



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

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

In Re: 29022281

Date: DEC. 27, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, an educator and child welfare professional, seeks classification as a member of the professions holding an advanced degree. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Nebraska Service Center denied the petition, concluding that although the Petitioner qualifies for the EB-2 classification as an advanced degree professional, the record did not establish that a waiver of the job offer requirement is in the national interest. 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.

I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 immigrant visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

Once a petitioner demonstrates eligibility for the EB-2 classification, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. While neither statute nor the pertinent regulations define the term “national interest,” *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that USCIS may, as a matter of discretion,¹ grant a national interest waiver if the petitioner demonstrates that:

¹ *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

II. ANALYSIS

The Director found that the Petitioner qualifies for the EB-2 classification as an advanced degree professional. The record includes a copy of the Petitioner's diplomas with English translations for her title of professor degree in history, obtained in 1998, a post-graduate *especialista* degree in educational systems, obtained 2007, and a post-graduate *magister* degree in education management, obtained in 2017, all from Venezuela. Although the Director determined that the Petitioner's *magister* degree is the equivalent of a U.S. master's degree, we note that the Petitioner did not submit an academic credential evaluation to establish the U.S. equivalent of her degrees, nor did she submit the transcripts for any of these degrees. *See Matter of Chawathe*, 25 I&N Dec. at 376 (the burden is on the petitioner to establish eligibility with relevant, probative, and credible evidence). Nevertheless, we consulted the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE).² According to EDGE, a title of professor degree represents the attainment of a level of education comparable to a bachelor's degree in the United States and a *magister* degree is comparable to a master's degree in the United States. As such, we conclude that the Petitioner qualifies as an advanced degree professional. *See* 8 C.F.R. § 204.5(k)(2).

As to the proposed endeavor, the Petitioner initially stated only that she is a "child welfare professional" and that she endeavors to provide "instruction coordination for primary and secondary educational programs focused on child welfare, as well as providing teaching activities for children and adolescents." However, the Petitioner did not provide details as to what her future work would entail or submit evidence to establish her specific endeavor. In response to the Director's request for evidence (RFE), the Petitioner submitted a professional plan which describes establishing a mental health counseling organization for educational institutions and parents. The plan states that the mission of the organization will be to provide educational institutions, parents, and teachers training and services to help prevent violence, bullying, or terror in schools. The company will do this by training teachers and staff in "the interpretation of drawings, as a tool capable of detecting in time the existence of behavioral anomalies in students, and thus, be able to refer them later to health professionals to be treated early and effectively." The company will also will offer services to parents for using drawing "as a means to detect socio-emotional development of their children or adolescents"

As to the first prong of the *Dhamasar* framework, the Director found that the Petitioner established the substantial merit of the proposed endeavor but not its national importance. Specifically, the Director concluded that the Petitioner did not provide sufficient information or evidence to establish the potential economic impacts of the endeavor or that the endeavor stands to sufficiently extend beyond

² We consider EDGE to be a reliable source of information about foreign credential equivalencies. *See Confluence Intern., Inc. v. Holder*, Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); *Tisco Group, Inc. v. Napolitano*, No. 09-cv-10072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); *Sunshine Rehab Services, Inc.* No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). *See also Viraj, LLC v. Holder*, No. 2:12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013).

the Petitioner's company, partners, or future clientele to impact the field at a level commensurate with national importance. Additionally, the Director noted that the professional plan submitted in response to the RFE was created after the filing of the petition. The Director found, therefore, that it did not help establish that the Petitioner was eligible at the time of filing, but rather was an attempt to make an improper material change to the petition. On appeal, the Petitioner submits an additional letter of support and a brief asserting that she has established eligibility for a national interest waiver.

In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances, may have national importance. *Id.* Additionally, an endeavor that is regionally focused may nevertheless have national importance, such as an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *Id.* at 890.

As an initial matter, we note that the Petitioner does not address or attempt to overcome the Director's finding that the plan to establish a mental health counseling organization represents an improper material change to the petition after its filing. As discussed by the Director, a petitioner must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm'r 1971). Further, the purpose of an RFE is to elicit information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. § 103.2(b)(1), (b)(8), and (b)(12). The Petitioner also does not specifically discuss establishing this organization on appeal. We therefore consider any claim that this plan should be considered part of her endeavor as initially described to be waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

The Petitioner first discusses on appeal the preponderance of the evidence standard and asserts that the Petitioner "has complied with the burden of proof based on [the *Adjudicator's Field Manual*]." However, the Petitioner does not make a specific claim as to how the Director erred in applying the preponderance standard and does not discuss the evidence in the record with specificity or describe how it was improperly analyzed by the Director. We conclude that the Petitioner's unsupported assertion that she has met her burden of proof is not sufficient to establish error in the Director's decision or to demonstrate eligibility for a national interest waiver.

The Petitioner also asserts on appeal that her endeavor has national implications because education, counseling, and child welfare "are critical areas that impact children and families across the country." The Petitioner contends that children "represent our future workforce and leaders; therefore, their well-being is essential for our nation's success." The Petitioner also claims that the endeavor has the potential for significant economic effects because "[i]nvestments in early childhood education and child welfare lead to higher earnings, increased productivity, and reduced crime rates." Similarly, the Petitioner contends that the endeavor will enhance societal welfare because such investments also "lead to improved health outcomes, reduced crime rates, and increased social mobility." But each of these assertions relate to the importance of education and the child welfare field in general, rather than to the impact of the Petitioner's specific endeavor. In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "specific endeavor that the [noncitizen] proposes to undertake." *See Matter of*

Dhanasar, 26 I&N Dec. at 889. Although we recognize the value of early childhood education and the importance of child welfare, merely working in an important field is insufficient to establish the national importance of the proposed endeavor.

The Petitioner also emphasizes her extensive expertise in the field of education, child welfare, and preventing violence in schools as evidence of the national importance of her proposed endeavor. The Petitioner also discusses her ability to work effectively within a multidisciplinary team, her leadership abilities, and her experience in education planning and management. But these claims do not help demonstrate the potential prospective impact of the proposed endeavor. Evidence of a petitioner's skills, expertise, and record of success generally relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the [noncitizen]" and whether they are well-positioned to advance it. *Matter of Dhanasar*, 26 I&N Dec. at 890. The Petitioner must establish that her specific endeavor—to work in the field of child welfare and education—has national importance under *Dhanasar's* first prong.

Finally, the Petitioner claims that the proposed endeavor impacts matters of national importance. Specifically, the Petitioner discusses school safety and violence prevention as top priorities for the U.S. Department of Education and the U.S. Department of Justice. The Petitioner asserts that her proposed endeavor aligns with initiatives from these agencies by focusing on school violence prevention strategies. Again, the Petitioner's claim here relies on the importance of the field in which she will work. Although the Petitioner's endeavor relates to school safety and violence prevention, the record does not demonstrate that the impact of the proposed endeavor on these matters has the potential to rise to the level of national importance.

We also conclude that the additional letter of support submitted on appeal does not establish the endeavor's national importance. The letter, from a community organization, discusses a plan for the Petitioner to conduct an educational training workshop at the organization. However, this letter does not discuss the Petitioner's proposed endeavor or describe its potential impact. The letter also does not describe the substance of the training, the number of individuals who would be reached, or otherwise quantify the potential impact of this specific training. The additional evidence submitted on appeal therefore does not demonstrate the endeavor's national importance.

Overall, the Petitioner references very little specific evidence from the record on appeal and instead simply states broad conclusions using language from *Matter of Dhanasar* and section 203(b)(2) of the Act, stating, for example, that the proposed endeavor "will enhance societal welfare," that it "has significant potential to employ U.S. workers," and that it "has global or national implications within her field of endeavor." But these general, conclusory statements are made without sufficient information or evidence to support them and are, therefore, insufficient for the Petitioner to meet her burden of proof. The Petitioner does not explain how her instructional or child welfare-related services differ from those already available on the market, offer improvements or new approaches that are replicable throughout the field, or otherwise would stand to broadly impact the education and child welfare fields beyond those students directly served.

The Petitioner has not established the national importance of her proposed endeavor, as required by the first prong of the *Dhanasar* framework; therefore, she has not demonstrated eligibility for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal,

we decline to reach and hereby reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prongs. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make “purely advisory findings” on issues that are unnecessary to the ultimate decision); 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 the applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not met the national importance requirement of the first prong of *Dhanasar*. We therefore conclude that the Petitioner has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.