



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **SEP 18 2014** OFFICE: NEBRASKA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)(A)

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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center (director), denied the immigrant visa petition and the petitioner appealed the director's decision to the Administrative Appeals Office (AAO). We withdrew the decision and remanded the matter to the director for further action. Thereafter, we withdrew our decision and reopened the proceeding on our own motion. The appeal will be dismissed. The denial of the petition will be affirmed.

The petitioner describes itself as an information technology services business. It seeks to permanently employ the beneficiary in the United States as a Systems Software Developer. The petitioner requests classification of the beneficiary as an advanced degree professional pursuant to section 203(b)(2)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2)(A). As required by statute, the petition is accompanied by an ETA Form 9089, Application for Permanent Employment Certification (labor certification), approved by the U.S. Department of Labor (DOL).¹ The priority date of the petition is October 9, 2012, which is the date that the labor certification was filed with the U.S. Department of Labor (DOL).

The petitioner's appeal is properly filed and makes a specific allegation of error in law or fact. We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). We consider all pertinent evidence in the record, including new evidence properly submitted on appeal.² An application or petition that fails to comply with the technical requirements of the law may be denied even if the director does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F.Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 D.3d 683 (9th Cir. 2003); *see also Soltane v. DOJ, supra*.

Procedural History

On April 26, 2013, the petitioner filed a Form I-140, Immigrant Petition for Alien Worker, for the beneficiary. On July 1, 2013, the director denied the petition, finding that the underlying labor certification did not require a member of the professions holding an advanced degree as it allowed for "the combination of education, experience, and/or training to be 'equivalent' to a master's degree." The petitioner appealed the director's decision on August 6, 2013.

On October 31, 2013, we withdrew the director's decision, determining that the director had misstated the terms of the labor certification and that its language did support a visa petition for an advanced degree professional. We did not, however, find the visa petition to be approvable as the record failed to establish that the beneficiary held an advanced degree in a field required by the labor certification. Therefore, we remanded the petition to the director for further action, including the issuance of a new decision. On December 2, 2013, the petitioner submitted additional evidence of the beneficiary's qualifications to the director.

¹ See section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D); *see also* 8 C.F.R. § 204.5(a)(2).

² The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, Notice of Appeal or Motion, which are incorporated into the regulations by 8 C.F.R. § 103.2(a)(1).

However, on July 3, 2014, we withdrew our prior decision and *sua sponte* reopened the matter pursuant to 8 C.F.R. § 103.5(a)(5)(ii), as further review of the record indicated that we had erred in concluding that the labor certification supported the instant visa petition without further evidence. On this same date, we issued a Request for Evidence (RFE) seeking evidence to clarify the educational requirements set forth in the labor certification and gave the petitioner 30 days in which to respond. We have now received the petitioner's reply to the RFE.

Having withdrawn our prior decision and reopened this matter on our own motion, we will resume this proceeding as though no decision was previously issued, and will consider *de novo* whether the underlying labor certification in this matter supports a visa petition for the classification of a beneficiary under section 203(b)(2)(A) of the Act. The evidence of record will be reviewed in its entirety, including the petitioner's correspondence of December 2, 2013 and the petitioner's response to our motion and RFE.

The Roles of the DOL and USCIS in the Immigrant Visa Process

At the outset, it is important to discuss the respective roles of DOL and United States Citizenship and Immigration Services (USCIS) in the employment-based immigrant visa process. As noted above, the labor certification in this matter is certified by DOL. DOL's role in this process is set forth at section 212(a)(5)(A)(i) of the Act, which provides:

Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor is inadmissible, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that-

(I) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of an alien described in clause (ii)) and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and

(II) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

It is significant that none of the above inquiries assigned to DOL or the regulations implementing these duties under 20 C.F.R. § 656, involve a determination as to whether the position and the alien are qualified for a specific immigrant classification. This fact has not gone unnoticed by federal circuit courts:

There is no doubt that the authority to make preference classification decisions rests with INS. The language of section 204 cannot be read otherwise. *See Castaneda-Gonzalez v. INS*, 564 F.2d 417, 429 (D.C. Cir. 1977). In turn, DOL

has the authority to make the two determinations listed in section 212(a)(14).³ *Id.* at 423. The necessary result of these two grants of authority is that section 212(a)(14) determinations are not subject to review by INS absent fraud or willful misrepresentation, but all matters relating to preference classification eligibility not expressly delegated to DOL remain within INS' authority.

....

Given the language of the Act, the totality of the legislative history, and the agencies' own interpretations of their duties under the Act, we must conclude that Congress did not intend DOL to have primary authority to make any determinations other than the two stated in section 212(a)(14). If DOL is to analyze alien qualifications, it is for the purpose of "matching" them with those of corresponding United States workers so that it will then be "in a position to meet the requirement of the law," namely the section 212(a)(14) determinations.

Madany v. Smith, 696 F.2d 1008, 1012-1013 (D.C. Cir. 1983). Relying in part on *Madany*, 696 F.2d at 1008, the Ninth Circuit stated:

[I]t appears that the DOL is responsible only for determining the availability of suitable American workers for a job and the impact of alien employment upon the domestic labor market. It does not appear that the DOL's role extends to determining if the alien is qualified for the job for which he seeks sixth preference status. That determination appears to be delegated to the INS under section 204(b), 8 U.S.C. § 1154(b), as one of the determinations incident to the INS's decision whether the alien is entitled to sixth preference status.

K.R.K. Irvine, Inc. v. Landon, 699 F.2d 1006, 1008 (9th Cir. 1983). The court relied on an amicus brief from the DOL that stated the following:

The labor certification made by the Secretary of Labor . . . pursuant to section 212(a)(14) of the [Act] is binding as to the findings of whether there are able, willing, qualified, and available United States workers for the job offered to the alien, and whether employment of the alien under the terms set by the employer would adversely affect the wages and working conditions of similarly employed United States workers. *The labor certification in no way indicates that the alien offered the certified job opportunity is qualified (or not qualified) to perform the duties of that job.*

(Emphasis added.) *Id.* at 1009. The Ninth Circuit, citing *K.R.K. Irvine, Inc.*, 699 F.2d at 1006, revisited this issue, stating:

³ Based on revisions to the Act, the current citation is section 212(a)(5)(A).

The Department of Labor (DOL) must certify that insufficient domestic workers are available to perform the job and that the alien's performance of the job will not adversely affect the wages and working conditions of similarly employed domestic workers. *Id.* § 212(a)(14), 8 U.S.C. § 1182(a)(14). The INS then makes its own determination of the alien's entitlement to sixth preference status. *Id.* § 204(b), 8 U.S.C. § 1154(b). See generally *K.R.K. Irvine, Inc. v. Landon*, 699 F.2d 1006, 1008 9th Cir.1983).

The INS, therefore, may make a de novo determination of whether the alien is in fact qualified to fill the certified job offer.

Tongatapu Woodcraft Hawaii, Ltd. v. Feldman, 736 F. 2d 1305, 1309 (9th Cir. 1984).

Therefore, it is DOL's responsibility to determine whether there are qualified U.S. workers available to perform the offered position, and whether the employment of the beneficiary will adversely affect similarly employed U.S. workers. It is the responsibility of USCIS to determine if the beneficiary qualifies for the offered position, and whether the offered position and the beneficiary are eligible for the requested employment-based immigrant visa classification.

Labor Certification Requirements/Beneficiary Qualifications

Part H of the labor certification in this matter states that the offered position has the following minimum requirements:

- H.4. Education: Master's.
- H.4-B. Major field of study: Computer Science, Information Systems.
- H.5. Training: None required.
- H.6. Experience in the job offered: None required.
- H.7. Alternate field of study: Accepted.
- H.7-A. Major field of study: "Or related field."
- H.8. Alternate combination of education and experience: Accepted.
- H.8-A. Alternate level of education: Other.
- H.8-B. Alternate level of education required: "Education evaluated to a Master's."
- H.8-C. Number of years of experience required in H.8: 0 years.
- H.9. Foreign educational equivalent: Accepted.
- H.10. Experience in an alternate occupation: Not accepted.
- H.14. Specific skills or other requirements: "Must have demonstrated knowledge of Linux, Siebel, PL/SQL, XML, and Oracle. Frequent travel to unanticipated client sites across USA is required."

Therefore, the beneficiary, as of the October 9, 2012 priority date, is required to hold a U.S. Master's or a foreign equivalent degree in Computer Science, Information Systems or a related field.

Alternatively, the labor certification states that the petitioner will accept an applicant with "Education evaluated to a Master's." The beneficiary must also be knowledgeable with respect to the above computer operating/management systems.

Part J of the labor certification states that the beneficiary possesses a Master's degree in Computer Applications from [REDACTED] in India, awarded in 2001. The record contains the following evidence relating to the beneficiary's education:

- Copies of the beneficiary's Secondary School Leaving Certificate, issued June 16, 1992, and his Higher Secondary Course Certificate, issued May 25, 1994.
- Copies of degree certificates, which reflect that the beneficiary received a three-year Bachelor of Science in Computer Science from [REDACTED] College, an institution affiliated with [REDACTED] in 1998, and a three-year Master of Computer Applications from [REDACTED] in 2001. The certificates are accompanied by copies of the beneficiary's academic transcripts.
- An April 2006 evaluation of the beneficiary's educational credentials by [REDACTED] Ph.D., [REDACTED]; and an undated evaluation of the beneficiary's educational credentials by [REDACTED] Ph.D., [REDACTED]
- Copies of statements from two previous employers of the beneficiary regarding his experience with computer languages and systems, including an August 16, 2011 statement from [REDACTED] Project Lead at [REDACTED] Michigan; and a January 28, 2011 statement from [REDACTED] from [REDACTED] Florida. Mr. [REDACTED] states that the beneficiary has experience with Linux, PL/SQL, Oracle and XML; Mr. [REDACTED] indicates that while employed by [REDACTED] the beneficiary worked with Oracle, Siebel, and XML.
- A copy of the Graduate Computer Science Courses offered by [REDACTED] in 2007.

Requirement for Advanced Degree Professional

The regulation at 8 C.F.R. § 204.5(k)(4)(i) states, in part:

The job offer portion of the individual labor certification, Schedule A application, or Pilot Program application must demonstrate that the job requires a professional holding an advanced degree or the equivalent or an alien of exceptional ability.

The regulation at 8 C.F.R. § 204.5(k)(2) defines the terms "advanced degree" and "profession." An "advanced degree" is defined as:

[A]ny United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. 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.

A "profession" is defined as "one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation." The occupations listed at section 101(a)(32) of the Act are "architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries."

In *Snapnames.com, Inc. v. Michael Chertoff*, 2006 WL 3491005 (D. Or. Nov. 30, 2006), the court held that, in professional and advanced degree professional cases, where the beneficiary is statutorily required to hold at least a baccalaureate degree, USCIS properly concluded that a single foreign degree or its equivalent is required. Therefore, a petitioner must demonstrate that the labor certification requires no less than a U.S. academic or professional degree (or a foreign equivalent degree) above a baccalaureate, *or* a U.S. baccalaureate (or a foreign equivalent degree) followed by at least five years of progressive experience in the specialty.

In evaluating the job offer portion of the labor certification to determine the required qualifications for the position, USCIS may not ignore a term of the labor certification, nor may it impose additional requirements. *See Matter of Silver Dragon Chinese Restaurant*, 19 I&N Dec. 401, 406 (Comm. 1986); *see also Madany*, 696 F.2d at 1008; *K.R.K. Irvine, Inc.*, 699 F.2d at 1006; *Stewart Infra-Red Commissary of Massachusetts, Inc. v. Coomey*, 661 F.2d 1 (1st Cir. 1981). The only rational manner by which USCIS can be expected to interpret the meaning of terms used to describe the requirements of a job in a labor certification is to "examine the certified job offer *exactly* as it is completed by the prospective employer." *Rosedale Linden Park Company v. Smith*, 595 F. Supp. 829, 833 (D.D.C. 1984) (emphasis added). USCIS's interpretation of the job's requirements, as stated on the labor certification must involve "reading and applying *the plain language* of the [labor certification]." *Id.* at 834 (emphasis added). USCIS cannot and should not reasonably be expected to look beyond the plain language of the labor certification.

In the RFE issued on July 3, 2014, we informed the petitioner that the labor certification did not clearly reflect the requirement of a minimum of an advanced degree, as the language in Parts H.8-A. and H.8-B. of the labor certification, which described its alternate educational requirements, allowed a beneficiary to qualify for the offered position with academic credentials that were only "evaluated" to a Master's degree. We further noted that we were required to read this language as stated and that, on its face, it allowed a beneficiary to qualify for the offered position with multiple baccalaureate degrees or with education that had not actually resulted in the issuance of any degree. To assist us in determining whether, despite the ambiguity of its language, the labor certification's terms stated the

need for an individual with an advanced degree, we requested the posting notice, and online and print advertisements from the petitioner's recruitment for the offered position.

In response to the RFE, counsel for the petitioner has asserted that the labor certification clearly specifies that the offered position requires a Master's degree. She further contends that we have wrongly concluded that multiple bachelor's degrees or years of education may be found to be a qualifying equivalent to a Master's degree under the terms of the labor certification, and that no regulation or statute supports our conclusion. Counsel also maintains that the phrase "Education evaluated to a Master's" is simply a variation of the requirement for a Master's degree. She states that, if the petitioner was willing to accept a Master's degree equivalency based on a combination of multiple lesser degrees or work experience or training, the petitioner would have indicated that willingness on the labor certification.

Counsel also submits the requested recruitment materials, which, she states, offer proof that the petitioner's minimum educational requirement for the offered position is a master's degree "based exclusively on chronological education and education alone." Included in the submission are: the 30-day job order placed with the Missouri State Workforce Agency; two job advertisements from the July 15 and July 22, 2012 [REDACTED] the internet posting for the offered position; the job posting for the offered position on the petitioner's website; the job posting with the petitioner's Employee Referral Program; the posting notice for the offered position; the Prevailing Wage Determination for the offered position; and the recruitment report for the offered position. Counsel notes that only one resume was received by the petitioner as a result of its recruitment efforts and that the individual who submitted the resume was seeking a customer service/clerical position unrelated to the offered position.

Review of the advertisements from the [REDACTED] finds them to include the following language regarding the educational requirements for the offered position: "Master's degree or edu. evaluated to Master's in C. Sci., Info. Sys. or related field." These same requirements, in virtually identical language, are reflected in the submitted job order and the petitioner's postings of the offered position on the internet, its website and with its Employee Referral Program. The petitioner's posting notice and an Addendum to Section D.B.5., the Special Requirements section of the petitioner's Prevailing Wage Determination Application, also state that job applicants must hold a Master's degree or "education evaluated to a Master's in Computer Science, Information or related field." The submitted recruitment materials do not, however, offer similar clarification of the alternate educational requirement described in Parts H.8-A. and H.8-B. of the labor certification.

The language used to describe the offered position's minimum education requirements in the above materials is identical to that found in the labor certification. Although counsel claims that "Education evaluated to a Master's" is simply a "variation" of the petitioner's Master's degree requirement, her assertion is not sufficient to meet the burden of proof in these proceedings. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17

I&N Dec. 503, 506 (BIA 1980). Further, counsel's conclusion that the RFE somehow indicated that Master's degree equivalencies might be based on multiple bachelor's degrees or other education reflects a misunderstanding of the RFE's discussion of the issue, which indicated only that the phrase "Education equated to a Master's" allowed for such interpretation and, therefore, raised questions with regard to the petitioner's degree requirement for the offered petition. As counsel correctly states, USCIS does not consider multiple bachelor's degrees or lesser degrees, when combined, to be the equivalent of a Master's degree. *See Snapnames.com, Inc. v. Michael Chertoff*.

The language of the labor certification at Parts H.8-A. and H.8-B. indicates that the petitioner will accept "Education evaluated to a Master's" as meeting the minimum educational requirement for the offered position, and the recruitment materials submitted by the petitioner reflect this same language. Accordingly, we do not find the labor certification in this matter to demonstrate that the minimum educational requirement for the offered position is a Master's degree, or a foreign equivalent degree in Computer Science, Information Systems, or a related field.

As noted above, the petitioner required a Master's degree in Part H.4. of the labor certification. The petitioner also indicated that it permitted applicants to qualify based on a foreign degree equivalent in Part H.9. The plain language of Part H.8. of the labor certification allows "an alternate combination of education and experience" to the primary requirements. The petitioner indicated that it would accept an alternate level of "Education evaluated to a Master's" in lieu of the primary requirements specified. Thus, the plain language of the terms of the labor certification would permit an applicant to qualify for the position offered with only education "evaluated to a Master's," which may not be an advanced degree within the confines of 8 C.F.R. § 204.5(k)(2). Contrary to counsel's assertions, we do find "that education evaluated to a Master's" may state an acceptance of education "less than an actual master's degree." The regulation permits an individual to qualify as an advanced degree professional only if the position offered requires, and the beneficiary possesses, either a degree above a baccalaureate, or a baccalaureate degree and five years of progressive experience. The regulation does not permit a position to be classified as an advanced degree professional where the position offered requires only "education" and not a degree above a baccalaureate, or a baccalaureate and at least five years of progressive experience. While counsel urges that we review the labor certification "in its whole," counsel's argument relies on us ignoring Part H.8-A., which specifies what "level" of education the petitioner requires. The petitioner selected "Other," and not the provided levels, which include "Master's." If the labor certification permitted an individual to qualify only with a Master's, the petitioner's provision of "Other" terms in Part H.8. would be rendered meaningless. As noted above, we cannot ignore the labor certification's terms.

As an individual can potentially qualify for the offered position with less than a degree above a baccalaureate, and the petitioner has not indicated that it will accept a baccalaureate degree followed by five years of progressive experience in the specialty, the offered position does not require a professional holding an advanced degree or the equivalent, as required by the regulation at 8 C.F.R.

§ 204.5(k)(4)(i). Therefore, the petition cannot be approved for a member of the professions holding an advanced degree under section 203(b)(2) of the Act.

Accordingly, we will affirm the director's denial of the visa petition in this matter, although, for the reasons discussed in our October 2013 decision, we continue to find that his July 1, 2013 decision was based on a misreading of the terms of the labor certification.

Classification of Beneficiary as an Advanced Degree Professional

The petitioner is seeking classification of the beneficiary as a member of the professions holding an advanced degree pursuant to section 203(b)(2)(A) of the Act, 8 U.S.C. § 1153(b)(2)(A). Therefore, the beneficiary of an advanced degree professional petition must be a member of the professions holding an advanced degree *or* a U.S. baccalaureate (or a foreign equivalent degree) followed by at least five years of progressive experience in the specialty.

As previously noted, the regulation at 8 C.F.R. § 204.5(k)(2) defines profession as "one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation." The *Occupational Outlook Handbook*, Bureau of Labor Statistics, DOL indicates that the education required for entry-level employment into the offered position of Software Developer is a Bachelor's degree. See <http://www.bls.gov.ooh/> (accessed August 22, 2014). Accordingly, the beneficiary may be considered a member of the professions.

In *Snapnames.com, Inc. v. Michael Chertoff*, 2006 WL 3491005 (D. Or. Nov. 30, 2006), the court held that, in professional and advanced degree professional cases, where the beneficiary is statutorily required to hold at least a baccalaureate degree, USCIS properly concluded that a single foreign degree or its equivalent is required. Where the analysis of the beneficiary's credentials relies on work experience alone or a combination of multiple lesser degrees, the result is the "equivalent" of a bachelor's degree rather than a "foreign equivalent degree."⁴

The beneficiary's degree must also be from a college or university. The regulation at 8 C.F.R. § 204.5(k)(3)(i)(B) requires the submission of an "official academic record showing that the beneficiary has a United States baccalaureate degree or a foreign equivalent degree." For classification as a member of the professions, the regulation at 8 C.F.R. § 204.5(l)(3)(ii)(C) requires the submission of "an official college or university record showing the date the baccalaureate degree was awarded and the area of concentration of study." USCIS cannot conclude that the evidence required to demonstrate that a beneficiary is an advanced degree professional is any less than the evidence required to show that the beneficiary is a professional.

⁴ Compare 8 C.F.R. § 214.2(h)(4)(iii)(D)(5) (defining for purposes of H-1B nonimmigrant visa classification, the "equivalence to completion of a college degree" as including, in certain cases, a specific combination of education and experience). The regulations pertaining to the immigrant classification sought in this matter do not contain similar language.

To do so would undermine the congressionally mandated classification scheme by allowing a lesser evidentiary standard for the more restrictive visa classification. *See Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3rd Cir. 1995) *per APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003) (the basic tenet of statutory construction, to give effect to all provisions, is equally applicable to regulatory construction). Moreover, the commentary accompanying the proposed advanced degree professional regulation specifically states that a "baccalaureate means a bachelor's degree received *from a college or university*, or an equivalent degree." (Emphasis added.) 56 Fed. Reg. 30703, 30706 (July 5, 1991).⁵

Thus, the plain meaning of the Act and the regulations is that the beneficiary of an advanced degree professional petition must possess, at a minimum, a degree from a college or university that is a U.S. baccalaureate degree or a foreign equivalent degree.

In the present case, the record establishes that the beneficiary received a three-year Bachelor of Science in Computer Science from [REDACTED] an institution affiliated with [REDACTED] in 1998 and a three-year Master of Computer Applications from [REDACTED] in 2001. According to the Electronic Database for Global Education (EDGE) on which the AAO routinely relies for information on degrees issued by overseas educational institutions, a Master of Computer Application (MCA) is comparable to a Master's degree in the United States.⁶ EDGE also indicates that an Indian Master of Computer Application is comparable to a U.S. Master's degree in Computer Applications, rather than Computer Science.

In our October 31, 2013 decision, we found that the record did not establish that the beneficiary's Master of Computer Applications from [REDACTED] was the equivalent of a U.S. Master of Computer Science, as had been indicated by [REDACTED] Ph.D., [REDACTED] in his April 2006 evaluation of the beneficiary's academic credentials. We noted that Dr. [REDACTED] had not provided a rationale for equating these two distinct fields of study.

⁵ Compare 8 C.F.R. § 204.5(k)(3)(ii)(A) (relating to aliens of exceptional ability requiring the submission of "an official academic record showing that the alien has a degree, diploma, certificate or similar award from a college, university, school or other institution of learning relating to the area of exceptional ability").

⁶ EDGE is the creation of the American Association of Collegiate Registrars and Admissions Officers (AACRAO). According to its website, www.aacrao.org, 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." <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.* According to the registration page for EDGE, EDGE is "a web-based resource for the evaluation of foreign educational credentials." <http://edge.aacrao.org/info.php>. Authors for EDGE must work with a publication consultant and a Council Liaison with AACRAO's National Council on the Evaluation of Foreign Educational Credentials. If placement recommendations are included, the Council Liaison works with the author to give feedback and the publication is subject to final review by the entire Council. *Id.* USCIS considers EDGE to be a reliable, peer-reviewed source of information about foreign credentials equivalencies.

On December 2, 2013, the petitioner submitted additional evidence to the director in an effort to establish the beneficiary's Indian Master's degree in Computer Applications as the foreign equivalent degree of a U.S. Master's degree in Computer Science. In a November 27, 2013 letter accompanying the new evidence, counsel for the petitioner asserted that, contrary to our findings, Dr. [REDACTED] had provided his rationale for finding the beneficiary to have a foreign equivalent degree of a U.S. Master's degree in Computer Science. As further proof that the beneficiary's degree was the foreign equivalent of a Master's in Computer Science, counsel pointed to the petitioner's submission of a second evaluation of the beneficiary's academic credentials, prepared by [REDACTED] Ph.D. at [REDACTED] who, like Dr. [REDACTED] found the beneficiary to have completed coursework comparable to a typical U.S. Master's degree in Computer Science. The petitioner also provided a listing of the graduate Computer Science courses offered by [REDACTED] in 2007.

The submitted evidence does not overcome EDGE's advice that an Indian Master's degree in Computer Applications is comparable to a U.S. Master's degree in Computer Applications, not a U.S. Master's degree in Computer Science. However, the petitioner established that the beneficiary may meet the educational requirements of the labor certification with a Master's degree in a field related to Computer Science or Information Systems. Accordingly, we find the beneficiary's Master's degree in Computer Applications from [REDACTED] to be the foreign equivalent degree of a U.S. Master's degree in a related field of study, as required by the labor certification.

We also find the previously noted statements from [REDACTED] Project Lead at [REDACTED] Michigan, dated August 16, 2011; and [REDACTED] at [REDACTED] Florida, dated January 28, 2011, to demonstrate that the beneficiary has the "demonstrated knowledge" of the computer operating/management systems required in Part H.14. of the labor certification.

The evidence of record demonstrates that the beneficiary is a member of the professions and holds the foreign equivalent of a U.S. Master's degree in a field required by the labor certification. Further, it demonstrates that he meets the special requirements set forth in the labor certification. Therefore, the beneficiary may be eligible for classification as an advanced degree professional under section 203(b)(2)(A) of the Act. However, the petition cannot be approved as the evidence of record does not demonstrate that the offered position requires a professional with an advanced degree pursuant to 8 C.F.R. § 204.5(k)(4)(i). Accordingly, we will affirm the director's denial of the visa petition on the grounds stated in this decision.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met. The petition remains denied.

ORDER: The appeal is dismissed.