



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 27928246

Date: AUG. 24, 2023

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner is a church and homeschool teacher who seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center determined that despite qualifying for the underlying EB-2 visa classification as an individual holding an advanced degree,¹ the Petitioner did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. Specifically, applying the three-prong analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), the Director concluded that the Petitioner: (1) did not establish that her endeavor has national importance,² (2) did not demonstrate that she is well-positioned to advance the endeavor, and (3) did not show that on balance, waiving the job offer requirement would benefit the United States. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

Upon de novo review, we will dismiss the appeal because the Petitioner did not establish that her specific proposed endeavor has national importance and thus, she did not meet the national importance requirement of the first prong of the *Dhanasar* framework. Because the identified basis for denial is

¹ The Petitioner provided a copy of her diploma and corresponding transcript showing that she completed a pedagogy program in early childhood education from 2009 until 2012 resulting in a "Título de Licenciada" degree from Universidade [redacted] in Brazil. According to the American Association of Collegiate Registrars and Admissions Officers Electronic Database for Global Education, the Petitioner's degree "represents attainment of education comparable to 2 to 3 years of university study in the United States," as opposed to a 4- or 5- year degree, which "represents attainment of a level of education comparable to a bachelor's degree in the United States." Because the record does not establish that the Petitioner attained the equivalent of a U.S. bachelor's degree, the Petitioner would need to address this deficiency in any future proceedings where attainment of a U.S. bachelor's degree or its foreign equivalent is required to establish eligibility. *See* 8 C.F.R. § 204.5(k)(2) (requiring a U.S. bachelor's degree or foreign equivalent followed by five years of progressive experience in the specialty to determine that a petitioner is an advanced degree professional).

² The Director determined that the Petitioner's endeavor was shown to have substantial merit.

dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the two remaining *Dhanasar* prongs. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

In addressing the issue of national importance, the Director rejected the Petitioner's argument that her endeavor would broadly impact the entirety of the U.S. education system and determined that the Petitioner did not submit evidence showing that her endeavor's impact would extend beyond the students at the church or homeschool where she would teach. The Director also acknowledged the Petitioner's submission of various industry articles about the shortage of teachers in the United States. However, the Director pointed out that in addressing the national importance aspect under the first prong of the *Dhanasar* framework we focus on the Petitioner's specific endeavor rather than the field or industry within which she will work.

In conducting the first-prong analysis in this matter, the Director determined that the Petitioner did not provide evidence that her proposed endeavor would have a positive impact on, for instance, the U.S. economy, the U.S. job market, or societal welfare. Further, the Director addressed an expert opinion letter from [REDACTED] who pointed to her years of experience as an educational administrator and her "expert knowledge on how to analyze, evaluate, and characterize job duties, responsibilities, qualifications, and expertise." Despite recognizing the value of [REDACTED] letter in helping to clarify the Petitioner's experience, achievements, and field of endeavor, the Director determined that the letter does not demonstrate that the proposed endeavor satisfies the requirements under the *Dhanasar* framework. In sum, the Director concluded that the Petitioner did not provide sufficient evidence showing that her endeavor would have broad implications that would rise to the level of national importance.

On appeal, the Petitioner argues that the Director "failed to apply the correct standard of review under *Dhanasar*" and highlights portions of the precedent decision where it was determined that significant economic impact is not required to establish eligibility. While this accurately characterizes *Dhanasar* on this issue, we note that in the Petitioner's personal statement she claimed that her proposed endeavor will "substantially provide an economic benefit to the U.S.," and this claim was reiterated in [REDACTED] opinion letter. Thus, by determining that the Petitioner's endeavor would not impact the U.S. economy, the Director was merely addressing the Petitioner's own claim. The Petitioner offers no evidence to substantiate that the Director incorrectly applied the *Dhanasar* framework in assessing the evidence on record. We further noted, that although [REDACTED] offers an opinion that is in line with the Petitioner's claims, she does not explain how the Petitioner's endeavor rises to the level of national importance. Instead, in addressing the national importance prong, [REDACTED] broadly focuses on the benefits of teachers and homeschooling and discusses out how the Petitioner would benefit her own students. She does not, however, explain how benefiting individual students rises to the level of national importance.

The Petitioner also restates portions of her personal statement, placing emphasis on her ability to "not only provide education to children but focus on their health, and special needs" as well as provide individual and group care as well as "[c]hurch education." We note, however, that the Director did not challenge the Petitioner's claims about the benefits she would offer to her prospective students;

rather, the Director questioned the Petitioner's ability to demonstrate that the impact of her endeavor would extend beyond those students and more broadly impact the field of childhood education or the U.S. economy. Likewise, the Petitioner's restatement of portions of various previously submitted support letters merely addresses the endeavor's prospective impact on individual students, which, again, is a factor that the Director did not dispute. Although the Petitioner claims that her work with children "will ultimately lead to greater academic success and an increased global ranking for the U[.]S[.] education system," she offers no evidence to substantiate this claim. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (requiring a petitioner to provide evidence demonstrating that their claim is "probably true"). In sum, the Petitioner does not specifically address the Director's findings or explain how any of the previously submitted evidence, some of which has been resubmitted on appeal, corroborates the claim that the Petitioner's endeavor rises to the level of national importance.

Accordingly, we adopt and affirm the Director's analysis and decision regarding the national importance of the Petitioner's endeavor. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). As noted above, we reserve the Petitioner's appellate arguments regarding the two remaining *Dhanasar* prongs. *See INS v. Bagamasbad*, 429 U.S. at 25.

ORDER: The appeal is dismissed.