U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-S- LLC

DATE: SEPT. 28, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a gymnastics training center, seeks to employ the Beneficiary as a supervisor of rhythmic gymnastics instructors. 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.

The Director of the Nebraska Service Center denied the petition. The Director found that the Beneficiary does not have a U.S. bachelor's degree or a foreign equivalent degree, and therefore does not meet the requirements of the labor certification and the professional classification.

On appeal the Petitioner submits a brief and additional evidence. The Petitioner asserts that the Beneficiary has the foreign equivalent of a U.S. bachelor's degree, thus meeting the educational requirement of the labor certification and qualifying her for classification as a professional.

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

I. LAW

Employment-based immigration generally follows a three-step process. First, an employer obtains an approved labor certification from the U.S. Department of Labor (DOL).[1] *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). By approving the labor certification, DOL certifies that there are insufficient U.S. workers who are able, willing, qualified, and available for the offered position and that employing a foreign national in the position will not adversely affect the wages and working conditions of domestic workers similarly employed. *See* section 212(a)(5)(A)(i)(I)-(II) of the Act. Second, the employer files an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Third,

[1] The date the labor certification is filed is called the "priority date." *See* 8 C.F.R. § 204.5(d). The Petitioner must establish that all eligibility requirements for the petition have been satisfied from the priority date onward.

if USCIS approves the petition, the foreign national applies 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.

A petition for a professional must be accompanied by evidence that the beneficiary holds a U.S. baccalaureate degree or a foreign equivalent degree. 8 C.F.R. § 204.5(l)(3)(ii)(C). A beneficiary must also meet all of the education, training, experience, and other requirements of the labor certification as of the petition's priority date. *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Acting Reg'l. Comm'r 1977).

II. ANALYSIS

The Petitioner's Form I-140, Immigrant Petition for Alien Worker, was accompanied by an ETA Form 9089, Application for Permanent Employment Certification (labor certification), with a priority date of October 19, 2015. Section H of the labor certification states the following with respect to the minimum requirements for the job of supervisor of rhythmic gymnastics instructors:

4.	Education: Minimum level required:	Bachelor's degree
4-B.	Major Field of Study:	Commerce or Business or foreign degree equivalency
5.	Is training required for the job?	No
6.	Is experience in the job offered required?	No
7.	Is an alternate field of study acceptable?	No
8.	Is an alternate combination of education and experience acceptable?	No
9.	Is a foreign educational equivalent acceptable?	Yes
10.	Is experience in an alternate occupation acceptable?	Yes
10-A.	How long?	30 months
10-B.	Job title(s) of acceptable alternate occupation(s)	Competitive rhythmic gymnastics (24 months) and management (6 months)
13.	Is knowledge of a foreign language required?	Yes

As summarized in box H.14 of the labor certification, the minimum requirements for the job offered are a bachelor's degree or foreign degree equivalency in commerce or business, two years of experience in competitive rhythmic gymnastics and six months of management experience, as well as fluency in Russian and English.

In section J of the labor certification the Beneficiary stated that she earned a bachelor's degree in commerce in 1998 at [redacted] in [redacted] Russia.

As evidence of the Beneficiary's educational credentials the Petitioner submitted the following documents:

- A diploma, diploma supplement, and transcript from [redacted] in [redacted] Russia (Russian copies with English translations), stating that the Beneficiary enrolled at the school in 1996, completed an academic program lasting one year and 10 months, and received a diploma in commerce on June 25, 1998.
- An evaluation of the Beneficiary's education at [redacted] by [redacted] which concluded, based on the above three documents from the school, that the diploma awarded in June 1998 was equivalent to a bachelor of arts in commerce from an accredited U.S. university.

In response to a request for evidence (RFE) from the Director, the Petitioner also submitted:

- A transcript from the [redacted] in [redacted] Russia (Russian copy with English translation), listing the courses taken by the Beneficiary from September 1995 through December 1996.
- A graduation certificate and letter from the [redacted] in [redacted] Russia (Russian copies with English translations), listing the courses taken by the Beneficiary when she attended the "order of honor" institution for 10th and 11th grades in the years 1993-1995, and identifying specific courses which it claims were taught at the college level or unavailable in regular high schools.
- A second evaluation of the Beneficiary's education by [redacted] which concluded that the Beneficiary's combined studies at the three schools in [redacted] – including the [redacted] from 1993 to 1995, [redacted] from 1995 to 1996, and [redacted] from 1996 to 1998 – amount to the equivalent of a bachelor of arts in business administration from an accredited U.S. university.

The Director concluded that the [redacted] evaluations did not establish that the Beneficiary has the foreign equivalent of a U.S. bachelor's degree. The Director found that the Beneficiary's studies at [redacted] in 1995-96 did not result in a degree, and concluded that the Beneficiary's diploma from [redacted] in 1998 was not equivalent to a U.S. bachelor's degree.

On appeal the Petitioner asserts that the Director's analysis was faulty because it neglected to consider the Beneficiary's "collegiate level" courses at the [redacted] from 1993 to 1995. According to the "explanatory letter" from the school's principal, half of the courses taken by the Beneficiary were either not available in regular high schools or taught at the college level. Consistent with the second [redacted] evaluation, the Petitioner asserts that the Beneficiary's college level courses at [redacted] her 15 months of coursework in philology at [redacted] and her 22 months of study resulting in a diploma of commerce from [redacted] amounts to the equivalent of a U.S. bachelor's degree in commerce or business administration.

A bachelor's degree in the United States generally comprises four years of study. *See Matter of Shah*, 17 I&N Dec. 244, 245 (Reg'l Comm'r 1977). The record does not show that the Beneficiary completed four years of post-secondary study in Russia. The evidence submitted by the Petitioner indicates that the Beneficiary was enrolled for less than a year and a half at in 1995 and 1996, and for two years at from 1996 to 1998. The Beneficiary's total time at these two institutions was less than four academic years.

Moreover, there is no evidence that gave the Beneficiary academic credit for any of her coursework at As far as the record shows, the Beneficiary could have gained admission to without any prior coursework at and the academic worth of the Beneficiary's two-year diploma in commerce from was not enhanced in any way by her prior coursework in the field of philology at Likewise, there is no evidence that or gave the Beneficiary any academic credit for the "collegiate level" courses she allegedly took in secondary school at

The Beneficiary's only post-secondary credential is the diploma in commerce she earned at upon completion of a two-year academic program in 1998. The Beneficiary's credential is a "diploma of occupational higher education" within the Russian educational system. As indicated in the Educational Database for Global Education (EDGE), created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO),[2] the entry requirement for this two-year program is a secondary school diploma, which is comparable to a high school diploma in the United States, and the "diploma of occupational higher education" credential is comparable to two years of university study in the United States. We consider EDGE to be a reliable, peer-reviewed source of information about foreign degree equivalencies.

The evaluations from on the other hand, do not offer a specific analysis of the Beneficiary's coursework in any of her three schools, do not provide a substantive rationale for the conclusion that her education amounts to the equivalent of a U.S. bachelor's degree, and are inconsistent with each other. The first evaluation, dated October 2, 2013, concluded that the Beneficiary's two-year diploma in commerce from was equivalent to a U.S. bachelor of arts in commerce. The second evaluation, dated November 7, 2016, looked not only at the diploma in commerce, but also gave general consideration to the Beneficiary's studies at and in secondary school. It concluded that the Beneficiary's graduation from advanced

[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 and agencies in the United States and in over 40 countries." AACRAO, http://www.aacrao.org/about (last accessed September 26, 2017). "The mission of [AACRAO] is to provide professional development, guidelines, and voluntary standards to be used by higher education officials regarding the best practices in records management, admissions, enrollment management, administrative information technology, and student services." *Id.* EDGE is "a valuable resource for evaluating educational credentials earned in foreign systems." AACRAO EDGE, http://aacrao.org/aacrao-solutions/aacrao-international/aacrao-edge/edge (last accessed September 26, 2017).

secondary school was equivalent to an associate's degree in the United States, and that the sum total of her Russian education was equivalent to a U.S. bachelor of arts in business administration. The Petitioner offers no explanation for why [redacted] concluded in one evaluation that the Beneficiary's two-year diploma in commerce alone is equivalent to a U.S. bachelor's degree, and in the other evaluation concluded that this two-year credential in combination with 15 months of courses in a different field of study and an advanced secondary school education is, when considered together, equivalent to a U.S. bachelor's degree. Evaluations of academic credentials by evaluation services are utilized by USCIS as advisory opinions only. Where an opinion is not in accord with other information or is in any way questionable, USCIS is not required to accept it or may give it less weight. *See Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm'r 1988). For the reasons discussed above, we find that the [redacted] evaluations do not establish that the Beneficiary possesses a degree that is the foreign equivalent of a U.S. bachelor's degree.

As previously discussed, the Beneficiary's "certificate of secondary (complete) general education" is evaluated by EDGE as comparable to a high school diploma in the United States, not an associate's degree; and the Beneficiary's "diploma of occupational higher education" which followed the secondary school certificate is evaluated by EDGE as comparable to two years of university study in the United States, not a bachelor's degree. It is not sufficient for the Beneficiary to have a combination of lesser education that, when combined together, is equivalent to a U.S. bachelor's degree. Instead, in order to meet the terms of the labor certification and the requested professional classification, the Beneficiary must possess a single degree that is a U.S. bachelor's degree or a foreign equivalent degree.

In accord with the Director's decision, therefore, we find that the Beneficiary's diploma in commerce from [redacted] is not a foreign equivalent degree to a U.S. bachelor's degree.

III. CONCLUSION

The Petitioner has not established that the Beneficiary has the foreign equivalent of a U.S. bachelor's degree, as required to meet the terms of the labor certification and to qualify for classification as a professional under section 203(b)(3)(A)(ii) of the Act. Accordingly, we will dismiss the appeal.[3]

ORDER: The appeal is dismissed.

Cite as *Matter of C-S- LLC* ID# 636533 (AAO Sept. 28, 2017)

[3] The Petitioner answered "Yes" to the question at C.9 of the labor certification: "Is the employer a closely held corporation, partnership, or sole proprietorship in which the alien has an ownership interest, or is there a familial relationship between the owners, stockholders, partners, corporate officers, or incorporators, and the alien?" In any future proceedings the Petitioner should provide further details about its ties with the Beneficiary.