



Credential Evaluations for US Immigration

PRESENTED BY KALA FRYMAN AND
RACHEL BARMATZ OF SILVERGATE
EVALUATIONS

Employment-Based Immigration

"The H-1B program applies to employers seeking to hire nonimmigrant aliens as workers in specialty occupations or as fashion models of distinguished merit and ability. A specialty occupation is one that requires the application of a body of highly specialized knowledge and the attainment of at least a bachelor's degree or its equivalent. The intent of the H-1B provisions is to help employers who cannot otherwise obtain needed business skills and abilities from the U.S. workforce by authorizing the temporary employment of qualified individuals who are not otherwise authorized to work in the United States." – US Department of Labor

Foreign Degree Equivalency

Because many beneficiaries are educated outside the United States, you must ascertain whether the beneficiary's foreign education is equivalent to a U.S. degree. Just because the degree says it is a bachelor's degree does not necessarily mean that it is equivalent to a U.S. bachelor's degree. Therefore, professional education evaluations are often used to determine the level of education attained by the beneficiary.



Who requests evaluations for immigration purposes?

- ▶ Law Firms
- ▶ Human Resource Professionals/Employers
- ▶ Individuals



Non-Immigrant/Temporary Visa Types that Require an Evaluation

- ▶ H-1B (Non-Immigrant Visa)
 - ▶ Will need a Bachelor's Degree equivalency in the relevant specialty
 - ▶ 85,000 total (20,000 under Master's quota) per year
 - ▶ Applications reviewed through a lottery system
 - ▶ Cap for the Lottery is April 1st each year, hence the March rush
 - ▶ Approximately 200,000 applications per year entered into the lottery

Non-Immigrant/Temporary Visa Types that Require an Evaluation (Cont'd)



Happy Roo

- ▶ E-3 (Non-Immigrant Visa)
 - ▶ Similar to H-1B requirements, but only for Australian nationals
 - ▶ Will need a Bachelor's Degree equivalency in the given specialty
- ▶ TN (Non-Immigrant Visa)
 - ▶ Visa for Canadian and Mexican nationals only
 - ▶ Educational equivalency requirements vary based on the occupational category- may need equivalency ranging from "Post Secondary Diploma" to Bachelor's Degree or higher in a given specialty

Permanent Resident/ Green Card Cases that Require an Evaluation

- ▶ EB-2 for Advanced Degree Professionals (Immigrant Visa)
 - ▶ Advanced Degree or Advanced Degree equivalency required
 - ▶ Alternatively, “Single source” Bachelor’s Degree equivalency plus 5+ years of post-baccalaureate progressive work experience in the relevant specialty can be accepted
- ▶ EB-3 for Skilled Workers (Immigrant Visa)
 - ▶ Requirement can be whatever the employer attests as long as the Department of Labor (DOL) finds it to be justified
 - ▶ Educational Equivalency necessary is based on whatever requirement the employer set, so could range from less than a high school diploma all the way to a PhD in any field



U.S. Citizenship and Immigration Services

Number of H-1B Petition Filings
Applications and Approvals, Country, Age, Occupation,
Industry, Annual Compensation (\$), and Education
FY2007 - FY2017

Note: Unless noted otherwise, all data are based on petitions received during a fiscal year. Note: FY2017 data is as of June 30th, 2017. A large portion of the FY2017 petitions are still pending adjudication as of the date this report.

Trend of H1B Petitions Filed FY 2007 Through 2017: Beneficiary Country of Birth (Top Twenty)

Country												Total
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	
India	166,575	157,608	122,475	135,931	155,791	197,940	201,114	227,172	269,677	300,902	247,927	2,183,112
China, People's Republic of	26,370	24,434	22,411	21,119	23,227	22,528	23,924	27,733	32,485	35,720	36,362	296,313
Philippines	12,230	10,713	10,407	8,887	9,098	9,400	7,399	6,772	4,147	3,704	3,161	85,918
South Korea	10,730	10,277	10,704	8,721	7,480	7,204	5,576	4,897	4,298	4,269	3,203	77,359
Canada	8,562	7,111	7,871	7,342	6,761	6,688	5,478	5,267	5,050	4,547	3,551	68,228
Taiwan	5,394	4,088	4,308	4,325	4,511	4,172	3,520	3,267	2,555	2,287	2,200	40,627
Mexico	4,259	3,680	3,599	3,260	3,439	3,602	2,985	2,769	2,462	2,315	2,239	34,609
United Kingdom	5,105	4,241	4,270	3,651	3,241	3,130	2,330	1,988	1,697	1,528	1,783	32,964
Pakistan	4,259	3,803	3,683	3,012	3,033	2,765	2,381	2,497	2,512	2,401	1,536	31,882
France	4,112	3,687	3,035	2,660	2,531	2,292	2,192	2,024	2,048	1,998	1,474	28,053
Brazil	3,056	2,498	2,495	2,595	2,644	2,557	2,346	2,353	2,111	1,992	1,517	26,164
Nepal	2,775	2,538	2,724	2,467	2,169	2,066	1,788	1,598	1,512	1,504	1,249	22,390
Japan	2,913	2,374	2,253	2,225	2,172	2,030	1,755	1,664	1,553	1,481	1,077	21,497
Turkey	2,415	2,028	2,041	2,023	2,020	1,966	1,658	1,665	1,711	1,709	1,177	20,413
Germany	3,168	2,482	2,182	1,875	1,737	1,650	1,319	1,256	1,164	1,006	1,127	18,966
Iran	2,531	1,930	1,952	1,897	1,755	1,676	1,362	1,331	1,230	1,152	1,332	18,148
Italy	1,353	1,533	1,437	1,361	1,613	1,922	1,722	1,865	1,894	1,639	918	17,257
Russia	2,446	1,760	1,544	1,434	1,570	1,499	1,318	1,323	1,275	1,154	948	16,271
Venezuela	1,262	1,159	1,302	1,299	1,398	1,540	1,370	1,339	1,247	1,208	873	13,997
Spain	1,079	974	933	1,018	1,233	1,140	1,230	1,201	1,110	1,094	861	11,873
All Other	44,027	36,557	34,500	31,170	30,989	30,475	26,923	25,990	27,114	25,739	21,592	335,076

USCIS Legal Requirements for Academic Evaluations

Per the Published Regulations:

“Evaluation of education by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials. The Service will only accept evaluations of foreign academic education or vocational or technical training provided in a structured classroom setting from credentials evaluations services. In no case will the Service accept their evaluation of work experience, including apprenticeships and/or practical training.”

What they Actually Want (Per RFEs):

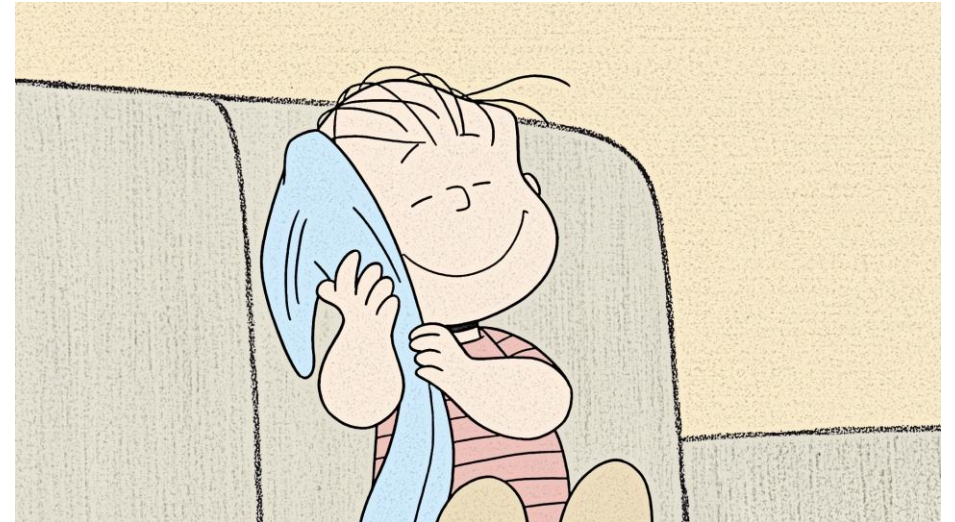
- An advisory evaluation of the beneficiary’s foreign educational credentials by a credentials evaluation service that specializes in evaluating foreign educational credentials. This evaluation should:
 - Address the beneficiary’s educational achievements as to equivalent education in the United States including the field of study;
 - Consider formal post-secondary education only and not training or experience;
 - Provide a detailed description of the material evaluated rather than conclusions;
 - Provide a brief description of the qualifications and experience of the evaluator;
 - Include all the documentation provided by the beneficiary for the evaluation; and
 - Cite any reference material used by the evaluator.

Guidelines for the Adjudicator (USCIS Officer)

- ▶ “Foreign educational credentials, licenses and other forms of documentation are easier to evaluate than experience. The petitioner may establish from an authoritative source or from transcripts, certificates, or other such school records that the alien has college-level education. College-level training may have been acquired at a college or university or other academic institution which grants a degree, diploma, or certificate, such as a technical college. It may be useful to compare the beneficiary’s age at completion and the duration of the course of study, with the average age of graduates of United States institutions offering similar programs as a factor in determining equivalency of education.”

USCIS Considerations and Best Practices

- ▶ Certified translations
- ▶ Original academic documents are not required
- ▶ Reliance on the American Association of Collegiate Registrars and Admissions Officers (AACRAO)'s Electronic Database for Global Education (EDGE)
- ▶ PDFs of evaluation reports are generally sufficient
- ▶ Communication with attorney/client about their end game
- ▶ Thorough review of coursework
- ▶ Holistic approach



EDGE- the adjudicator's security blanket

Evaluations for Immigration

Equivalent US major based on course work analysis

Citing sources– ACCRAO
EDGE

Evaluator must sign and provide biography with each evaluation

Entertain special requests

Evaluations for University Admission

Credit Expiration (graduate and doctoral level)

Authenticating documents

Credit conversion

G.P.A. Calculation

Language of Instruction

ACCREDITATION
VERIFICATION AND
DOCUMENT REVIEW

YEARS/SEMESTERS
ACCOUNTED FOR

Three Possibilities for a Petition Other than Outright Approval

- ▶ A Request for Evidence (RFE)
- ▶ A Notice of Intent to Deny (NOID) A NOID is issued when the chance of denial is high, whereas the chance of denial is more uncertain with an RFE
- ▶ An outright Denial can only be overturned upon appeal



RFE Trends

Buy American and Hire American Executive Order (2017)

“Sec. 5. Ensuring the Integrity of the Immigration System in Order to “Hire American.” (a) In order to advance the policy outlined in section 2(b) of this order, the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of Homeland Security shall, as soon as practicable, and consistent with applicable law, propose new rules and issue new guidance, to supersede or revise previous rules and guidance if appropriate, to protect the interests of United States workers in the administration of our immigration system, including through the prevention of fraud or abuse.

(b) In order to promote the proper functioning of the H-1B visa program, the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of Homeland Security shall, as soon as practicable, suggest reforms to help ensure that H-1B visas are awarded to the most-skilled or highest-paid petition beneficiaries.”

Fiscal Year	H-1B Initial Denial Rate	H-1B RFE Rate	H-1B Approved After RFE Rate
2015	4.3	22.3	83.2
2016	6.1	20.8	78.9
2017	7.4	21.4	73.6
2018	15.5	38	62.3
2019 (Q1)	24.6	60	61.5

- In the first quarter of FY 2019, the RFE rate jumped to 60 percent, compared to 45.6 percent in the first quarter of FY 2018.
- The rate of denials more than doubled between FY 2017 and FY 2018, and it more than tripled in FY 2018 compared to FY 2015.
- The approval rate, even after providing additional information via an RFE, has steadily dropped since FY 2015.

RFEs and NOIDs pertaining to Evaluations

- ▶ Common reasons for RFEs relating to Evaluations
 - ▶ Evaluation is missing a component that USCIS wants to see
 - ▶ Adjudicator is questioning the accreditation of an institution
 - ▶ Insufficient evidence that the credential supports the provided US equivalency

RFE Examples

Beneficiary Qualifications

The labor certification you provided requires an associate's degree in mechanical engineering and twenty-four months of experience.

A complete copy of the beneficiary's official academic record (typically, an educational credential, transcripts, and other official documents from educational institutions) showing the dates of attendance, area(s) of concentration of study, and the date(s) the beneficiary received the submitted educational credential(s) are required to establish that the beneficiary meets the education requirement of the labor certification.

As evidence of the beneficiary's qualifications, you provided:

- a copy of the beneficiary's degree;
- a copy of a license to practice an advanced technical degree in mechanics;
- translations of the above two documents; and
- an experience letter.

USCIS consulted the American Association of Collegiate Registrars and Admissions Officers' (AACRAO's) Electronic Database for Global Education (EDGE) in order to assess the evidence provided. EDGE does not provide any information concerning the accreditation or degree offerings of the Technical University of San Luis Potosi. As such, additional information is required to determine whether or not that university is accredited and whether or not the degree received by the beneficiary from that institution is the equivalent of a U.S. associate's degree.

Please also submit a detailed advisory evaluation of the beneficiary's credentials and regarding the accreditation of the Technical University of San Luis Potosi. This evaluation is necessary to determine the level and major field of the education in terms of equivalent education in the United States. An acceptable evaluation should:

Education

The labor certification requires A bachelors degree and 36 months of experience. You submitted a bachelors degree and a Masters degree from Nagarjuna University to meet this requirement.

USCIS consulted <https://www.4icu.org/>. The website does not show the Nagarjuna University is accredited. Furthermore, the petitioner did not submit any evidence to show the beneficiary's diplomas were accredited by the Nagarjuna University at the time the beneficiary received it.

Therefore, please submit evidence to establish that the beneficiary meets the educational requirements as of the priority date.

This evidence should consist of one of the following:

- Evidence to establish that the institution from which the beneficiary received his or her degree was accredited at the time that it issued the beneficiary's degree; or
- Any other evidence to establish that the beneficiary meets the educational requirements listed on the labor certification as of the priority date. This evidence should consist of a complete copy of the beneficiary's official academic record (typically the degree, the transcripts, or other official document from the academic institution) showing the beneficiary has the required U.S. degree (or a foreign equivalent degree), the dates of attendance, area of concentration of study, and the date the beneficiary received the degree.

The evaluation you submitted was issued by Silvergate Evaluations and claims the beneficiary's foreign degree in Computer Engineering is equivalent to the attainment of a U.S. Bachelor's Degree in Computer Engineering. The evaluation is insufficient because you have not established that, at the time of filing, the beneficiary had also achieved "recognition of expertise in the specialty through progressively responsible positions directly related to the specialty." 8 CFC 214.2(h)(4)(iii)(C)(4) and INA 214(i)(2)(C). Please note that résumés or curriculum vitae may not necessarily show recognition of expertise since résumés are descriptions of the beneficiary's education, activities and goals; not evidence of any expertise that the beneficiary may have gained.

The labor certification requires a Master's Degree in Computer Science or Earth and Space Science. You submitted a copy of the beneficiary's Bachelor of Science Degree showing a graduation date of June 2009, a copy of her Magisteriate of Science Degree showing a graduation date of June 2010, corresponding transcripts, and an Evaluation of Academics from Silvergate Evaluations, Inc. However, upon review of the beneficiary's transcripts, it appears she only has 57 credit hours for her Bachelor's Degree and 15 credit hours for her Master's Degree. A Bachelor's Degree normally requires at least 120 credit hours, within 4 years, and a Master's Degree requires at least 36 credit hours, within 2 years. It is unclear how the evaluator determined that the beneficiary's Bachelor's and Master's Degrees from York University in Canada are the foreign equivalent of a Bachelor's and Master's Degree from the United States. Therefore, please submit additional evidence to establish that the beneficiary meets the educational requirements as of the priority date.

RFE Examples

It is not sufficient for the petitioner to merely demonstrate that the beneficiary has a degree in a health field. Because Form ETA 9089 is specific in its requirement of a master's degree in the field of health services, the petitioner has the burden of demonstrating that a Bachelor of Medicine and Bachelor of Surgery degree is equivalent to a United States master's degree in health services.

Although the petitioner submits an evaluation of the beneficiary's education, the evaluator fails to provide any details on how the beneficiary's degree is equivalent to a bachelor's degree in health services and a master's degree in health services. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, USCIS is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec.791 (Comm., 1988).

The evidence you submitted is insufficient to satisfy this requirement. USCIS is not persuaded that the beneficiary's qualifications match the proffered position. According to the beneficiary's school documents, the beneficiary received a foreign master's degree in Computer Applications. However, the provided transcripts indicate that the beneficiary completed six semesters. Without evidence of additional education or work experience, it is unclear how the evaluator came to the determination that the beneficiary's education is equivalent to a U.S. Master's degree in Computer Science. As such, it is not evident that the beneficiary's obtained degree is equivalent to the four-year program of a U.S. Bachelor's degree and it is unclear what additional courses or degrees the beneficiary may have completed. Therefore, it cannot be determined if the beneficiary's foreign degree is equivalent to a U.S. bachelor's degree in a specific field required by the specialty occupation.

RFE EXAMPLES

Responding to RFEs

► Memos written to USCIS by the Senior Evaluator:

April 8, 2019

To Whom It May Concern:

Universidad Tecnológica de San Luis Potosí, located in San Luis Potosí, México, is an accredited technological university in México. Mexico's Subsecretaría de Educación Pública (SEP) is a government entity responsible for the oversight of public and private higher educational institutions in Mexico. The SEP website lists Universidad Tecnológica de San Luis Potosí under the category of recognized "Universidades Tecnológicas."¹ Another indication of the university's official status with SEP appears on the document themselves. On the back of the diploma, there is a stamp and seal from SEP, signifying that this is a nationally registered profession and academic degree in Mexico. If the university was not accredited by SEP, Mr. Hernandez Murrieta would not have been able to register his academic title with the government, nor would the documents bear any certifying information from SEP. The diploma information can be verified online in the Registro Nacional de Profesionistas.² While the ACCRAO-EDGE database is a good resource and starting point for research, it is preferable to rely on direct sources maintained by a country's government or Ministry of Education for the most up to date and comprehensive information on the status of institutions.

Considering Universidad Tecnológica de San Luis Potosí's recognition by the Subsecretaría de Educación Pública, the de facto governmental authority regulating higher education in Mexico, I consider this institution to be the equivalent of a regionally accredited university in the United States.

Sincerely,



Kala Fryman, Senior Evaluator

March 1, 2019

To Whom It May Concern:

Acharya Nagarjuna University is recognized as a "state university"¹ as established by the University Grants Commission ("UGC") under Section 2(f) and 12(b) of the UGC Act of 1956 by the Ministry of Human Resource Development, Government of India². The UGC³ was established under the University Grants Commission Act of 1956, and is the central body overseeing research and educational standards at the university level in India. Institutions declared as "state universities" are established by the Act of the State Legislature concerned and are funded by the State Government. The UGC considers universities established by an Act of Central or State Government as valid universities.⁴

Nagarjuna University was established by Act 43 of the 1976 Andhra Pradesh State Legislature⁵, and is governed by Andhra Pradesh Act 4 of 1991.⁶ In 2004, Nagarjuna University changed its name to Acharya Nagarjuna University. The name change of the university was approved by the Government of Andhra Pradesh and officially amended the Andhra Pradesh Universities Act of 1991.⁷ Considering that Acharya Nagarjuna University has been a recognized state university since its founding by Act of the Andhra Pradesh State legislature in 1976, I consider this institution to be the equivalent of a regionally accredited university in the United States. Further, it follows that the institution had the equivalent of regional accreditation in the United States during [REDACTED] attendance period of 1995-2000.

Additionally, based upon my review of the diploma and transcripts that were evaluated by Silvergate Evaluations, I agree with and confirm the equivalency of a Master's Degree in Applied Computer Science from this institution earned by [REDACTED] as provided in the evaluation report dated March 1, 2019.

Sincerely,



Predictions and Advice for 2020

GO
with the
Flow



- ▶ Continued deluge of RFEs (and grouchy customers)
- ▶ More evaluations requested past April 1st instead of before it - clients wait to request because they already anticipate the RFE to come
- ▶ Greater number of Evaluations for Advanced Degree holders due to recent reform of H-1B program

Contact Us

KALA FRYMAN, SENIOR EVALUATOR

kalaf@silvergateevaluations.com

RACHEL BARMATZ, ASSOCIATE SENIOR CASE MANAGER

rachelb@silvergateevaluations.com



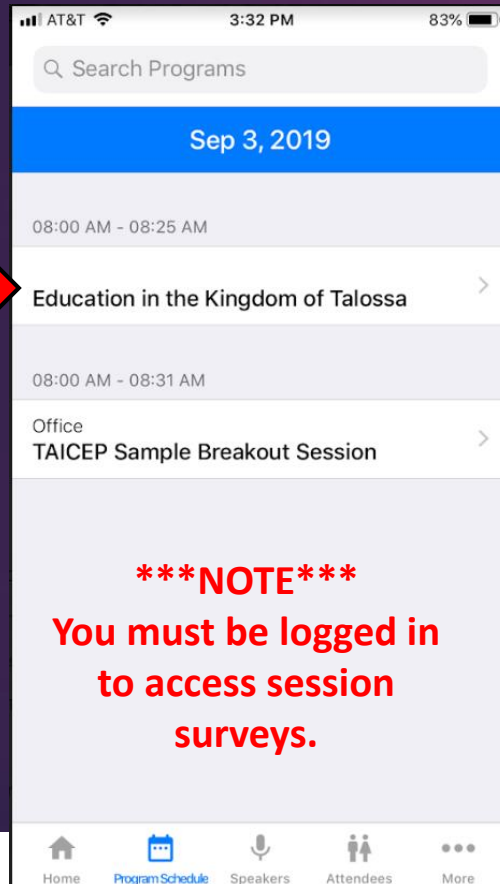
Please Complete a Session Survey

Open Session Details in the Website or Mobile App Schedule

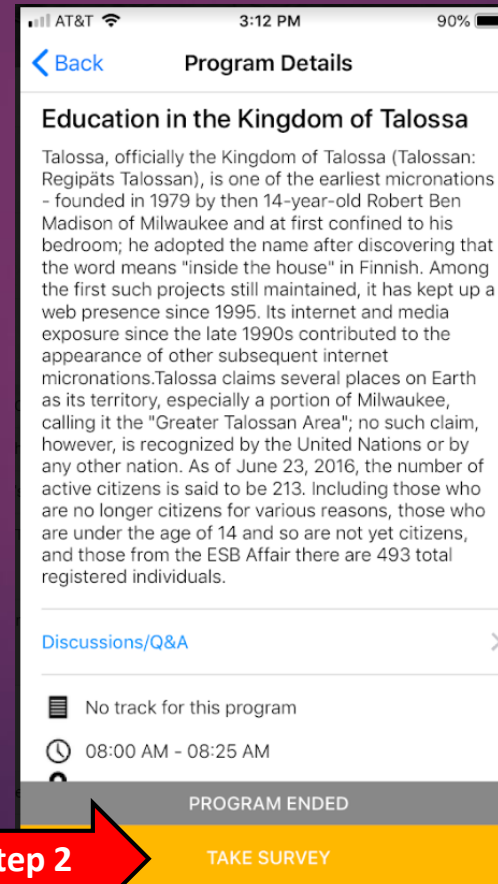
“Take Survey” Button Available 10 Minutes Before Session Ends

“Submit” (Then... go find coffee!)

Step 1



Step 2



Step 3

