



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 19687257

Date: MAR. 08, 2022

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Advanced Degree Professional

The Petitioner, a rehabilitation services provider, seeks to employ the Beneficiary as a speech language pathologist under the second-preference, immigrant classification for members of the professions with advanced degrees or their equivalents. Immigration and Nationality Act (the Act) section 203(b)(2)(A), 8 U.S.C. § 1153(b)(2)(A).

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish that the Beneficiary possessed the minimum education required for the offered position.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. EMPLOYMENT-BASED IMMIGRATION

Immigration as an advanced degree professional generally follows a three-step process. To permanently fill a position in the United States with a foreign worker, a prospective employer must first obtain certification from the U.S. Department of Labor (DOL). See section 212(a)(5) of the Act, 8 U.S.C. § 1182(a)(5). DOL approval signifies that insufficient U.S. workers are able, willing, qualified, and available for a position. *Id.* Labor certification also indicates that the employment of a foreign national will not harm wages and working conditions of U.S. workers with similar jobs. *Id.*

If DOL approves a position, an employer must next submit the certified labor application 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 considers whether a beneficiary meets the requirements of a certified position and a requested immigrant visa classification. If USCIS approves the petition, a foreign national may finally 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

The term “advanced degree” is defined in the regulation at 8 C.F.R. § 204.5(k)(2) as follows:

Advanced degree means any 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.

The regulations at 8 C.F.R. § 204.5(k)(3)(i) state that a petition for an advanced degree professional must be accompanied by either:

- (A) An official academic record showing that the alien has a United States advanced degree or a foreign equivalent degree; or
- (B) An official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty.

In addition, a beneficiary must meet all of the education, training, experience, and other requirements specified on the labor certification as of the petition’s priority date.¹ *See Matter of Wing’s Tea House*, 16 I&N Dec. 158, 159 (Acting Reg’l Comm’r 1977).

Therefore, to establish eligibility for advanced degree professional classification, a petitioner must demonstrate that the beneficiary possesses an advanced degree as defined in 8 C.F.R. § 204.5(k)(2), and also that the beneficiary meets the requirements for the offered position as stated on the labor certification.

Here, the labor certification states the minimum requirements of the offered position of speech language pathologist as: a U.S. master’s degree or a foreign equivalent degree in speech language pathology or related field and a California license. The labor certification specifies that the Petitioner will not accept an alternate combination of education and experience.

Section J of the labor certification states that the Beneficiary’s highest level of education relevant to the job offered is a master of science degree in speech language pathology issued in 2016 by the [] Institute of Speech and Hearing. As evidence of this credential the Petitioner submitted copies of a diploma and official transcripts showing that the Beneficiary was awarded a master of science degree in speech language pathology from the University [] India, in 2016, after completion of a two-year program. The Petitioner also submitted documentary evidence that the Beneficiary was issued a bachelor’s degree in audiology and speech language pathology from the University [] India, in 2014, after completion of six semesters of study. The Petitioner submitted an independent evaluation of the Beneficiary’s bachelor’s and master’s degrees from India. The evaluation concludes

³ The priority date of the petition is the date the underlying labor certification was filed with the DOL. *See* 8 C.F.R. § 204.5(d). In this case the priority date is November 18, 2019.

that the credentials equate, respectively, to a U.S. bachelor's degree in audiology and speech language pathology, and a U.S. master's degree in speech language pathology.

The Director issued a request for evidence (RFE) informing the Petitioner of contrary information in the Electronic Database for Global Education (EDGE), an online resource that federal courts have found to be a reliable, peer-reviewed source of educational equivalencies.² EDGE indicates that, when following three-year bachelor's degrees, two-year Indian master's degrees like the Beneficiary's equate to only U.S. bachelor's degrees. In response to the RFE the Petitioner submitted two additional independent evaluations of the Beneficiary's educational credentials. Both evaluations conclude that the Beneficiary possesses the U.S. academic equivalent of a master of science in speech language pathology.

After review of the Petitioner's response, the Director found that the additional evaluations of the Beneficiary's educational credentials were insufficient and did not address the information in EDGE. He again noted that the entry in EDGE for a master of science (MS) degree, which represents attainment of a level of education comparable to a master's degree in the United States, states that it is not to be confused with the master of science (MSc) degree requiring only a three-year bachelor's degree for entry. As such, he found that the Petitioner did not demonstrate the Beneficiary's possession of an advanced degree, specifically the U.S. master's degree, or foreign equivalent, in speech language pathology required by the labor certification, and he denied the petition.

On appeal, the Petitioner states that the Director did not explain why he concluded that the Beneficiary's educational credentials did not meet the description in EDGE of a master of science (MS) degree and whether this was because the Beneficiary did not complete enough courses, credits, or years of study. The Petitioner asserts that the evaluations establish that the Beneficiary completed a four-year, full-time undergraduate program at the University [redacted] including a one-year internship, and a two-year, full-time graduate program at the University [redacted]. The Petitioner further asserts that, because the Beneficiary already possesses a speech pathology license in the State of California, and because the state licensing board requires that applicants for licensure possess the equivalent of a U.S. master's degree, the Beneficiary's licensure should be accepted as further evidence that she possesses the foreign equivalent master's degree in speech language pathology required by the labor certification.

As the Director noted in the RFE and in his decision, EDGE includes multiple entries for a master of science degree from India. According to EDGE, the master of science (MS) degree is awarded upon completion of a minimum of three semesters of study and represents attainment of a level of education comparable to a master's degree in the United States. EDGE also states that the master of science (MSc) degree is awarded upon completion of two years of study beyond a three-year bachelor's degree and represents attainment of a level of education comparable to a bachelor's degree in the United States. With respect to the master of science (MS) degree, EDGE states that this degree "*should not*

² EDGE was created by the American Association of Collegiate Registrars and Admission Officers (AACRAO), "a non-profit, voluntary, professional association of more than 11,000 higher education professionals who represent approximately 2,600 institutions in more than 40 countries." AACRAO, "Who We Are," <https://www.aacrao.org/who-we-are> (Mar. 2, 2022); see, 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").

be confused with the master of science (MSc) degree. The MSc degree is a 2-year degree requiring only a 3-year bachelor's for entry. The MS is offered by only a few universities ..." (Emphasis added).

The Beneficiary's consolidated official transcripts from the University [redacted] for her bachelor's degree indicate that she enrolled in 2010 and completed the sixth semester of courses in June 2013. The transcripts also indicate that she completed internships from July 2013 to April 2014 and was awarded her degree on September 22, 2014. The Beneficiary's official transcripts from the University [redacted] for her Indian master's degree indicate that she was admitted in August 2014 and completed the graduate program in June 2016, with her degree awarded on December 13, 2016. The transcripts from the University [redacted] do not demonstrate the entry requirements for the graduate program.

The record includes three academic equivalency evaluations. The first is from A2Z Evaluations, LLC (A2Z) asserting that the Beneficiary's educational credentials are equivalent to a bachelor of science degree in speech language pathology and audiology and a master of science degree in speech language pathology awarded by a regionally accredited institution of higher education in the United States. A2Z provides a course-by-course evaluation of the Beneficiary's education and states that she completed a total of 96 U.S. semester credits and 1,454.5 total clock hours in clinical practice for her bachelor's degree, and 77 U.S. semester credits and 864 total clock hours in clinical practice for her master's degree. The evaluation also states that the entry requirements for the master of science in speech language pathology at the University [redacted] are a "bachelor's degree, or equivalent, in a related field" but does not indicate the number of years of study required for the underlying bachelor's degree.

The second evaluation is from Education Equivalency Analysis & Certifiers, LLC (EEAC) asserting that the Beneficiary completed a four-year undergraduate program, including one year of practicum, at the University [redacted] which is equivalent to a bachelor of science degree in audiology and speech language pathology from a regionally accredited university in the United States. EEAC also asserts that the Beneficiary completed a two-year graduate program at the University [redacted] which is equivalent to a master of science degree in speech language pathology from a regionally accredited university in the United States. EEAC states that the entry requirements for the master of science in speech language pathology at the University [redacted] is a "completion of education equivalent to the 120 credits of USA bachelor's degree" but does not cite a source or provide support for these entry requirements.

The third evaluation is from Park Evaluations (Park) asserting that the Beneficiary completed academic coursework and examination at the University [redacted] for a bachelor of science in audiology and speech language pathology, and coursework and practical study at the University of [redacted] for a master of science in speech language pathology. Park concludes that the Beneficiary possesses the U.S. academic equivalent of a master of science in speech language pathology. Park also states that enrollment in the master of science program at the University [redacted] is a "based on the completion of university-level studies and competitive entrance examinations" but also does not indicate the number of years of study required for the underlying bachelor's degree.

The Petitioner must demonstrate that the Beneficiary has the equivalent of a U.S. master's degree. The evaluations do not establish that the school where the Beneficiary obtained her master's degree requires a four-year degree for entry.

The Petitioner has not demonstrated that the Beneficiary's graduate program *required* a four-year bachelor's degree for entry.³ 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 Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). The evaluations from A2Z and Park do not state that the Beneficiary's master of science program in speech language pathology required completion of a four-year bachelor's degree and the EEAC evaluation does not provide support for its claim that the program requires completion of 120 credits. Nor is this stated on the Beneficiary's academic record from the University [redacted]. Rather, we note that the [redacted] Institute of Speech and Hearing of the University [redacted] states on its website that admission eligibility is based on completion of a "B.Sc. (Sp. & Hg.)/BASLP degree of the University [redacted] or any other University considered as equivalent thereto ..." See [https://\[redacted\]](https://[redacted]) (Mar. 3, 2022). The Petitioner must resolve these inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, at 591-92. Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.* Therefore, consistent with the EDGE information, we find that the Beneficiary's master's degree equates to a U.S. bachelor's degree.

The Petitioner also argues that additional evidence establishes the equivalence of the Beneficiary's graduate degree to the requisite U.S. master's degree in speech language pathology. The record shows that, by the petition's priority date, the Beneficiary obtained a California license as a speech language pathologist. In addition, pursuant to U.S. immigration law, the Beneficiary received certification as a foreign healthcare worker, indicating that her education, training, license, and experience compare to those of U.S. speech language pathologists. See 8 C.F.R. § 212.15(f) (listing requirements for issuance of a health care certification).

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board of the Department of Consumer Affairs is the licensing authority for speech language pathologists in California. See <https://www.speechandhearing.ca.gov/> (Mar. 7, 2022). The "Application Checklist for Foreign Graduates" does not state a specific degree type, equivalency or length of study that is required for licensing.⁴ Rather, the checklist states, "The Board's Subject Matter Expert will review the course-by-course evaluation report and syllabi to determine if the below required course content has been met." This is followed by a list of undergraduate and graduate courses, indicating that the Board examines whether specific courses were completed, rather than the credit hours or the equivalency of a foreign degree to a U.S. degree, when determining license eligibility. Contrary to the job requirements of the category and offered position, the Beneficiary's license and certification do not specify her possession of a single degree that is either a U.S. master's degree or its foreign equivalent pursuant to 8 C.F.R. § 204.5(k)(3)(i). The record also does not indicate what credentials the Beneficiary submitted to obtain her license and certification.

³ Because the Beneficiary apparently entered her graduate program with less than the equivalent of 120 U.S. credits, the record indicates that admission to the master's program did not require at least a four-year degree and casts doubt on the unsupported claim in the EEAC evaluation that the program requires 120 U.S. credits.

⁴ State of California Department of Consumer Affairs, Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, Speech-Language Pathology, *Application Checklist for Foreign Graduates* (Mar. 7, 2022), https://www.speechandhearing.ca.gov/forms_pubs/app_pack_slp_foreign.pdf.

For the foregoing reasons, the Petitioner has not demonstrated the Beneficiary's possession of a U.S. master's, or foreign equivalent, degree in speech language pathology, the minimum educational requirement of the offered position. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.