U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40501586

Date: DEC. 1, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an entrepreneur in dentistry, 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 Petitioner did not establish eligibility for the underlying EB-2 immigrant 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.

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.

Id.

The Petitioner stated in the initial filing that his proposed endeavor is to develop his own "dental clinic services firm that provides dental consultations and diagnostic services, orthodontic and periodontic consultations and diagnostic services, dental routine and cleaning appointments and single fixed dental implant procedures planned to be headquartered in Utah." The Petitioner presented a business plan that listed himself as "general and operations manager" and as "oral and maxillofacial surgeon."

The record demonstrates that the Petitioner earned the title of dental surgeon (Titulo de Cirurgia Dentista) in 2010 from the [redacted] in Brazil. He worked as an orthodontist or dental surgeon since 2010, including operating his own dental clinic since 2015. The Petitioner submitted an evaluation of his academic credentials stating that his dental surgeon title from Brazil is equivalent to a doctor of dental surgery degree from an accredited institution of higher education in the United States.

SCOPS concluded that the Petitioner does not qualify for the EB-2 classification as an advanced degree professional. Relying on the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE) database, SCOPS determined that "the Petitioner's academic record does not appear to be equivalent to a 'Doctor of Dental Surgery degree' in the United States as claimed in the academic evaluation provided."[2]

SCOPS also determined that, although the endeavor of working as a dental surgeon requires a doctoral degree in the United States, the Petitioner does not have a United States doctoral degree or a foreign equivalent as required by 8 C.F.R. § 204.5(k)(2). SCOPS stated that "[a]lthough the Petitioner's education appears to be the equivalent of a bachelor's degree in the United States," the record did not sufficiently document the Petitioner's five years of post-baccalaureate experience in the specialty. SCOPS further determined that the English language translations in the record were insufficient and did not comply with 8 C.F.R. § 103.2(b)(3).

The Petitioner bears the burden to establish eligibility for any benefit, and each request must be properly completed and filed with all initial evidence required by applicable regulations or other instructions. *See* 8 C.F.R. § 103.2(b)(1). If the required initial evidence is submitted but does not establish eligibility, USCIS may deny the petition for ineligibility, issue a request for evidence (RFE), or issue a notice of intent to deny (NOID) and provide an opportunity to respond. *See* 8 C.F.R. § 103.2(b)(8)(iii). In the instant case, SCOPS did not request additional evidence or issue a notice

[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] AACRAO EDGE is a reliable resource concerning the U.S. equivalencies of foreign education. *See generally* https://www.aacrao.org/edge (last visited November 24, 2025).

informing the Petitioner of its reliance on EDGE or of any deficiencies in the initial evidence before denying the immigrant petition.

We consulted the AACRAO EDGE database to determine whether the Petitioner's foreign education is comparable to any U.S. degree. EDGE indicates that the Titulo de Cirurgia Dentista represents the attainment of a level of education comparable to a first professional degree in dentistry in the United States. The "Credential Author Notes" further state, "Only professional authorities in the dental profession can determine whether this qualification meets the standards for admission to dental practice in the United States."

While we agree with SCOPS that the Petitioner's initial evidence does not establish that his Titulo de Cirurgia Dentista meets the standards for admission to professional practice as a dentist in the United States, the Petitioner was not given sufficient notice of and an opportunity to rebut this adverse information. Further, it is unclear whether admission to professional practice as a dentist in the United States is required for the Petitioner's proposed endeavor as an entrepreneur in dentistry. Therefore, we will withdraw SCOPS' decision and remand the matter for further consideration of the record, including claims submitted on appeal, and entry of a new decision.

On remand, SCOPS should evaluate the record and identify the Petitioner's endeavor, whether it is to work as a dental surgeon, an entrepreneur of a dental clinic, or a combination of both. SCOPS should also evaluate whether a doctoral degree is customarily required for the specialty of the Petitioner's proposed endeavor, pursuant to 8 C.F.R. § 204.5(k)(2). SCOPS should evaluate whether the Petitioner qualifies for classification as a member of the professions with an advanced degree based on his academic credentials, including in combination with five years of post-baccalaureate experience in the specialty pursuant to 8 C.F.R. § 204.5(k)(3)(i). SCOPS may wish to issue a RFE or NOID, outlining any deficiencies in the evidence in the record and allowing the Petitioner an opportunity to respond. SCOPS should then proceed to make a finding on the Petitioner's eligibility for the national interest waiver under all three prongs of *Dhanasar* and address the Petitioner's claims and documentation regarding the national interest waiver.

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