



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

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

In Re: 24227567

Date: MAR. 13, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an information technology (IT) instructor, 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 denied the petition, concluding that the record did not establish the Petitioner's eligibility for a national interest waiver under the *Dhanasar* framework. The Director denied a subsequent motion to reopen and reconsider. 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 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 underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the 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 U.S. Citizenship and Immigration Services (USCIS) may, as 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.²

II. ANALYSIS

The Director determined that the Petitioner qualifies for the EB-2 classification as an advanced degree professional. The remaining issue to be determined is whether he has established eligibility for a national interest waiver under the *Dhanasar* framework.³

The first prong, substantial merit and national importance, focuses on “the specific endeavor the individual proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

The Petitioner initially provided the following goals for furtherance of his work in the United States under this eligibility classification:

- Building IT skills needed for increasing employability, sustaining family income, and reducing crime rates among youth;
- Closing the IT digital divide among the U.S. populace and protecting American jobs;
- Training a new generation of workers capable of defending, securing, and protecting networks and infrastructures, user data, and cyberspace in its entirety; and
- Advancing the development of communities through an educated workforce.

The Petitioner also initially provided the following summary of his work and intentions in the U.S.:

In order to keep pace with the increasing demand for IT personnel and Cyber Security professionals, it is important for the US nation to retain and allow highly efficient and exceptionally capable IT Technical Instructors like myself in this country. As IT trainers, working behind the scene, our goals and objectives is to produce competent and disciplined IT personnel who go to various sectors of the economy, carrying with them the seed we planted, and use that seed to grow and strengthen the nation.

From the time I was working as a Graduate Teaching Assistant in my former school until now, I have been providing quality practical and theoretical training to several numbers of Americans in the area of Networking and Cyber Security, among others. My impact is not only limited to DC-Maryland-Virginia alone, but every student I trained will take the skill and knowledge to other parts of the USA and help in building the economy and securing the nation.

² *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

³ While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

The Director requested additional evidence to establish the Petitioner's qualifications under the *Dhanasar* framework, stating that the overall description of the proposed endeavor was "too general and vague." The Director requested evidence to clarify the Petitioner's endeavor and to demonstrate the endeavor's potential prospective impact. The Petitioner responded by emphasizing that the organization for which he has been employed, [REDACTED], has trained and assisted individuals in obtaining jobs for over twenty-one years, and he provided evidence of grants received by the organization from JP Morgan Chase, the American Heart Association, Microsoft, and the District of Columbia's Department of Employment Services & Workforce Investment Council. After review of the entirety of the record, the Director determined that the Petitioner has established that the proposed endeavor meets the substantial merit portion of the first prong set forth in the *Dhanasar* analytical framework. However, the Director determined that the Petitioner has not established the national importance of his proposed endeavor. The Director stated that the explanation of the Petitioner's endeavor remained vague and that the evidence did not show that the proposed endeavor had broader implications for the IT field.

On motion, the Petitioner provided documentation of teaching materials and learning tools that he created, as well as testimonials and job offer letters from [REDACTED] students who went on to employment in IT positions. The Director maintained that, although the documentation of educational material and resources appeared to be new evidence, the nature of the evidence had not changed; the Director concluded that while the evidence demonstrated that the Petitioner is a well-established professional in his field, the record did not show the potential national impact of the endeavor as described.

On appeal, the Petitioner reiterates the merit and national importance of his proposed endeavor. He anecdotally highlights the potential impact of low- or no-cost education in the fields of science, technology, engineering, and mathematics (STEM) on economically depressed regions in the U.S. Although [REDACTED] offers training programs and operates as a certified testing center that administers IT certification exams, the Petitioner asserts that the expanded availability of education offered through [REDACTED] would support the White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity Through Historically Black Colleges and Universities.⁴ While the Petitioner's IT instructor role has substantial merit, he has not sufficiently defined his endeavor to show how his continued role as an IT instructor will have a broader impact of national importance in the field of IT or STEM education. *See Dhanasar*, 26 I&N Dec. at 893.

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the "specific endeavor that the foreign national proposes to undertake." *Id.* at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" and endeavors that have broader implications, such as "significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 889-90.

⁴ See <https://www.govinfo.gov/app/details/DCPD-202100714> (last visited March 10, 2023).

In *Dhanasar*, we determined that the petitioner’s teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Similarly, the record here does not establish that the Petitioner’s IT instructor role would impact the IT or STEM industry more broadly, as opposed to being limited to the students he teaches. Further, he has not demonstrated that his specific proposed endeavor has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for the U.S. Therefore, we conclude that the Petitioner has not established the national importance of his proposed endeavor.

The record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision. Therefore, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified basis for dismissal is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that “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).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver. Thus, the appeal will be dismissed.

ORDER: The appeal is dismissed.