



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

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

In Re: 23661037

Date: JAN. 12, 2023

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Professional

The Petitioner, an information technology company, seeks to employ the Beneficiary as a software applications developer. It requests classification of the Beneficiary under the third-preference, immigrant classification for professional workers. Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii). This employment-based category allows a U.S. employer to sponsor a professional with a baccalaureate degree for lawful permanent resident status.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish the Beneficiary's possession of the minimum education required for the offered position and the requested visa classification. The matter is now before us on appeal. 8 C.F.R. § 103.3.

On appeal, the Petitioner points to submitted expert opinions and contends these demonstrate that the Beneficiary's three-year Indian bachelor's degree is the equivalent of a U.S. bachelor's degree; and therefore, that he qualifies for the proffered position.

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 withdraw the Director's decision and remand this matter for the entry of a new decision consistent with the following analysis.

I. EMPLOYMENT-BASED IMMIGRATION

Immigration as a professional generally follows a three-step process. To permanently fill a position in the United States with a foreign worker, a prospective employer must first obtain U.S. Department of Labor (DOL) certification. See section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). DOL approval signifies that insufficient U.S. workers are able, willing, qualified, and available for an offered position. *Id.* Labor certification also indicates that employment of a noncitizen will not harm wages and working conditions of U.S. workers with similar jobs. *Id.*

If DOL approves a position, an employer must next submit the certified labor application 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 DOL-certified position and a requested visa classification. If USCIS grants a petition, a noncitizen may finally 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. BENEFICIARY'S POSSESSION OF THE REQUIRED EDUCATION

A professional must hold at least a U.S. bachelor's degree or a foreign equivalent degree. 8 C.F.R. § 204.5(l)(2) (defining the term "professional"). A petitioner must also demonstrate 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 evaluating a beneficiary's qualifications, USCIS must examine the job-offer portion of an accompanying labor certification to determine a position's minimum job 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 the authority for setting the *content* of the labor certification") (emphasis in original). A baccalaureate degree in the United States generally requires four years of academic study. *See Matter of Shah*, 17 I&N Dec. 244, 245 (Reg'l Comm'r 1977).

The labor certification states that the minimum educational requirement of the offered position of software applications developer is a U.S. bachelor's or a foreign equivalent degree in electronics or computer science. On the labor certification, the Beneficiary attested that, by the petition's priority date, he had attained a bachelor of science degree in electronics from a university based in India. As proof of the Beneficiary's educational qualifications, the Petitioner submitted copies of his bachelor of science diploma and his examination results. The Petitioner also submitted three independent, professional evaluations of the Beneficiary's foreign educational credentials. One evaluation indicated that the Beneficiary's foreign bachelor's degree was the equivalent of a U.S. bachelor's degree in mathematics, electronics, and computer science. The other two evaluations opined that the Beneficiary's three-year Indian bachelor of science degree was the equivalent of a four-year bachelor of science degree from a U.S. institution, further emphasizing that his studies abroad equated to 138 semester hours in the United States.

In denying the petition, the Director stated only that "the evidence does not establish that the beneficiary has a single United States baccalaureate degree or a foreign equivalent degree that requires four (4) years of education." The Director further indicated that the Beneficiary had only earned a three-year foreign baccalaureate degree. However, the Director's conclusion did not sufficiently analyze the Petitioner's assertion that the Beneficiary's three-year Indian bachelor of science degree was equivalent to a U.S. bachelor of science degree. The Director did not properly address the expert opinions provided to support this contention. In any future decision, the Director should sufficiently discuss these assertions and the submitted evidence.

In addition, federal courts have supported our utilization of the Educational Database for Global Education (EDGE)¹, created by the American Association of Collegiate Registrars and Admissions

¹ EDGE is described on its information page as "a valuable resource for evaluating educational credentials earned in foreign systems, whether the purpose is ultimately for admission into an institution of higher learning in the United States, to obtain employment, to establish visa eligibility, or to qualify for additional professional qualifications." <https://www.aacrao.org/resources/AACRAO-International/about-edge> (last visited Jan. 12, 2023).

Officers (AACRAO)², as a resource for determining the U.S. equivalency of foreign degrees. *See Viraj, LLC v. U.S. Att’y Gen.*, 578 Fed. Appx. 907, 910 (11th Cir. 2014) (the AAO is entitled to give letters from professors and academic credentials evaluations less weight when they differ from the information provided in EDGE).

According to EDGE, a three-year bachelor of science degree in electronics from India comprises three years of tertiary study beyond the “higher secondary certificate” (comparable to a high school diploma in the United States) and is comparable to three years of university study in the United States, not a full bachelor’s degree. *See* American Association of Collegiate Registrars and Admissions Officers, Educational Database for Global Education, India Credentials, 3-year Bachelor of Science, [https://www.aacrao.org/edge/country/credentials/credential/india/3-year-bachelor-of-arts-\(b.a.\)-bachelor-of-commerce-\(b.com.\)-bachelor-of-science-\(b.sc.\)-bachelor-of-computer-applications-\(b.c.a.\)](https://www.aacrao.org/edge/country/credentials/credential/india/3-year-bachelor-of-arts-(b.a.)-bachelor-of-commerce-(b.com.)-bachelor-of-science-(b.sc.)-bachelor-of-computer-applications-(b.c.a.)) (last visited Jan. 12, 2023). EDGE also states that the entry requirement for any three-year bachelor’s degree program in India is a higher secondary certificate – in other words, a high school level education in the United States. *Id.* This information indicates that the Beneficiary has not attained the foreign equivalent of a U.S. bachelor’s degree. However, the Petitioner was not aware of this information from EDGE related to the Beneficiary’s foreign educational qualifications. Therefore, on remand, the Director should provide the Petitioner with the discussed EDGE report specific to a three-year Indian bachelor of science degree and afford it the opportunity to respond.

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

² AACRAO is described on its website as “a nonprofit, voluntary, professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions in over 40 countries.” <http://www.aacrao.org/who-we-are> (last visited Jan. 12, 2023).