U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33402908

Date: SEP. 25, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Professional)

The Petitioner, a public school district, seeks to employ the Beneficiary as an "elementary PK-5 bilingual teacher." 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. § 1153(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. *Id.*

The Director of the Texas Service Center denied the petition, concluding the Beneficiary did not possess the foreign equivalent of a U.S. bachelor's degree in any major academic field as required by the labor certification and was not eligible for classification as a professional. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of establishing eligibility for the requested benefit by a preponderance of 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 sustain 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 noncitizen 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. ANALYSIS

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 stated that the minimum educational requirement of the offered position was a bachelor's degree in "any academic major field." On the labor certification, the Beneficiary attested that by the petition's priority date, he had earned the equivalent of a U.S. bachelor's degree in the field of food science in 2012. The Petitioner submitted a copy of a diploma from a university in Mexico, indicating the Beneficiary's receipt of a "Licenciado en Administración Gastronómica," translated to a bachelor's degree in gastronomic administration. Further, the Petitioner submitted a transcript from the Mexican university indicating that he completed his degree under a trimester format, as opposed to the typical fall and spring semester model followed in the United States (usually totaling eight semesters in four years). The Beneficiary's university transcript reflects that he completed ten semesters of university coursework under this trimester format. The Petitioner also submitted an independent, academic credentials report concluding that the Beneficiary's degree is equivalent to a U.S. bachelor of science degree in gastronomic management, equating to 132 hours of undergraduate coursework.

In denying the petition, the Director concluded the Petitioner did not establish that the Beneficiary possessed a U.S. bachelor's degree or the foreign equivalent as of the priority date. The Director reasoned that according to Electronic Database for Global Education (EDGE),[1] the Beneficiary's foreign degree represented a professional license to practice in his field and was not the foreign equivalent of a four-year U.S. bachelor's degree.

On appeal, the Petitioner contends that the Beneficiary's foreign degree is the equivalent of four years of U.S. undergraduate study since it was completed under a tri-semester format. The Petitioner points

[1] Federal courts consider EDGE to be a reliable source of information about foreign credentials equivalencies. 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 Sept. 25, 2024); *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").

to the Beneficiary's transcript asserting this supports he completed the equivalent of four years of undergraduate study. The Petitioner also stated that a typical U.S. bachelor's degree program requires 120 credit hours and emphasizes that the Beneficiary's transcripts and academic equivalencies reflect that he completed over 132 credit hours.

Upon review, we conclude that it is more likely than not that the Beneficiary earned the foreign equivalent of a U.S. bachelor's degree in "any academic major field." The information in EDGE indicates that the Beneficiary's degree, awarded after the equivalent of four years of study in the United States, represents attainment of a level of education comparable to a bachelor's degree in the United States.[2] The Beneficiary's university transcript reflects that he completed ten semesters of university coursework under the trimester format, equating in this case to four years of university study in the United States. Further, the Petitioner provided credible educational equivalency evaluations indicating that the Beneficiary completed the equivalent of 132 semester hours of U.S. university coursework. Therefore, based on the guidance from EDGE and the credible evidence in the record, it appears more likely than not that the Beneficiary completed the equivalent of four years of U.S. university coursework and earned the foreign equivalent of a U.S. bachelor's degree.

The Petitioner has sufficiently demonstrated the Beneficiary holds the foreign equivalent of a U.S. bachelor's degree in "any academic major field," and therefore, that he meets the requirements of the labor certification and the regulatory definition of a professional. For this reason, the Petitioner has established that the Beneficiary is eligible for the benefit sought.

ORDER: The appeal is sustained.

[2] *See* AACRAO EDGE, Mexico Credentials, "Licenciatura/Título de Licenciado(a)/Título de...," https://www.aacrao.org/edge/country/credentials/credential/mexico/licenciatura-t%C3%ADtulo-de-licenciado(a)-t%C3%ADtulo-de-(i)(licentiate) (last visited Sept. 25, 2024).