

Department of Homeland Security
Bureau of Citizenship and Immigration Services

Office of Program and Regulatory Development

Washington, DC 20536

Ms. Naomi Schorr, Esq.
Bryan Cave Robinson Silverman
1299 Avenue of the Americas
New York, NY 10104

July 23, 2003

Dear Ms. Schorr:

This letter is in response to your June 30th letter inquiring about possible means to satisfy the requirement of a foreign equivalent of a U.S. advanced degree for purposes of 8 CFR 204.5(k)(2).

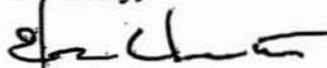
You ask if the completion of a three-year university course of study resulting in a bachelor's degree, followed by the completion of a PONSI-recognized post-graduate diploma program may be deemed to be the equivalent of a four-year U.S. bachelor's degree. In my opinion such a combination may be deemed the equivalent of a four-year U.S. bachelor's degree.

I also agree with your second question-an alien in this scenario may combine that equivalent degree with five years of progressive experience in the specialty in order to satisfy the "advanced degree" requirements of INA § 203(b)(2)(A) and 8 CFR § 204.5(k)(2).

Finally, you ask whether acceptance into a master's degree program by a U.S. institution of higher education because the institution considers the combined academic credentials to be the equivalent of a U.S. bachelor's degree would allow the Bureau of Citizenship and Immigration Services to deem the alien to have attained a bachelor's degree. You ask whether that bachelor's degree, coupled with five years of progressive experience in the field, could satisfy the regulatory definition of "advanced degree" for EB-2 purposes. While it is my personal opinion that this should be the case, this is not currently contemplated in the regulations and I cannot state that a case should currently be treated this way.

We hope that this information has been useful to you. If you have further questions concerning this matter, please do not hesitate to contact this office at the above address.

Sincerely,



Effen Hernandez III
Director, Business and Trade Services



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June 30, 2003

VIA FEDERAL EXPRESS

Efren Hernandez III, Esq.
 Director, Business and Trade Services
 Bureau of Citizenship & Immigration Services
 425 I Street, N.W.
 Washington, D.C. 20536

Re: Degree equivalence

Dear Mr. Hernandez:

Several months ago, you wrote a letter to a practitioner in which you discussed what might constitute the foreign equivalent of a U.S. advanced degree for purposes of 8 CFR § 204.5(k)(2).¹ In that letter, you stated that the foreign equivalent advanced degree need not be in the form of a single degree, and that despite the use of the singular word “degree” in the regulations,² “it is not the intent of the regulations that only a *single* foreign degree may satisfy the equivalence requirement.” (Emphasis added.)

We are writing to ask several questions arising from your earlier correspondence concerning foreign nationals who have attained a bachelor’s degree abroad after three years of university study. We would like to know whether a three-year foreign bachelor’s degree, coupled with a post-graduation diploma, may be deemed to be the equivalent of a U.S. bachelor’s degree.

Specifically, we wish to know if the completion of a three-year university course of study resulting in a bachelor’s degree, followed, for example, by the completion of a

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¹ Letter to Aron Finkelstein dated January 7, 2003, available at AILA InfoNet (doc. no. 03041544), annexed hereto.

² The regulatory provision gives definition to INA § 203(b)(2)(A), which allows for the immigration of those who are members of the professions “holding advanced degrees or their equivalent.” In defining an “advanced degree,” the regulation states: “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.” 8 CFR § 204.5(k)(2).

Efren Hernandez III, Esq.

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post-graduate diploma program, recognized by PONSI³ as the equivalent of at least 30 semester credits at both the lower and upper university level, may be deemed to be the equivalent of a four-year U.S. bachelor's degree. Our question assumes that a qualified credentials evaluation service has reviewed the alien's academic credentials and has evaluated them as the equivalent of a U.S. bachelor's degree.

If you agree that the alien in the scenario we have just outlined has the equivalent of a U.S. bachelor's degree, may that equivalent degree, combined with five years of progressive experience in the specialty, be deemed an advanced degree, satisfying the requirements of INA § 203(b)(2)(A) and 8 CFR § 204.5(k)(2)?

We ask two further questions: Assume that a foreign national under the facts we set forth above has been accepted into a master's degree program by a regionally accredited U.S. institution of higher education. That school has admitted him to its advanced degree program because it considers his combined academic credentials to be the equivalent of a U.S. bachelor's degree. Under these circumstances, would the BCIS deem the alien to have attained a bachelor's degree? If so, would that bachelor's degree, coupled with five years of progressive experience in the field, satisfy the regulatory definition of "advanced degree" for EB-2 purposes?

We thank you for taking the time to consider these questions, and look forward to your reply.

Very truly yours,



Naomi Schorr

NS:rt

³ Program on Noncollegiate Sponsored Instruction of the American Council on Education's Center for Adult Learning and Educational Credentials. Please note that in connection with equivalence to completion of a college degree in the H-1B arena, the BCIS states, at 8 CFR § 214.2(h)(4)(iii)(D)(2), that equivalence to a U.S. bachelor's degree includes "the results of recognized college-level equivalency examinations or special credit programs, such as . . . PONSI."