SUBJECT-MATTER INDEX

A

AAO and other administrative decisions
see also authority for degree equivalency cases
appellate procedure, see Appeals
authority to interpret employer’s job requirements, 46–50
legal foundation for AAO’s position on three-year degrees, 8–10
narrow interpretation essential, 12
departure from the general rule, 42
nonbinding effect, 1
online availability, 40
sample EB-3 decisions, Appendix D
unpublished decision as persuasive authority, 40, 41
AILA liaison committees
efforts to develop policy memorandum, 6
individual assistance via, 8, 20, 38, 39, 40, 52
Q&A and other guidance, 8, 24, 31, 33, 36
alternative qualifications
See education, training, or experience as degree-equivalent
ambiguity on I-140
difficulties with “or equivalent” language, 15–16, 29–32
appeals
AAO, appeals to
generally, 40–42
“clear error,” 41
difficulties in challenging Shah, 41
filing of Form I-290B initially treated as motion to reconsider, 40
processing time, 39
federal court appeals
generally, 5–6, 42–52
deference to agency interpretation (Chevron), 12, 44
jurisdiction, 42–43
successful strategies, 44–46
options when I-140 is denied, 39
reversals of I-140 denials, 5–6
sample briefs, Appendix E
authority for degree equivalency cases
administrative decisions and memos, 7–8
court decisions, 7
liaison minutes, 7
regulatory, 6
statutory, 6–7

C

Chevron deference
See appeals, subhead: federal court appeals
common sense and knowledge of real-world practices
uselessness, 11–12
credential evaluators and evaluations
effectiveness of “cookie cutter” evaluations, 17–18
working with evaluators, 35–37

degree equivalency
see also language, ambiguity
generally, 19–37
common pitfalls, 19–21
EB-2 vs. EB-3, 19–22, 28–29
EB-2 PERM applications, 22–28
communscenarios (table), 25–27
EB-3 PERM applications, 28–35
master’s degrees, 23–24
denial of I-140 petition
options, 39
reversal, 5–6

E

EB-2 & EB-3 PERM applications
See degree equivalency
EB-2 vs. EB-3
common pitfalls when designating degree requirements, 19–21
key difference, 28–29
strategies for expressing equivalency, 14–15
education, training, or experience as degree-equivalent
approval of EB-3 as “skilled worker” rather than “member of the professions,” 46
authority of AAO & USCIS to interpret employer’s requirements, 46–53
distinguishing foreign education from foreign equivalent degree, 12–13
Kellogg language, analysis by NSC Liaison Committee, 31
AILA’s Focus on EB-2 & EB-3 Degree Equivalency

evaluations
See credential evaluators and evaluations

evaluation
See education, training, or experience as degree-equivalent

federal court appeals
See appeals

foreign equivalent education
See education, training, or experience as degree-equivalent

history
generally, 1–6
three-year bachelor’s degrees, 2–6
expansion to EB-3, 4–6

INA, generally
See authority for degree equivalency cases

Indian three-year degrees
distinguishing from rest-of-world degrees, 16–17
presumption of nonequivalence, 17

jurisdiction, federal court
See appeals

labor certifications
See also degree equivalency
education and experience scheme compared with
USCIS degree equivalency regulations, 1
salvaging old labor certifications, 32–35

language, ambiguity
“or equivalent” and its variations, 15–16, 29–32

motions to reconsider
filing of Form I-290B with AAO, 40

Nebraska Service Center (NSC)
See USCIS, subhead: service centers

“or equivalent” and its variations
interpretations, 15–16, 29–32

PERM applications
degree equivalency
see degree equivalency

presumption of nonequivalence
Indian three-year degrees, 17

processing time
AAO appeals, 39

regulatory and statutory authority
See authority for degree equivalency cases

service centers
See USCIS

training
See education, training, or experience as degree-equivalent

two-pronged test for approval of I-140
generally, 13–14
examples, 14

unpublished AAO decisions
as persuasive authority, 40, 41

USCIS
authority of AAO & USCIS to interpret employer’s
requirements, 46–53
independent role of USCIS, 47–50
limitation on USCIS’s authority, 50–51
service centers
inconsistency among, 1, 5
NSC standard for evaluating degree equivalency,
17, 18, 40