U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF W-G-

DATE: APR. 25, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a supplier of services and custom web applications, seeks to employ the Beneficiary as a computer programmer. It requests classification of the Beneficiary as a professional under the third preference immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1152(b)(3)(A)(ii). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with a baccalaureate degree for lawful permanent resident status.

The Director of the Nebraska Service Center denied the visa petition after concluding that the record did not establish that the Beneficiary held a U.S. baccalaureate or foreign equivalent degree required for classification as a professional.

On appeal, the Petitioner contends that the foreign university degree held by the Beneficiary is the equivalent of a U.S. baccalaureate and submits an updated credentials evaluation, as well as additional copies of the Beneficiary's academic transcripts and course completion certificate, in support of its claim.

Upon *de novo* review, we will sustain the appeal.

I. LAW

Employment-based immigration is generally a three-step process. First, an employer must obtain an approved ETA Form 9089, Application for Permanent Employment Certification (labor certification) from the U.S. Department of Labor (DOL). *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). Next, the employer may file an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Finally, if USCIS approves the immigrant visa petition, the foreign national must 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.

As required by statute, a Form 9089, Application for Permanent Employment Certification (labor certification), approved by the DOL, must accompany the petition. By approving the labor certification, the DOL certifies that there are insufficient U.S. workers who are able, willing,

qualified, and available for the offered position. Section 212(a)(5)(A)(i)(I) of the Act. The DOL also certifies that the employment of a foreign national in the position will not adversely affect the wages and working conditions of domestic workers similarly employed. Section 212(a)(5)(A)(i)(II) of the Act.

In visa petition proceedings, USCIS determines whether a foreign national meets the job requirements specified in the underlying labor certification and the requirements of the requested immigrant classification. *See* section 204(b) of the Act (stating that USCIS must approve a petition if the facts stated in it are true and the foreign national is eligible for the requested preference classification); *see also, e.g., Tongatapu Woodcraft Haw., Ltd. v. Feldman,* 736 F.2d 1305, 1309 (9th Cir. 1984); *Madany v. Smith*, 696 F.2d 1008, 1012-13 (D.C. Cir. 1983) (both holding that USCIS has authority to make preference classification decisions).

II. ANALYSIS

A petition for a professional must document that a beneficiary holds a U.S. bachelor's degree or a foreign equivalent degree. 8 C.F.R. § 204.5(l)(3)(ii)(C). A petitioner must also establish a beneficiary's possession of all the education specified on an accompanying labor certification. *Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Acting Reg'l Comm'r 1977). In the present case, Part H. of the labor certification requires the Beneficiary to hold a U.S. bachelor's or foreign equivalent degree.

The record reflects that the Beneficiary in this matter holds a 2003 "grau bacharel" or bachelor's degree in information systems management from the [redacted] in [redacted] Brazil. The Director, however, denied the visa petition, finding that the Beneficiary's academic transcripts indicated that this degree had been awarded following his completion of a three-year, rather than a four-year, baccalaureate program at a university that U.S. Department of Homeland Security records did not establish as a *bona fide* educational institution.

To establish the Beneficiary's degree as the foreign equivalent degree to a U.S. bachelor's degree, the Petitioner has submitted the Beneficiary's degree certificate, as well as certificates documenting the Brazilian Ministério da Educação's accreditation of the undergraduate degree in information systems management, and the May 10, 2004, registration of the Beneficiary's diploma; the Beneficiary's academic transcripts issued by the [redacted] the name of the [redacted] following its acquisition by [redacted] in 2009; a course completion certificate issued by the academic secretary of the [redacted] which reflects that the Beneficiary's diploma was issued on April 23, 2003; and two credentials evaluations prepared by [redacted] both of which find the Beneficiary's degree in information systems management to be the equivalent of a U.S. bachelor's degree.

In considering the above evidence, we have reviewed the credentials advice provided by the Electronic Database for Global Education (EDGE), as well as its archived materials on education in

Brazil. We consider EDGE to be a reliable, peer-reviewed source of information about foreign credentials equivalencies. [1] Among these materials, a 2004 report, entitled reflects that, in 2003, the year in which the Beneficiary received his degree, the was an institution of higher education accredited by the Brazilian Ministério da Educação.[2] This same publication also indicates that information systems management, the Beneficiary's field of study, is an undergraduate discipline accredited by the Ministério da Educação.

Moreover, information available from the website of the Ministério da Educação on the minimum number of course hours required indicates that a student must have at least 3,000 hours of classroom instruction to earn an undergraduate degree in information systems and that a four-year degree programs require between 3,000 and 3,200 classroom hours.[3] A review of the Beneficiary's academic transcripts reveals that he completed 3,276 classroom hours for his degree, thereby indicating that it was in fact a four-year degree.[4] We also note that the website of the (successor to the where the Beneficiary earned his degree) reflects that its baccalaureate degree in information systems requires four years of study.[5]

Accordingly, we find the record to establish, by a preponderance of the evidence, that the Beneficiary's baccalaureate degree was awarded by an accredited Brazilian university and is the foreign equivalent degree to a U.S. bachelor's degree.

III. CONCLUSION

The Petitioner has established that the Beneficiary has the education required for classification as a professional. Accordingly, we will withdraw the Director's decision.

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[1] EDGE is a web-based resource for the evaluation of foreign educational credentials created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). http://edge.aacrao.org/info.php (last visited April 18, 2017). According to its website, AACRAO is "a nonprofit, voluntary, professional association of more than 11,000 higher education professionals who represent approximately 2,600 institutions in more than 40 countries." http://www.aacrao.org/home/about (last visited Apr. 18, 2017).

[2] (2004).

[3] *See* http://portal.mec.gov.br/ index.php?option.(last visited Apr. 18, 2017).

[4] A study issued by the also reports that undergraduate degrees in Brazil require between 2,400 and 3,000 hours of classroom instruction. and (March 1, 2012). (last visited Apr. 18, 2017).

[5] *See* http:/ (last visited April 18, 2017).

ORDER: The appeal is sustained.

Cite as *Matter of W-G-*, ID# 286133 (AAO Apr. 25, 2017)