U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41501742

Date: FEB. 24, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an electrical engineer, 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).

SCOPS denied the petition. SCOPS determined that the record does not establish whether the Petitioner qualifies as a member of the professions holding an advanced degree. SCOPS further concluded that the record does not establish that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest. 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 dismiss the appeal.

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*. To show that an individual is a member of the professions holding an advanced degree, a petition must be accompanied by an official academic record showing that the individual has a qualifying degree. 8 C.F.R. § 204.5(k)(3).

At the time the Petitioner filed the Form I-140, Immigrant Petition for Alien Workers, the Petitioner asserted, "Because I hold a M.S. degree, I am eligible for EB-2 classification as a member of the professions holding an advanced degree." The Petitioner submitted a copy of a document written in both English and in a language other than English, which states that the [redacted]

[redacted] awarded the Petitioner the degree of Master of Engineering in Information and Communication Engineering in 2019. Although the Petitioner submitted academic transcript information regarding a different degree, she did not submit an official academic record relating to her foreign master's degree, as required by the regulation 8 C.F.R. § 204.5(k)(3).[1] She also did not submit a translation of the document written in both English and in a language other than English.

Any document containing a language other than English submitted to U.S. Citizenship and Immigration Services (USCIS) must be accompanied by a full English language translation, which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate the foreign language into English. 8 C.F.R. § 103.2(b)(3).

SCOPS sent the Petitioner a request for evidence (RFE), which informed the Petitioner of deficiencies in the record, and it requested the Petitioner to provide additional information that may establish eligibility. More specifically, SCOPS requested the Petitioner to submit a copy of her relevant academic record, including "a complete copy of the [P]etitioner's transcripts," that may establish she qualifies as a member of the professions holding an advanced degree. The RFE also informed the Petitioner that "insufficient translations were provided for [her] education documents" and "USCIS cannot rely upon foreign language documents supported with an insufficient translation and translation certification."

In response to SCOPS' RFE, the Petitioner submitted, in relevant part, a translation of the portion of the document written in a language other than English, and a translator's certification. The certification sates "that the present translation of the Chinese (Simplified) language document has been translated by [redacted] and that it represents, according to the best of my knowledge and belief, a true and accurate rendering of the original document into English." The certification does not state whether the individual who translated the document is competent to translate from the foreign language into English, as required by the regulation at 8 C.F.R. § 103.2(b)(3). Although the Petitioner submitted an updated academic transcript for a degree that may not establish eligibility in response to the RFE, she did not submit an official academic record for the degree with which she asserts eligibility for second preference classification.

SCOPS acknowledged that the Petitioner submitted the translation and certification, in addition to an academic transcript relating to another, non-qualifying degree. SCOPS noted the translation certification's deficiencies, and SCOPS found that the record does not establish whether the Petitioner qualifies as a member of the professions holding an advanced degree based on the insufficient translation certification. SCOPS also determined that the record does not satisfy any of the three prongs of the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), of which all three must be met.

[1] At the time the Petitioner filed the Form I-140, she had completed part of the requirements of a Ph.D. program. However, because the Petitioner had not completed the Ph.D. program at the time she filed the Form I-140, information pertaining to this degree cannot—and does not—establish eligibility for second preference classification. *See* 8 C.F.R. § 103.2(b)(1) (providing that a petitioner must establish eligibility for the benefit it is seeking at the time the petition is filed); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971) (providing that a visa petition may not be approved based on speculation of future eligibility or after a petitioner becomes eligible under a new set of facts);. *Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998) (providing that a petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements).

On appeal, the Petitioner submits another certified translation of the document written in both English and in a language other than English. However, the record still does not contain a copy of an official academic record for the degree with which the Petitioner asserts eligibility for second preference classification, as required by the regulation at 8 C.F.R. § 204.5(k)(3).

Because the record does not contain a copy of an official academic record for the degree with which the Petitioner asserts eligibility for second preference classification, the record does not establish that she qualifies as a member of the professions holding an advanced degree. *See* 8 C.F.R. § 204.5(k)(3). Therefore, we need not address whether we may recognize the translation certification that the Petitioner submits on appeal, despite having been on notice of the specific evidentiary requirement, and given a reasonable opportunity to provide the evidence, which was reasonably available to her at the time it should have been submitted. *See Matter of Furtado*, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on appeal when the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it) (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988)); *see also* 8 C.F.R. § 103.2(b)(11) (requiring that in response to an RFE, all evidence must be submitted together at one time and that submitting only some of the requested evidence will be considered a request for a decision on the record).

Because we determine that the record does not establish whether the Petitioner qualifies for second preference classification, which is dispositive, we reserve our opinion regarding whether the record satisfies the three *Dhanasar* prongs. *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 alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.