U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42249863

Date: APR. 24, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner qualifies for the underlying EB-2 classification. The matter is now before us on appeal pursuant to 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*. If a doctoral degree is customarily required for the specialty, the non-citizen must possess a U.S. doctorate or a foreign equivalent degree. *Id*.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they merit 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 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:

- 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.

Matter of Dhanasar, 26 I&N Dec. at 889.

II. ANALYSIS

SCOPS concluded that the Petitioner does not qualify for the EB-2 classification and therefore, "does not merit, a national interest waiver as a matter of discretion." Specifically, SCOPS stated that the EB-2 classification "requires that the petitioner have a bachelor's degree plus five (5) years of progressive post-baccalaureate experience, a master's degree, or the foreign equivalent, which the petitioner does not have."[2] Upon de novo review, we will withdraw SCOPS' determination on this issue and conclude that the Petitioner is a member of the professions holding an advanced degree.

The record shows that the Petitioner earned the degree of bachelor of medicine in clinical medicine from [redacted]. At the time of filing, the Petitioner was working as a resident physician at [redacted] in New York. The credential evaluation submitted by the Petitioner indicates that the Petitioner's degree is "equivalent to a U.S. first professional degree in medicine (Doctor of Medicine)." In addition, the record includes an article which states that "MBBS" degrees, or "bachelor of medicine, bachelor of surgery" degrees are "MD-equivalent degrees given by medical schools that follow the United Kingdom medical education system." On appeal, the Petitioner also highlights the employment agreement in the record which states that a requirement for the Petitioner's position as a resident physician is that he has an MD or the equivalent.

We consulted the AACRAO EDGE database to determine whether the Petitioner's foreign education is comparable to a U.S. degree.[3] The database indicates that a bachelor's degree certificate in medicine from China represents the attainment of a level of education comparable to a first professional degree in medicine in the United States. Therefore, the Petitioner has established that he qualifies as a member of the professions holding an advanced degree, and the sole remaining issue is whether he merits a national interest waiver.

With respect to the national interest waiver, we conclude that a remand is warranted in this case. As stated above, SCOPS determined that because the Petitioner did not meet eligibility for the EB-2

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

[2] We note that SCOPS also determined that the Petitioner does not qualify as an individual of exceptional ability. On appeal, the Petitioner contends that he is eligible for EB-2 classification as a member of the professions holding an advanced degree and "no evidence was submitted with the Petition or RFE Response" for classification as an individual of exceptional ability. Therefore, our analysis is limited to the Petitioner's eligibility as a member of the professions holding an advanced degree.

[3] The AACRAO EDGE database is a reliable resource concerning the U.S. equivalencies of foreign education. *See generally* American Association of Collegiate Registrars and Admissions Officers, Electronic Database for Global Education, https://www.aacrao.org/edge (last visited April 8, 2026).

classification, "further analysis of whether an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States, would serve no meaningful purpose." SCOPS further states, "USCIS notes that the record or evidence does not sufficiently demonstrate that the petitioner's endeavor would have a broader impact on the field outside his prospective employer and the customers that the employer serves, a key element to satisfy the requirements of *Dhanasar* to establish the endeavor's national importance." Although this briefly addresses the merits of the Petitioner's proposed endeavor under the *Dhanasar* framework, the decision does not provide meaningful analysis of the Petitioner's claims or the evidence in the record relating to his eligibility for a national interest waiver. As we conclude that the Petitioner meets the underlying EB-2 classification, a remand is appropriate so that SCOPS can make a determination on the Petitioner's eligibility for the national interest waiver under *Matter of Dhanasar*. Based on the foregoing, we will remand the matter for further consideration of the record, including the claims and additional evidence submitted on appeal, and entry of a new decision. If SCOPS finds that the Petitioner does not merit a national interest waiver, SCOPS should fully explain the reasons for the denial so that the Petitioner has a fair opportunity to contest the decision and we have an opportunity to conduct a meaningful appellate review. 8 C.F.R. § 103.3(a)(1)(i), (iii) (providing that the Director's decision must explain the specific reasons for denial and notify the affected party of appeal rights); *cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal).

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.