



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

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

In Re: 28446246

Date: SEP. 25, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a teacher, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree and/or an individual of exceptional ability, 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 the record did not establish: (1) the Petitioner qualified for the EB-2 classification; (2) the national importance of the proposed endeavor; (3) the Petitioner is well positioned to carry out his endeavor; or (4) it would be in the United States' interest to waive the requirement of a job offer and labor certification. 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 as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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<sup>1</sup>, grant a national interest waiver if the petitioner demonstrates that:

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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).

- 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 the Petitioner did not establish eligibility for the underlying EB-2 classification as either an advanced degree professional or an individual of exceptional ability. We withdraw that finding but nevertheless acknowledge the Director's concerns about the quality and nature of the evidence.<sup>2</sup> By a preponderance of the evidence standard, the Petitioner has established eligibility as the equivalent of an advanced degree professional. Therefore, the remaining issue is whether the Petitioner has established eligibility for a national interest waiver under the Dhanasar framework. While we do not discuss each piece of evidence individually, we have reviewed and considered each one.<sup>3</sup>

The first prong, substantial merit and national importance, focuses on the specific endeavor 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. Dhanasar, 26 I&N Dec. at 889.

The Petitioner intends work "as an educator specialized in but not limited to teaching minorities and communities in need on a variety of themes, promoting cultural and social exchange." The Petitioner "will not only act as a teacher but also as a consultant and lecturer, actively influencing the formation of a socio-environmental consciousness in America following the government's plans outlined by the Biden-Harris administration." Specifically, he plans to raise awareness of environmental conservation and climate change through the education of children and adolescents, as well as by promoting related lectures and events. He intends to carry out his proposed endeavor by:

- "Promoting initiatives to allow minority students to bridge the education gap existing in those populations;"
- Working to keep native traditions alive while teaching;
- Developing creative teaching methods with scarce resources; and
- Disseminating knowledge through professional events.

Regarding the national importance portion of *Dhanasar's* first prong, the Petitioner referenced the shortage of qualified teachers, especially those equipped to teach in traditionally underserved communities. Additionally, he mentioned the drop in attendance and engagement in education due to the coronavirus pandemic, explaining that his teaching methods will boost student enrollment and

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<sup>2</sup> In any future filings, the Petitioner should be prepared to address the Director's evidentiary concerns.

<sup>3</sup> When USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the Petitioner makes, nor is it necessary for it to address every piece of evidence the Petitioner presents. *Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir.1992); see also *Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993).

interest in learning science. Regarding the Biden-Harris administration's commitment to confronting global climate change, the Petitioner emphasized that his instruction of students in biological sciences will create a positive environmental and social impact due to his students' heightened awareness of ecology and conservation. As such, he believes his endeavor impacts a matter that is the subject of national initiatives. To reinforce his assertions, the Petitioner provided background information and statistics related to the importance of education and science specifically.

We agree with the Director that although the Petitioner's proposed endeavor has substantial merit, the evidence is insufficient to establish its national importance. We acknowledge the shortage of qualified teachers, along with the lack of resources and systemic challenges in educating traditionally underserved populations; however, the Petitioner has not suggested that his endeavor as a teacher would meaningfully reduce the teacher shortage. As the Director explained, an occupational shortage does not necessarily establish that the proposed endeavor stands to impact the broader field or otherwise have implications rising to the level of national importance. Occupational shortages are specifically addressed through the labor certification process. While ongoing educational challenges result from the coronavirus pandemic, we nevertheless conclude the Petitioner has not provided evidence sufficient to establish how his proposed endeavor would operate to address these challenges at a level commensurate with national importance.

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 "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. We do not question the importance of combatting climate change, educating students in science, ecology, and conservation, or of raising environmental awareness. However, the importance of these fields, and of education and teaching in general, is not necessarily sufficient to establish the national importance of the Petitioner's specific proposed endeavor. The Petitioner has not provided sufficient evidence to establish how his specific proposed endeavor will produce an impact broad enough to enhance societal welfare or affect the science or education fields as a whole.

Documents in the record, such as the recommendation letters, advisory opinion, attorney letter, and professional plan, reference the Petitioner's "innovative techniques," "dynamic strategies," "flashcard methodologies," "advanced teaching techniques," "non-traditional approaches," and intention to develop "engaging new means of sharing information." However, the Petitioner has not supported these characterizations with relevant, probative, and credible evidence. Although the record includes his proposed endeavor activities and services, there is little explanation of any innovative solutions the Petitioner developed or any demonstration of how his strategies and techniques are non-traditional, advanced, or dynamic. Simply using basic instructional methods in the context of teaching specific indigenous communities is not indicative of an impact to the education or science fields overall, nor does it launch basic methods into the realm of non-traditional, advanced, or dynamic.

The Petitioner focused on his involvement in obtaining Didactic Mobile Laboratories/Mobile Dynamic Laboratories (LDM) for students at his school and how the availability and use of these laboratories engaged students in new ways and provided underfunded schools with new instructional methods, thereby revolutionizing the education system. In support, the Petitioner provided work product examples, such as a presentation slide deck about LDMs. The school's principal, [REDACTED] named the Petitioner as the reason that several other schools obtained LDM units through government

funding. She also credited the Petitioner for obtaining the laboratories for their school, resulting in improved student learning and interest in a variety of subjects. Nonetheless, the evidence provided does not describe the Petitioner's specific role in obtaining the funding for the LDMs at his or other schools, nor does the evidence demonstrate that the Petitioner created the LDMs or the idea of LDMs. Furthermore, the evidence does not support a finding that the Petitioner "revolutionized" the education or science fields as a result of the LDMs. At most, the record suggests the Petitioner "stumbled upon" the idea to use LDMs at his school, which served as an impetus for LDM usage in his municipality. We cannot conclude that initiating the use of LDMs or obtaining funding for them in his municipality constitutes an innovative technique, nor does it substantiate a finding that his proposed endeavor would have a broad impact in the science or education fields.

The record demonstrates the Petitioner may have successfully used flashcards in teaching indigenous populations in Brazil. Although documents in the record mention the Petitioner's "flashcard methodologies," there is little explanation of what the methodology is or how it functions. The Petitioner does not assert that he invented flashcards or the concept of them, nor does he suggest he is the first to use them as a teaching method. Based on the evidence provided, we cannot conclude that the Petitioner has any particular flashcard methodology or that his use of flashcards has broadly impacted the education or science fields such that it would support a finding that the proposed endeavor is of national importance.

The Petitioner highlighted his past achievements to illustrate how his proposed endeavor might achieve a similar impact. He provided recommendation letters from colleagues who offer praise of the Petitioner's personal and professional qualities but do not demonstrate detailed knowledge of the Petitioner's proposed endeavor. We examined the letters initially submitted and the updated letters submitted in the Petitioner's response to the Director's request for evidence (RFE). Although the authors highlight the Petitioner's past achievements, there is little indication from the letters that his achievements impacted the field of education or science. Documentation states that, as a result of the Petitioner's teaching projects, certain indigenous people obtained jobs, earned an income, and engaged in conservation practices. However, such examples of past success do not contain sufficient detail to substantiate a finding of impact beyond the specific individuals and communities he served. 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). The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters to determine whether they support the petitioner's eligibility. *Id.* See also *Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). Although the authors state the Petitioner contributed to the success of various projects, they do not corroborate their claims with specific facts or supporting details, nor do they explain how these projects are indicative of a larger impact in the field.

The Petitioner provided an advisory opinion from evaluator [REDACTED]  
[REDACTED] In the portion of the opinion that addresses national importance, [REDACTED]  
provides facts and statistics about the education services industry and highlights the importance of education in mental and physical health, as well as its impact on the economy. While we agree with [REDACTED] that education is important, the opinion letter is of limited probative value, as it contains little analysis of the specific proposed endeavor or its impact.

The record contains documentation, such as government press releases about projects involving indigenous populations; an announcement of a book about plants and animals; historical background on various indigenous populations in Brazil; articles about educational initiatives for indigenous people; government funding for those initiatives; and a letter from indigenous leaders to the government. As the Director noted, the evidence does not mention the Petitioner or credit him with the work required to produce these materials. Rather, the material references the people of the indigenous groups featured in the article, report, or book.

On appeal, the Petitioner relies upon the evidence and assertions he previously provided, which we addressed above. As explained, the documentation does not establish the national importance of the proposed endeavor. Therefore, the Petitioner has not demonstrated eligibility under the first Dhanasar prong. Further analysis of his eligibility under the second and third prongs 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 he has not established he is eligible for or otherwise merits a national interest waiver. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.

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<sup>4</sup> Because the identified reasons for dismissal are 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).