

PREFACE*

At this moment, the King, who had been for some time busily writing in his note-book, called out, “Silence!” and read out from his book, “Rule Forty-two. All persons more than a mile high to leave the court.”

Everybody looked at Alice.

“I’m not a mile high,” said Alice.

“You are,” said the King.

“Nearly two miles high,” added the Queen.

“Well, I shan’t go, at any rate,” said Alice; “besides, that’s not a regular rule: you invented it just now.”

—Lewis Carroll
Alice’s Adventures in Wonderland, p. 180

Through this exchange, Lewis Carroll captured with light humor the sense of unfairness that is a common reaction to rules that are created and applied without prior notice or review. It is a situation that the Administrative Procedure Act attempts to prevent through its notice requirements for formal regulations as well as for formal adjudications performed by administrative tribunals. Unfortunately, there are many issues that arise in the daily practice of immigration law for which no formal rule or tribunal exists, and attorneys must comb through agency memos, liaison minutes, and unpublished decisions to discover what informal agency rules or standards may exist to guide the case preparation decisions that must be made on a daily basis.

The purpose of this book is to assist attorneys in understanding and applying the elusive, constantly shifting, “ad hoc” rules that govern degree equivalency determinations for I-140 petitions in the employment-based second (EB-2) and third (EB-3) preference categories, particularly for beneficiaries who hold three-year bachelor’s degrees. By understanding the many factors that can affect the contours of

* **DISCLAIMER:** The suggestions, practice tips, and opinions presented in this book are solely those of the author and should not be construed as legal advice, but should instead be tempered with direct experience. They are based on the information available at the time of publication, and due to the constantly evolving nature of adjudication standards and policies in this area of practice, important details may be expected to change over time without notice.