



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

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

In Re: 28623375

Date: NOV. 28, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, an entrepreneur in teaching foreign language, 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 Nebraska Service Center denied the petition, concluding that the Petitioner did not establish that a waiver of the classification's job offer requirement, and thus of the labor certification, would be 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 because the Petitioner did not establish that her proposed endeavor has national importance and thus, she did not meet the national importance requirement of the first prong of the *Dhanasar* framework. *See Matter of Dhanasar*, 26 I&N Dec. at 884. Because this identified basis for denial is 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).

## **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. Next, a petitioner 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,<sup>1</sup> grant a national interest waiver if the petitioner demonstrates that:

- 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 determined that the Petitioner was a member of the professions holding an advanced degree.<sup>2</sup> The remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework.

The Petitioner states that she is an experienced language teacher. In describing her experience, the Petitioner states that from 2014 to 2018 she worked as a private tutor in Russia, and from 2018 to 2021 she worked in the United States as an au pair. She also has several months experience teaching German during an internship, and one year as an au pair in Germany. Her proposed endeavor is to “start a school for teaching all Americans Russian and German language through various innovative methods.” The Petitioner states that her proposed business will offer online and in-person learning and will teach “through real travel experience and cultural immersion.” In her proposed endeavor she intends to create employment for language teachers and hopes to expand her business so “that one day at least 30% of Americans can speak a second language.”

With the initial filing the Petitioner submitted evidence of her education and experience, a personal statement describing her proposed endeavor and claimed eligibility for a national interest waiver, as well as recommendation and support letters.

Following initial review, the Director issued a request for evidence (RFE), allowing the Petitioner an opportunity to submit additional evidence in attempt to establish her eligibility for the national interest waiver. The Petitioner’s response to the RFE includes an updated personal statement, evidence of the Beneficiary’s business registration of [REDACTED] a business plan, evidence of investment in the business, letters from prospective clients, and expert opinion letters.

In her business plan, the Petitioner states that she will serve as general manager and head teacher with [REDACTED]. The business plan states that the Petitioner will offer instruction to children and adults in German and Russian language, as well as in English as a second language classes. Services will be offered to individuals, as well as “public schools, associations, NGOs, and companies.” The business plan states that the Petitioner’s proposed endeavor will generate numerous benefits “for the quality of life among the U.S. population, as well as the U.S. economy, such as the advanced employability of a sizable populations segment and enriched cultural understanding and

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<sup>1</sup> 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).

<sup>2</sup> The record demonstrates that the Petitioner holds the equivalent of a U.S. master’s degree awarded in 2014. See 8 C.F.R. § 204.5(k)(3)(i)(A).

integration.” The Petitioner states that, by its fifth year, the business will employ a total of 14 employees, with total sales projected at \$1.4 million.

After reviewing the Petitioner’s RFE response, the Director determined that the Petitioner submitted sufficient evidence to demonstrate that the proposed endeavor has substantial merit. However, he concluded that the Petitioner had not demonstrated that her proposed endeavor had national importance, that she was well-positioned to advance the proposed endeavor, or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of the labor certification.

The Director stated that the record did not demonstrate that the Petitioner’s business will have a regional or national impact at a level consistent with having national importance, or that the Petitioner’s work will have broader implications in her field of endeavor, going beyond her own school and clients. Additionally, the Director determined that the Petitioner did not demonstrate national interest factors such as the impracticality of a labor certification, the benefit of her prospective contributions to the United States, an urgent national interest in her contributions, the potential creation of jobs, or that her self-employment does not adversely affect U.S. workers. The Director noted the Petitioner’s business plan and registration documents were dated after the initial filing and did not support the Petitioner’s eligibility at the time of filing as required by 8 C.F.R. § 103.2(b)(12). *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm’r 1971). The Director also noted that the some of the letters submitted to document the Petitioner’s employment did not contain the address of the author as required by 8 C.F.R. § 204.5(g)(1).

On appeal, the Petitioner submits a brief, a grant deed for property that she asserts will be the location of her business and proposed endeavor, the addresses missing from the previously submitted letters, and copies of evidence already in the record. She does not assert any specific error in law or policy in the Director’s decision, but requests a second review of the expert opinion letters.

#### A. Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. 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. *Matter of Dhanasar*, 26 I&N Dec. at 889. The relevant question is not the importance of the field, industry, or profession in which the individual will work; instead we focus on the “the specific endeavor that the foreign national proposes to undertake.” *See Id.* In *Dhanasar*, we further noted that “we look for broader implications” of the proposed endeavor and that “[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field.” *Id.* We also stated that “[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance.” *Id.* at 890.

The Petitioner submits recommendation letters describing her past experiences and achievements, as well as support for her proposed endeavor.<sup>3</sup> However, the Petitioner does not explain how her achievements have had a broad impact in the field of language instruction. A November 3, 2022, letter from [REDACTED] founder of [REDACTED] states that the Petitioner's "ability to teach German, Russian and English is particularly important and valuable for my company and me personally because much of the training I do is global." While the author discusses the impact the Petitioner's teaching has had on him personally, including his company, the letter does not provide details about the broader national impact of the Petitioner's achievements. A November 29, 2022, letter from [REDACTED] discusses his experience as an Olympian interacting with multilingual athletes who excelled because of their language abilities. However, the author does not state that the Petitioner's specific proposed endeavor would have a role in improving the performance of Olympic athletes or otherwise have a national impact. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). A November 28, 2020, letter from [REDACTED] an acquaintance of the Petitioner, states that the Petitioner's teaching skills "would greatly assist the many immigrants coming to America to assimilate culturally, to cross language barriers and inevitably become highly productive people and assets of the United States." However, the letter does not identify how the Petitioner's specific proposed endeavor would differ from other services already existing and available or would produce an impact rising to the level of national importance. Even considering the letters collectively and in the totality of circumstances, we still conclude that they do not support a finding that her specific proposed endeavor has national importance.

The Petitioner also submits her business plan to support the national importance of her proposed endeavor. As noted, to establish national importance, the Petitioner must demonstrate the proposed endeavor's impact. In *Dhanasar*, we noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* at 889. Although the Petitioner states that her experience in teaching languages will contribute to the U.S. economy, she has not supported these assertions with sufficient independent, objective evidence. The projections of the Petitioner's company's revenue and job creation as stated in the business plan are also unsupported in the record. On appeal the Petitioner states that the business will operate out of her residence but does not explain how she would be able to provide in-person instruction reaching a national level from this location. Nor does she explain her plan to develop online instruction. The evidence does not suggest that the Petitioner's skills differ from or improve upon those already available and in use in the United States. Nor does the evidence demonstrate that the use of the Petitioner's experience will reach beyond benefitting her own company and clients or have broader implications within the field of teaching languages. The record does not establish that her proposed endeavor stands to impact the field as a whole.

The Petitioner also submits expert opinion letters prepared by three professionals in the fields of language and education. The letters praise the Petitioner's education, experience, past success, personal qualities, and the results she achieved. However, these qualities relate to the second prong of the *Dhanasar* framework, whether the individual is well-positioned to advance their proposed

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<sup>3</sup> While we discuss a sampling of these letters we have reviewed and considered each one.

endeavor, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the Petitioner’s specific endeavor has national importance under *Dhanasar*’s first prong.

We acknowledge that the expert opinions include an analysis of the national importance of the Petitioner’s proposed endeavor. In his analysis [REDACTED] Professor at the University [REDACTED] [REDACTED] discusses the benefits of English and foreign language education, including in international business, foreign affairs, and overall health and development. He compares this to the lack of foreign language education in U.S. public schools and the inadequacy of instruction in public universities, stating “this is where private schools like [REDACTED] go in.” In her analysis, [REDACTED] [REDACTED] a data linguist with [REDACTED], discusses general shortages of language instructors in the United States. She concludes that the Petitioner’s approach to language instruction, giving the example that she will teach English to an entire immigrant family to promote “linguistic and cultural integration,” is “highly innovative and highly beneficial for the USA.” However, beyond these general statements, neither [REDACTED] specifically describes or discusses the Petitioner’s specific proposed endeavor in private language instruction or elaborates on how it will have a prospective impact on the United States, including the national or global implications on international business, the potential to employ U.S. workers, or the positive economic effects.

The record also includes the expert opinion of [REDACTED] Professor of Education and Master of Arts in Teaching Coordinator at [REDACTED] University. [REDACTED] discusses market trends and shortages and demands in the field of language instruction. He identifies language proficiency as a problem in the U.S. education system and a subject of national initiatives. [REDACTED] describes the various benefits of multilingualism, including contributions to arts, culture, and government, as well as global business opportunities and societal welfare. Although we acknowledge the importance of language education that [REDACTED] describes, the Petitioner has not sufficiently explained and documented how her work operating a language school from her residence would produce an impact rising to the level of national importance.

On appeal, the Petitioner relies upon the evidence she previously submitted. The Petitioner continues to rely upon the asserted merits of the services she will provide, her personal and professional qualities and achievements, and the trends in the language instruction field. However, as set forth above, the evidence does not sufficiently demonstrate her proposed endeavor’s national importance. Therefore, we conclude that the Petitioner has not met the requisite national importance portion of the first prong of the *Dhanasar* framework.

As the Petitioner has not established the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* framework, she is not eligible for a national interest waiver and further discussion of the balancing factors under the second and third prongs would serve no meaningful purpose. As noted above, we reserve the Petitioner’s appellate arguments regarding the two remaining *Dhanasar* prongs.<sup>4</sup> See *INS v. Bagamasbad*, 429 U.S. at 25.

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<sup>4</sup> Even if we had addressed the remaining issues, we still would have dismissed this appeal. As noted above, the Director concluded that, although the proposed endeavor has substantial merit, the Petitioner did not establish its national

### III. CONCLUSION

As the Petitioner has not met all of the requisite three prongs set forth in the *Dhanasar* analytical framework, we conclude that she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.

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importance, that she was well-positioned to advance the proposed endeavor, or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. On appeal, the Petitioner references the same supporting evidence submitted with the original petition and RFE response and does not provide new evidence. The Director fully addressed the previously submitted evidence and explained how it was deficient in establishing that the Petitioner met the three *Dhanasar* factors and would be eligible for a national interest waiver. The Petitioner's assertions on appeal do not establish that she meets all of the three *Dhanasar* prongs.