



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

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

In Re: 28918461

Date: OCT. 31, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, an education administrator, seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. 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 the Petitioner had not established eligibility for a waiver of the required job offer, 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.

## I. LAW

To establish eligibility for a national interest waiver, petitioners must 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. In addition, petitioners must show the merit of a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion<sup>1</sup>, grant a national interest waiver if:

- 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.

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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).

## II. ANALYSIS

Regarding the national interest waiver, the first prong relates to substantial merit and national importance of the specific proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889. At initial filing, the Petitioner's cover letter reflected that her "proposed endeavor is to aid in the education of students in the United States" and "[s]he plans to work in the public school system in the United States, specifically seeking to create an implement a program geared toward school attendance." In addition, the Petitioner provided a statement indicating:

My intention of working in the United States is to elaborate an action program totally geared toward school attendance, by means of verifying the rate of absences and from there initiate the work, promoting entertaining encounters involving dynamics, contests, games, conversation round tables, musical composition and poetry, and reading circles, where the students can expose their creations, all these actions geared towards the good attendance of the students, showing them the importance that school has for the good development of the citizen, making them feel totally integrated in the project, and in that way discover their values and also elevating their self-esteem and valuing their potential as citizens.

In response to the Director's request for evidence (RFE), the Petitioner's cover letter stated:

. . . [T]he Petitioner's endeavor is much more than an education administration. She will work in the public school system in the United States as a bilingual elementary teacher and education coordinator, responsible for the educational planning and coordination of a school, program, or department. In other words, aside from teaching elementary school students, she will assist in the implementation and coordination of school program, particularly school attendance programs to decrease chronic absenteeism and promote student participation.

Further, the Petitioner submitted a "Professional Plan" reflecting:

[The Petitioner's] proposed endeavor is to work as a[n] Educational Coordinator, capable of a variety of responsibilities[.] She aims [sic] provide her services in the field of education [sic] has substantial merit in the United states. This expertise in knowledge enabled her to train parents, school administrators, and teachers on how to use new technologies. She may take on additional responsibility or a leadership position. A coordinator of education can determine their career objectives through career advancement. They could begin with a position such as lead teacher, advance to a position such as assistant principal, and ultimately attain the position of elementary school principal. Her tremendous experience is complemented with 26 years of working experience. She is confident [sic] will share her knowledge not only with her colleagues, but also with other professionals and students in the sector. She will implement the technical skills required to successfully carry out initiatives in this industry and develop the workforce by providing lectures, seminars, and workshops. Her years of experience have given her sharpened skills and better judgment, which are valuable in an ever-changing environment.

The Director determined the Petitioner demonstrated the proposed endeavor's substantial merit but not its national importance. On appeal, the Petitioner maintains that she "intends to do in the United States what she has been successfully doing for several years, namely, provide services to the public school system in the United States as a bilingual elementary teacher and education coordinator."

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 foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. Although the Petitioner argues the importance of education, bilingual and diverse teachers, attendance, and a wide variety of other the topics, the Petitioner must demonstrate the national importance of her specific, proposed endeavor of providing her services in the public school system as an educational coordinator or bilingual teacher rather than the importance of education or a spectrum of general issues.<sup>2</sup> 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.* 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. We note here the Petitioner also contends the need for teachers in the United States. However, the shortage of an occupation does not render her proposed endeavor nationally important under the *Dhanasar* framework. In fact, such shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

Moreover, to evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of her work. *Dhanasar*, 26 I&N Dec. at 889. Here, the Petitioner did not demonstrate how her proposed endeavor largely influences the field and rises to the level of national importance. Similar to this case, in *Dhanasar*, we determined 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. The record does not show through supporting documentation how her particular services sufficiently extend beyond her prospective students, teachers, or school[s] to impact the field or the U.S. economy more broadly at a level commensurate with national importance.<sup>3</sup>

Finally, the Petitioner did not show that her proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without evidence regarding any projected U.S. economic impact or job creation attributable to her future work, the record does not show any benefits to the U.S. regional or national economy resulting from her services would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890.

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<sup>2</sup> The Petitioner's arguments and evidence relate to the substantial merit aspect of the proposed endeavor rather than the national importance part.

<sup>3</sup> *See also generally* 5 USCIS Policy Manual D.2, <https://www.uscis.gov/policymanual> (instructing that while proposed classroom teaching activities in STEM, for example, may have substantial merit in relation to U.S. educational interests, such activities, by themselves, generally are not indicative of an impact in the field of STEM education more broadly, and therefore generally would not establish their national importance).

Because the documentation in the record does not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of her eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.<sup>4</sup>

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not demonstrated eligibility for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.

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<sup>4</sup> 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 alternate issues on appeal where applicants do not otherwise meet their burden of proof).