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THREE-YEAR DEGREES AND I-140 VISAS: AN IMPOSSIBLE COMBINATION?

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Last year, in June 2007, the American Immigration Law Association (AILA) held their annual conference in Orlando, Florida. During this conference, the audience was warned that **all 3-year degrees have a high risk of being denied**. The MATTER OF SHAH is now being used to question degrees worldwide, rather than primarily for degrees from Indian universities. These degrees are, in fact, being denied much more frequently, and evaluators have been warned that, in all probability, this trend will only continue.

What can we do to help students with 3-year degrees resolve this dilemma?

1. Recently, Ron Wada advised: "This is one situation where the service centers' case by case policy can work in your favor, because that cuts both ways. They still leave the door open to say, "If you can show us that your three year degree is equivalent to a US 4 year bachelor degree then we will approve your case. But the burden of proof is on you. Alright, so one can visualize that it is possible to do this ... " Furthermore, concerning the evaluation process itself, Wada stated, "I would like to say one thing here, for the future, the way I see the future of credential evaluations, we have to get smarter. We cannot assume that what we've used in the past, the cookie cutter, on the cheap, credential evaluation is going to fly. If you have a case that solidly meets the requirements you don't even need a credential evaluation and it is not useful in that situation. When you need it is when you've got facts that aren't clearly approvable and you need a credential evaluation to back that up. You are going to need a credential evaluation that does something for you, that gives analysis, that provides back up documentation. It cannot be the simple evaluation you're used to getting."

At both the 2006 and 2007 AILA conferences with USCIS, this issue was discussed.

USCIS offered this response to a question that arose during the April 19, 2006 AILA liaison's visit with I-140 product line manager supervisors:

"We are aware that some countries (i.e., many European countries) have educational systems that have the equivalent of 13 years education prior to university, and that education plus a three-year university degree is the equivalent of a Bachelor's degree in the U.S. However, many other countries' educational systems have only 12 years of education prior to university, and then only three years of university coursework. With respect to such degree, we need evidence that the beneficiary has the equivalent of the required degree...A simple credential evaluation stating that the degree is equivalent may not be sufficient. It should be supported by a detailed explanation of how that conclusion was made and the transcripts of the beneficiary's schooling to support the explanation and to document where the evaluator found the coursework equating a four-year degree."

Furthermore, during this session, the USCIS admitted that a Bachelor Degree awarded to a student who graduates from a 12+3 educational system, such as the one found in India, may be considered to be the U.S. equivalency of a four-year bachelor degree if the recipient can document that the coursework involved is equivalent to that found in a four-year degree program. We offer, in this expert opinion, a detailed explanation that utilizes comprehensive evidence concluding that, based on a comparison of coursework, the Indian 3-year degree is the US equivalency of a 4-year bachelor degree program.

Again, as stated in the April 2007 NSC Liaison Spring Meeting:

"2. We understand that NSC reviews a beneficiary's educational qualifications on a case by case basis, and considers credential evaluations to be purely advisory in nature. The "case by case" policy makes it difficult for petitioners to understand what documentation is needed to support their case. One member reports receiving multiple RFEs requesting documentation of the "length and complexity" of the academic program; but this type of request in an RFE still does not

provide the guidance needed to prepare a response. For the situations listed in Question 1 where documentation beyond the official academic record is needed to establish either bachelor's degree or master's degree equivalency, it would be helpful if NSC could provide some basic guidance concerning the minimum content of the supplementary documentation that would be needed to establish foreign degree equivalency with U.S. degrees. For example, for EB2 cases involving beneficiaries with an Indian 3 year bachelor's degree followed by a 2 year master's degree, we understand that NSC has approved I-140s where the petitioner has submitted either:

- a. Examples of comparable U.S. master's degree programs requiring only one year to complete (indicating that a total of 5 years of undergraduate and graduate level education is sufficient); or
- b. Credential evaluations that provide a detailed comparison of credit hours completed by the beneficiary for the 3 year bachelor's degree program with credit hours required by comparable U.S. bachelor's programs.

Please confirm whether either or both of these types of documentation can establish equivalency in situations where NSC requires supplementary evidence of degree equivalency.

Answer: In most situations, either of these instances would allow USCIS to determine in favor of educational equivalency. The petition filed must include adequate documentation to establish that the beneficiary is indeed meets the qualification requirements specified in the labor certification. If the requirement of a master's degree is specified, the petitioner must be able to offer enough documentary evidence that the beneficiary's education is the functional equivalent of a US master's degree in the required field.

CCI will review all RFEs and Denials that are based on foreign education credential evaluations without charge. We do this in order to assist clients, as well as their attorneys and employers. Call Toll-Free: 1.800.771.4723 for details.

Sheila Danzig is the executive director of Career Consulting International, a foreign credential evaluation agency that specializes in USCIS education-related RFE's and Denials. Ms. Danzig is the co-author of an article that offers an in-depth examination of Indian 3-year degrees.

Tags: 3-year degrees, bachelor degree, bachelor's degree, Credential Evaluation, Credential evaluations, master's degree, university coursework, university degree

This article was written by sheila

