

# Education requirements para sa EB2 category

## TAPAT SA BATAS



ATTY. RHEA V. SAMSON

NOONG huli kong mga artikulo ay aking tinalakay ang EB2 at EB3 bilang categories sa pagkuha ng Employment-Based Green Card. Tinalakay ko rin ang pagkakaiba ng priority dates para sa EB2 at EB3 categories. Ang EB2 ay current pa rin ayon sa kalalabas pa lamang na Visa Bulletin para sa July 2009, maliban sa China at India. Ang EB3 naman ay unavailable pa rin para sa lahat.

Sinabi ko na ang karaniwang nasa EB2 category ay advanced degree professionals o ang mga dayuhang may Master's degree o Master's degree equivalent. Ang karaniwang nasa EB3 category naman ay mga professionals o bachelor's degree holders. Marami ang nagtatanong tungkol sa education requirements at foreign degree equivalency para sa EB2 dahil ito ay current. Ano ba ang Master's degree equivalent? Ito ang aking tatalakayin ngayon.

Ang Master's degree equivalent ay maaaring foreign Master's degree na mula sa academic institution ng ibang bansa. Ito ay kapag ang mga accredited USCIS education evaluators ay nagdetermina na ang isang Foreign Master's Degree ay equivalent sa US Master's degree na ibinibigay ng isang US institution of higher education.

Ang Master's degree equivalent ay maaari ring kombinasyon ng Bachelor's degree at work experience. Ito ay Bachelor's degree at hindi kukulang sa five (5) years progressive work experience sa field ng Bachelor's degree na nakuha ng dayuhan. Ang determination ng Master's degree equivalent na ito ay manggagaling din sa accredited USCIS education evaluators. Hindi automatic na ang isang dayuhan na may Bachelor's degree at five years work experience ay Master's degree equivalent na sapagkat ang kailangan ay hindi lamang work experience kundi progressive work experience. Kaya't kailangan ang USCIS accredited education

evaluators para dito. Ang ibig sabihin ng Master's degree equivalent ay inilarawan ng Administrative Appeals Office (AAO) sa isang kasong dinesisyonan nito kamakailan lamang. Sa kasong ito, ang US employer ay nagbibigay ng banking at finance services. Ito ay nag-petition ng dayuhan para sa posisyon na Computer Software Engineer at ang minimum requirement nito ay Master's degree sa Information Technology o related field. Ang dayuhan dito ay nakatapos ng 3-year bachelor's degree at 2-year Master's of Science degree sa Physics. Ayon sa USCIS Nebraska Service Center na nag-deny ng petition, ang dayuhan ay hindi qualified sa offered position ng US employer. Ito ay dahil ang 2-year Master's of Science degree na nakuha ng dayuhan ay kasunod ng pagkuha niya ng 3-year Bachelor's degree na hindi foreign equivalent ng US bachelor's degree.

Sa pag-reverse ng AAO ng desisyon ng USCIS, sinabi ng AAO na sa kasong ito, ang petitioner ay hindi nag-rely sa kombinasyon ng degree na mas mababa sa bachelor's degree at work experience para makakuha ng equivalent ng bachelor's degree. Ang sinasabi ng petitioner dito ay ang foreign Master's degree ay equivalent sa US Master's degree. Kaya't ang dayuhan ay qualified para sa offered position. Ito ay dahil ang Physics ay related field sa Information technology at may US Master's degree equivalent ang dayuhan na Master's degree in Physics.

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Si Attorney Rhea V. Samson ay abogado dito sa California at sa Pilipinas. Siya ay nagturo sa Ateneo De Manila University ng Essentials of Philippine Business Law, Obligations and Contracts, Corporation Law, Partnership Law at Labor Laws and Social Legislation. Siya rin ay nagkatha ng librong, "Working With Labor Laws, A Comprehensive Guide on Conditions of Employment, Employee Benefits Under Special Laws, Termination and Retirement" na inilathala ng Ateneo de Manila University Press at University of Hawaii Press. Itong libro niya ay kasalukuyang textbook sa kursong Labor Laws and Social Legislation ng Ateneo de Manila University. Siya ay humuhugot ng inspirasyon mula sa kanyang mga magulang na sina Engr. Roger Samson at Gng. Bella Valle Samson, na tubong Batangas.

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Nagbibigay si Attorney Samson ng free initial consultation sa kanyang opisina, Samson Law Corporation, 3550 Wilshire Boulevard, Suite 1765, Los Angeles, CA 90010; telephone no: (213)249-1605; fax no: (213)637-5637; email address: samson@samsonlawcorp.com; website: www.samsonlawcorp.com.

(Advertising Supplement)

## PROTECTING EMPLOYEE & CONSUMER RIGHTS



ATTY. CONRADO JOE SAYAS

IN PREVIOUS issues we discussed an employee's right to refuse an employer's instruction to perform work that violates the law. If the employer retaliates against the employee because of the refusal to do an unlawful act, the employee may file a whistleblower or retaliation claim.

How can an employee know if the he or she has a whistleblower or retaliation claim? The following guidelines are helpful:

1) The employee engaged in protected activity, such as reporting a violation, testifying as a witness, or some other action to help enforce the law. Protection can begin as soon as the evidence suggests that management thought the worker might be a witness in a future enforcement proceeding. Filing a grievance, contacting the media, refusing to perform illegal assignments, and other forms of standing up against violations of the law are protected.

Employee complaints that are indirect or misdirected may be protected if they reveal to management the intention to enforce the law. For employees assigned to safety, quality control or enforcement work, doing that work well or refusing to do

# Protecting employees when they assert their rights

anything that undermines safety or quality is also protected.

2) The employer knew or believed the employee engaged in such protected activity - Where the whistleblower has tried to be anonymous, it may be hard to prove the employer has knowledge of the protected activity. Still, some courts will use inferences to deduce who the employer may have suspected. Sometimes, the employer's investigation or interrogation of an employee who had the courage to speak up can reveal that the employer has knowledge of the protected activity.

Some whistleblowers will announce their protected activities. If they disclose copies of evidence to an agency, they send a copy to the employer by certified mail. Certified mail has the advantage of creating a document that shows the date the employer received the item. If the retaliation occurs shortly after the whistleblowing then the timing alone may suggest that the employer's true motive was because of the whistleblowing.

3) The employee suffered an adverse employment action - Any action that costs the worker money will be an adverse employment action. These include discharges, demotions, and denials of overtime, promotions, or benefits. Formal discipline is generally accepted as an adverse employment action. Courts are inconsistent on whether they

will allow a remedy for a bad evaluation, denial of a transfer, changes in hours or work location, hostile remarks, denial of parking privileges, and other changes that do not reduce a worker's paycheck.

4) The employee's protected activity caused the employer to take adverse action. - Causation can be proven either by direct evidence or by an inference. Direct evidence is evidence that the employer was mad at the protected activity. If a supervisor ranted about someone reporting a violation, that is direct evidence of the employer's intent against protected activity. Similarly, if the employer announces that whoever calls the government will be fired, or warns employees against reporting violations, that is direct evidence of retaliation.

In some cases, causation is obvious. The boss runs into the office yelling about the employee who reported a violation of the law. An employee raises her hand and announces that she made the call. The boss fires her on the spot. The timing and the intent make the retaliation clear.

If there is no direct evidence, unlawful retaliation can still be inferred from: timing (how soon it occurred after the employer learned about the protected activity); intent (the boss getting mad at the protected activity); deviation from normal practices

(people are not usually fired for this reason, or in this manner); changing or inconsistent explanations; a pattern of adverse actions against those who speak up; or the use of false/ fabricated evidence.

Like most legal actions, there is a deadline to file a written complaint for a whistleblower or retaliation claim. Failure to comply with the time limits may bar even a meritorious claim. If an employee is uncertain about a potential claim, including whether it can still be made within the time deadline, it is smart to consult with an experienced and knowledgeable employment attorney to determine available options.

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C. Joe Sayas, Jr., Esq. is an experienced trial attorney who has successfully obtained significant results, including several million dollar recoveries for consumers against insurance companies and big business. He is a member of the Million Dollar-Advocates Forum—a prestigious group of trial lawyers whose membership is limited to those who have demonstrated exceptional skill, experience and excellence in advocacy. He has been featured in the cover of Los Angeles Daily Journal's Verdicts and Settlements for his professional accomplishments and recipient of numerous awards from community and media organizations. His litigation practice concentrates in the following areas: serious personal injuries, wrongful death, insurance claims, unfair business practices, wage and hour (overtime) litigation. You can visit his website at www.joesayaslaw.com or contact his office by telephone at (818) 291-0088.  
(Advertising Supplement)

# US visa options for registered nurses

## IMMIGRATION AND TAX SOLUTIONS



ATTY. BELLA REYES, J.D., LL.M.

AS MANY of the readers of Asian Journal know, I am a Filipina and an Immigration Attorney based in Anaheim, California. I am retained Immigration Counsel for several Hospitals, Nursing Facilities, and other Private Employers of Registered Nurses who provide Employment and Sponsorship to RNs who want to work and live in the United States. I also represent hundreds of families of RNs who have successfully immigrated to the U.S. On behalf of my Employer clients, I am actively looking for well qualified RNs who have passed the NCLEX and require a Sponsorship.

In the past, I have had many RNs (or friends and family members of RNs) who called my office to inquire about their U.Visa Options. I have always taken time to provide them with as much information as I can to help them make the right decisions for themselves and their families. To accommodate the increasing number of these inquiries, and provide vital and accurate information to more people, I have decided to hold Seminars in California, Manila and Cebu this summer exclusively targeting RNs who are NCLEX Candidates and Passers to discuss their US Visa Options.

Some of the questions to be discussed in the Seminars are as follows:

for now?  
What is the difference between Permanent/Immigrant Visas and Non-Immigrant Visas?  
What is the Visa Retrogression? What do we do while there is a Visa Retrogression?  
Can I work while waiting for my visa application to be processed?  
What is the H-1B visa? How does one qualify for H-1B visa?  
Can I change my Tourist visa to H-1B visa and start working?  
What do Employer/Sponsors need from an Applicant RN?  
Who pays for the legal, filing, and other fees for visa applications?  
Can I bring my family with me under any of the visa options?  
If I passed the NCLEX-RN in one State, can I use it to apply for a visa and work in another State?  
Please visit my website at www.bellareyes.com for more

“ I have had many RNs (or friends and family members of RNs) who called my office to inquire about their U.Visa Options. I have always taken time to provide them with as much information as I can to help them make the right decisions for themselves and their families. ”

information about the Seminars and to register to attend the Seminar. You can also find more information about my background, credentials, and law practice there.

This article is not intended to provide the reader any legal or tax advice. For more information on applicable legal remedies or tax benefits for you, please call our office at (714) 530-0042 or visit our website at bellareyes.com.

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Bella Reyes is a Federal Tax and Immigration Attorney and has been practicing for over 13 years. She has clients in several states, including California, Texas, Nevada, Maryland, Washington, DC, Florida, New York, and New Jersey. She is a member of the bars of the US Supreme Court, US Tax Court, and Maryland. Her office is located at 421 N. Brookhurst Street, Suite 200, Anaheim, California 92801.  
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From: Bander Law Firm, LLP

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Bander Law Firm, LLP  
Email: info@banderlaw.com

**DOWNTOWN OFFICE:**  
1055 W. 7th Street, Suite 1950,  
Los Angeles, CA 90017  
Tel: (213) 873-4333  
Fax: (213) 873-4334

**LAS VEGAS OFFICE:**  
5155 S. Durango #101  
Las Vegas, NV 89148  
Tel. (702) 367-8000  
Fax (702) 367-8011

For more information, please visit our website:  
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