



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

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

In Re: 13691690

Date: MAY 31, 2022

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Advanced Degree Professional

The Petitioner seeks to employ the Beneficiary as a project delivery manager 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 requisite educational degree to qualify 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 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.

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.

II. ANALYSIS

The accompanying labor certification describes the minimum requirements for the job offered as follows:

H.4	Education: minimum level	Bachelor’s
H.4-B	Major field of study	See H.14
H.5	Training required?	No
H.6	Experience in the job offered required?	Yes
H.6-A	Number of months	60
H.7	Alternate field of study acceptable?	Yes
H.7-A	Major field of study	See H.14

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 September 16, 2019.

H.8	Alternate combination of education and experience acceptable?	No
H.9	Foreign educational equivalent acceptable?	Yes
H.10	Experience in an alternate occupation acceptable?	Yes
H.10-A	Number of months experience required	60
H.10-B	Job title of alternate occupation	See H.14

Section H.14 states, in pertinent part, “Bachelor’s degree or foreign equivalent degree in Computer Science, Engineering [any], Information Technology, CIS, MIS or a related field. Five years of progressively responsible experience as a Project Delivery Manager, Senior Engineer, Project Delivery Specialist or a position in a related occupation.”

The Petitioner asserts that the Beneficiary qualifies for advanced degree professional classification by virtue of a foreign education equivalent to a U.S. baccalaureate degree and more than five years of post-baccalaureate experience in the specialty, in accordance with 8 C.F.R. § 204.5(k)(3)(i)(B).

Section J of the labor certification states that the Beneficiary’s highest level of education relevant to the job offered is a bachelor’s degree in industrial engineering from the Indian Institution of Industrial Engineering, [redacted] India, completed in 2007. As evidence of this credential the Petitioner submitted copies of a diploma and consolidated statement of marks showing that the Beneficiary was awarded a diploma in mechanical engineering from the State Board of Technical Education and Training [redacted] India, in 2001, after completion of a three-year program. The Petitioner also submitted documentary evidence that the Beneficiary passed a series of courses and examinations with The Indian Institution of Industrial Engineers (IIIE) which culminated in a graduate membership in the IIIE in July 2007. In addition, the record includes two academic equivalency evaluations. The first is from The Trustforte Corporation (Trustforte evaluation) asserting that the Beneficiary’s passage of the IIIE qualifying graduateship examinations and graduate membership in the IIIE, following his diploma in mechanical engineering, was equivalent to a four-year bachelor’s degree in industrial engineering from an accredited U.S. college or university. The second is from a professor at the University [redacted] (evaluation) asserting that the Beneficiary’s graduate membership in the IIIE is equivalent to a four-year bachelor of science in industrial engineering from an accredited U.S. college or university.

In his decision the Director found that the Beneficiary had more than five years of qualifying experience, but does not possess a U.S. or foreign equivalent bachelor’s degree. In denying the petition, the Director found that the Beneficiary’s graduate membership in the IIIE is comparable, rather than equivalent, to a bachelor’s degree in the United States, and that the Petitioner did not establish that the IIIE is an academic institution that can confer a degree with an official college or university record. The Director cited the regulations at 8 C.F.R. § 204.5(k)(3)(i)(B), which requires an “official academic record” showing that the Beneficiary has a U.S. baccalaureate degree or a foreign equivalent degree. The Director concluded that the Beneficiary did not have a U.S. baccalaureate or a foreign equivalent degree required to meet the minimum requirements of the offered position as stated on the labor certification.

The issue on appeal, therefore, is whether the Beneficiary has a U.S. or foreign equivalent bachelor's degree, both to qualify as an advanced degree professional, and also to meet the minimum requirements of the labor certification.

A. The Beneficiary's Educational Credentials

On appeal, the Petitioner does not disagree with the Director's conclusion that the Beneficiary does not possess a U.S. or foreign equivalent advanced degree. The Petitioner states, "Here, the Beneficiary does not possess an advanced degree or its foreign equivalent; instead, he possesses the 'foreign equivalent' of a four-year Bachelor of Science degree in industrial engineering, ..."

The Trustforte and [redacted] evaluations evaluated the Beneficiary's marks and examinations at the IIIE as equivalent to four years of bachelor's level academic studies in industrial engineering at a U.S. college or university, and the certificate of graduateship examinations of the IIIE as equivalent to a U.S. bachelor's degree. While the [redacted] evaluation refers to the Beneficiary's graduateship examinations certificate from the IIIE as "most accurately categorized as an academic degree," it is important to note that the IIIE is a professional association, not a college or university, and that it oversees the industrial engineering profession in India but does not award academic degrees like a college or university. The Beneficiary's certificate of graduateship examinations from the IIIE does not claim to be a degree. Rather, the certificate states, "The Government of India ... [recognized] a pass in Graduateship Examination of this Institution *at par* with a Bachelor's degree in Industrial Engineering from a [recognized] Indian University for the purposes of recruitment to superior posts and services under the Central Government." (Emphasis added). While passage of the IIIE graduateship examinations and graduate membership in the IIIE may be *comparable* to a U.S. baccalaureate or a foreign equivalent degree for some purposes, these credentials do not constitute a foreign equivalent degree to a U.S. baccalaureate degree as required under the regulation at 8 C.F.R. § 204.5(k)(3)(i)(B) to qualify the Beneficiary for classification as an advanced degree professional under section 203(b)(2) of the Act.²

The Petitioner asserts that the [redacted] evaluation accords with the credential advice provided in the Electronic Database for Global Education (EDGE),³ created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO).⁴ EDGE states that a three-year diploma in engineering in India is comparable to one to two years of university study in the United States depending on the program entry requirements. In this case, the [redacted] evaluation states that the Beneficiary's diploma is equivalent to one year of undergraduate study at a U.S. institution.

² In a similar case, where a beneficiary held a three-year degree and membership in the Institute of Chartered Accountants of India, the court noted that a professional association is not an academic institution that can confer an actual degree with an official college or university record and USCIS was justified in concluding that professional membership in the association was not a college or university "degree" for purposes of classification as a member of the professions holding an advanced degree. *Snapnames.com, Inc. v. Michael Chertoff*, 2006 WL 3491005 (D. Or. Nov. 30, 2006).

³ EDGE is described on its registration page as "a web-based resource for the evaluation of foreign educational credentials." <http://edge.aacrao.org/info.php>.

⁴ 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 in over 40 countries." <http://www.aacrao.org/who-we-are>.

Both the Trustforte and [redacted] evaluations in the record note that there is no entry in EDGE for the Beneficiary's specific credential, graduate membership in the IIIE. However, both evaluations and the Director discuss the EDGE entry for associate membership in one of three Indian professional engineering associations.⁵ The Beneficiary's credential closely resembles the EDGE description of associate membership in a professional engineering association, and the Petitioner does not disagree with the application of this description to the Beneficiary's credential in these proceedings.

EDGE states that associate membership in these other professional engineering associations is a credential awarded after completion of a two-part examination, and that associate membership represents "a level of education comparable to a bachelor's degree in the United States." The Beneficiary's certificate of graduateship examination demonstrates his passage of "all the prescribed examinations and also having successfully completed the final requirements of Project Work." However, educational comparability to a U.S. bachelor's degree does not make the IIIE graduate membership a "foreign equivalent degree" to a U.S. baccalaureate degree, as required by 8 C.F.R. § 204.5(k)(3)(i)(B) to qualify the Beneficiary for advanced degree professional classification.

Evaluations of academic credentials by evaluation services or individual experts 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 conclude that the Trustforte and [redacted] evaluations do not establish that the Beneficiary's graduate membership from the IIIE constitutes a foreign equivalent degree to a U.S. bachelor's degree.

The Petitioner further asserts that the Director did not consider the Beneficiary's statement of marks from IIIE which document that he completed "22 courses" in the industrial engineering program. However, the statement of marks does not identify the marks as related to coursework or indicate that the Beneficiary was awarded a degree. Rather, the statement indicates that the marks are related to "Papers" and these are identified on the IIIE website as "Assignments." We note that the syllabus for the IIIE graduateship engineering examinations (available at <http://www.iiie-india.com/IIIE/syllabus.php>) does not describe coursework or classroom training. Therefore, we do not consider the statement of marks an official academic record of a foreign equivalent degree, as required by 8 C.F.R. § 204.5(k)(3)(i)(B).

Thus, we agree with the Director's finding that the Beneficiary's educational credentials cannot be considered a foreign degree that is equivalent to a United States baccalaureate degree.

B. Requirements for Classification as an Advanced Degree Professional

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. The beneficiary's degree must also be from a college or university, as

⁵ The EDGE entry specifically identifies the Institution of Engineers, the India Institution of Electronics and Telecommunications, and the Institution of Mechanical Engineers (<https://www.aacrao.org/edge/country/credentials/credential/india/associate-membership-in-one-of-three-indian-professional-engineering-associations>) (May 31, 2022).

the regulation at 8 C.F.R. § 204.5(l)(3)(ii)(C) requires the submission of an “official college or university record” showing that a bachelor’s degree was awarded.

Based on the foregoing analysis we conclude that the Petitioner has not established that the Beneficiary has a foreign equivalent degree to a U.S. baccalaureate degree to qualify for classification as an advanced degree professional under section 203(b)(2) of the Act. The appeal is denied on this basis.

C. Minimum Requirements of the Labor Certification

As noted above, Section H of the labor certification states that the minimum requirements for the job offered are a bachelor’s degree or a foreign educational equivalent in computer science, engineering, information technology, CIS, MIS or a related field, and five years of progressively responsible experience as a Project Delivery Manager, Senior Engineer, Project Delivery Specialist or a position in a related occupation.

The Director found that the Beneficiary met the experience requirement of the labor certification but did not meet the minimum educational requirement because he did not have a U.S. baccalaureate degree or a foreign equivalent degree. On appeal the Petitioner asserts that the Director misrepresents the minimum requirements for the offered position. It states that, in indicating on the labor certification “that a ‘foreign equivalent’ to a U.S. bachelor’s degree would satisfy the education component of the company’s minimum requirements for the proffered position, ... [a]ny credential that is deemed a ‘foreign educational equivalent’ to a Bachelor’s degree is sufficient to qualify for the job opportunity.” The Petitioner asserts that the Beneficiary’s IIIE graduate membership constitutes such a degree in accordance with the labor certification.

The labor certification requires at a minimum a U.S. bachelor’s degree or a foreign educational equivalent, which in this case is a foreign equivalent *degree*. If we were to interpret the labor certification to allow for less than a foreign equivalent degree, as the Petitioner suggests, the labor certification would not support the requested classification of advanced degree professional. *See* 8 C.F.R. § 204.5(k)(4)(i). As previously discussed, the IIIE is not a degree-granting institution and its membership certificate is not a foreign equivalent degree to a U.S. baccalaureate degree in industrial engineering. Therefore, the Beneficiary does not meet the minimum educational requirement of the labor certification.

III. CONCLUSION

We will dismiss the appeal because the Petitioner has not established that the Beneficiary has a U.S. baccalaureate degree or a foreign equivalent degree, as required to qualify for classification as an advanced degree professional and to meet the minimum educational requirement of the labor certification.

ORDER: The appeal is dismissed.