



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **MAR 13 2014** OFFICE: NEBRASKA SERVICE CENTER

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded to the director.

The petitioner is a computing and imaging solutions and services company. It seeks to employ the beneficiary permanently in the United States as an “electrical/hardware engineer.” The petitioner requests classification of the beneficiary as an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). As required by statute, the petition is accompanied by ETA Form 9089, Application for Permanent Employment Certification (labor certification), approved by the United States Department of Labor (DOL).

The record shows that the appeal is properly filed, timely, and makes a specific allegation of error in law or fact. The procedural history in this case is documented by the record and incorporated into the decision. Further elaboration of the procedural history will be made only as necessary.

As set forth in the director’s April 20, 2010 denial, an issue in this case is whether or not the beneficiary has a U.S. bachelor’s degree or foreign equivalent degree as required by the terms of the labor certification.

In pertinent part, section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), provides immigrant classification to members of the professions holding advanced degrees or their equivalent and whose services are sought by an employer in the United States. An advanced degree is a United States academic or professional degree or a foreign equivalent degree above the baccalaureate level. 8 C.F.R. § 204.5(k)(2). The regulation further states: “A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master’s degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.” *Id.*

In the instant case, Part H of the labor certification submitted with the petition states that the offered position has the following minimum requirements:

- H.4. Education: Bachelor’s degree in electronic engineering.
- H.5. Training: None required.
- H.6. Experience in the job offered: 72 months (6 years).
- H.7. Alternate field of study: Computer science, computer engineering, or related field.
- H.8. Alternate combination of education and experience: None accepted.
- H.9. Foreign educational equivalent: Accepted.
- H.10. Experience in an alternate occupation: 72 months as “Elect Desg Engr, Contr Digital Desg Engr, Partner in Business, Sci Offi.”
- H.14. Specific skills or other requirements: FPGA and ASIC hardware validation and characterization; Switching regulator and/or power supply design; Wide format printing; Thermal inkjet printer technology (TIJ). Experience in H.6 or H.10 must be post-baccalaureate and progressive in nature.

In the instant case, the labor certification states that the offered position requires a bachelor's degree in electrical engineering. The beneficiary possesses a bachelor's degree in electrical engineering from the [REDACTED] the United Kingdom, completed in 1986.

The AAO has reviewed the Electronic Database for Global Education (EDGE) created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). According to its website, AACRAO is "a nonprofit, voluntary, professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions and agencies in the United States and in over 40 countries around the world." See <http://www.aacrao.org/About-AACRAO.aspx>. Its mission "is to serve and advance higher education by providing leadership in academic and enrollment services." *Id.* EDGE is "a web-based resource for the evaluation of foreign educational credentials." See <http://edge.aacrao.org/info.php>. USCIS considers EDGE to be a reliable, peer-reviewed source of information about foreign credentials equivalencies.¹

According to EDGE, a three-year Bachelor of Electronic and Communication Engineering degree from the United Kingdom (U.K.) is comparable to "a bachelor's degree in the United States." The entry requirement is at least two general certificates of education advanced level. The record contains evidence that the beneficiary had a general certificate of education advanced level in Mathematics, Further Mathematics, Chemistry, and Physics.

Upon review of the entire record, including evidence submitted on appeal, the AAO concludes that the petitioner has established that it is more likely than not that the beneficiary had all the education specified on the ETA Form 9089 as of July 5, 2012. However, in his decision, the director did not address whether the beneficiary possessed the required experience set forth on the labor certification by the priority date.

Therefore, the AAO will withdraw the decision and remand the case to the director for consideration of whether the beneficiary has six years of work experience as an "electrical/hardware engineer" or six years of work experience in the alternate occupation of "Elect Desg Engr, Contr Digital Desg Engr, Partner in Business, Sci Offi." The director may request any additional evidence within a reasonable

¹ In *Confluence Intern., Inc. v. Holder*, 2009 WL 825793 (D.Minn. March 27, 2009), the court determined that the AAO provided a rational explanation for its reliance on information provided by AACRAO to support its decision. In *Tisco Group, Inc. v. Napolitano*, 2010 WL 3464314 (E.D.Mich. August 30, 2010), the court found that USCIS had properly weighed the evaluations submitted and the information obtained from EDGE to conclude that the alien's three-year foreign "baccalaureate" and foreign "Master's" degrees were only comparable to a U.S. bachelor's degree. In *Sunshine Rehab Services, Inc. v. USCIS*, 2010 WL 3325442 (E.D.Mich. August 20, 2010), the court upheld a USCIS determination that the alien's three-year bachelor's degree was not a foreign equivalent degree to a U.S. bachelor's degree. Specifically, the court concluded that USCIS was entitled to prefer the information in EDGE and did not abuse its discretion in reaching its conclusion. The court also noted that the labor certification itself required a degree and did not allow for the combination of education and experience.

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period of time to be determined by the director. Upon receipt of all the evidence, the director will review the entire record and enter a new decision.

ORDER: The director's decision is withdrawn; however, the petition is currently unapprovable for the reasons discussed above, and therefore the AAO may not approve the petition at this time. Because the petition is not approvable, the petition is remanded to the director of for issuance of a new, detailed decision.