may reject or afford lesser evidentiary weight to expert testimony that conflicts with other evidence or “is in any way questionable.” *Matter of Caron Int’l, Inc.*, 19 I&N Dec. 791, 795 (Comm’r 1988). As such, we decline to accord the second evaluation much weight because it does not accord with reliable information about educational equivalencies found in EDGE.

A second and related issue is that the Petitioner has not demonstrated the Beneficiary’s possession of a degree in the field of study required for the offered position. As stated earlier, the Petitioner’s ETA 9089 specifies that the position requires a U.S. bachelor’s degree, or its foreign equivalent, in Engineering Technology or a closely related field. Importantly, the ETA 9089 does not specify an acceptable alternate field of study except to state “closely related.” Furthermore, the ETA 9089 states that there is no alternate combination of education and experience acceptable to meet the requirements of the certification.

As previously indicated, the second evaluation determined the Beneficiary has a foreign education equivalent to a baccalaureate in business administration. Even assuming, *arguendo*, that the Petitioner has met its burden of showing that the Beneficiary’s education is equivalent to a U.S. bachelor’s degree (which as explained above, they have not done), the Petitioner has also not demonstrated how a business administration degree is “closely related” to engineering technology. Moreover, the second evaluation does not discuss the coursework undertaken by the Beneficiary or explain how his degree in “business administration” equates to a U.S. baccalaureate in “engineering technology.” The record, therefore, does not establish the Beneficiary’s possession of a baccalaureate in the offered position’s required field of study.

III. CONCLUSION

A preponderance of evidence does not establish the Beneficiary’s education and work experience meet the requirements as set forth in the Petitioner’s labor certification and the requested immigrant visa classification. Furthermore, the Petitioner has not demonstrated the Beneficiary’s possession of a degree in the field of study required for the offered position.

ORDER: The appeal is dismissed