U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40797014

Date: FEB. 25, 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* section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (national interest waiver), concluding that the Petitioner had not established that 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 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.

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.

If a petitioner establishes eligibility for the underlying EB-2 visa 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

The Petitioner is a national of Turkey, who currently holds nonimmigrant status as an E-2 treaty investor. She described her employment background in Turkey, which included work as an English teacher, assistant principal, and high school principal. According to her Form I-140, Immigrant Petition for Alien Workers, her intended occupation is that of a general manager, but her job title is student coach and consultant, with the Standard Occupational Code (SOC Code) 25-3041. According to her supporting brief, her proposed endeavor is to become the founder and general manager of an academy in the state of Georgia that will enhance the efficiency of public and private schools and diverse corporations by integrating immigrants, especially Turkish, into the U.S. educational system and corporate landscape through the provisions of ESL programs, cultural adaptation support, and personal development coaching.

A. EB-2

The Petitioner asserts she is eligible for the underlying EB-2 visa classification as an advanced degree professional and SCOPS agreed. However, for the reasons discussed below, the record does not establish the Petitioner's eligibility for the underlying classification.

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.* Profession is defined as one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.[2] 8 C.F.R. § 204.5(k)(2).

The Petitioner does not claim she holds a foreign equivalent degree above that of a bachelor's degree, but that she holds the foreign equivalent of a bachelor of arts degree in English language teaching followed by five years of progressive experience in the specialty. As an initial matter, the Petitioner provided a single certificate of translation for the foreign language "documents" submitted in support of her degree without any further identifying information regarding the documents. But, "[p]etitioners and applicants for immigration benefits are required by regulation to provide certified English translations of any foreign language documents they submit." *Matter of Nevarez*, 15 I&N Dec. 550, 551 (BIA 1976)

[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] Profession shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

(citing 8 C.F.R. § 103.2(b), now promulgated at 8 C.F.R. § 103.2(b)(3)) which states: "Any document containing foreign language submitted to USCIS shall 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 from the foreign language into English." Without a translator's certification for each foreign language form of evidence, or a translator's certification specifically listing the documents it is validating, the certification cannot be regarded to be certifying any specific document. The final determination of whether evidence meets the plain language requirements of a regulation lies with USCIS. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988) (finding that the appropriate entity to determine eligibility is USCIS).

Because the regulation does not contain any provision that allows for such a blanket translation certificate, the submission of a single translation certification that does not identify the document or documents it purportedly accompanies does not meet the requirements of the regulation at 8 C.F.R. § 103.2(b)(3). Consequently, any foreign language document containing deficiencies in translation or based on a blanket certification of translation is not probative evidence and cannot serve to corroborate the Petitioner's claims. For this reason alone, the Petitioner has not established that she holds the U.S. equivalent of a bachelor's degree.

Further, we would note the following additional deficiencies in the submitted evidence. The Petitioner did not provide a copy of her original foreign language diploma from [redacted] in Turkey[3] and, according to the translation, she was awarded the degree on July 6, 2007, but the diploma itself is dated July 14, 2011. The Petitioner provided no explanation for the discrepancy in these dates. And the original and translated copy of her accompanying transcript does not identify her degree. Finally, while we acknowledge that the Petitioner submitted a February 2025 evaluation report indicating that she holds the foreign equivalent of a U.S. bachelor's degree, that conclusion was "based on copies of the original documents" which are not identified, does not mention any accompanying translation that may have been provided, and does not address the discrepancy between her completion of the requirements for the degree in 2007 and the four year delay in receiving her diploma.[4] For all of the above reasons, she has not demonstrated she holds the foreign equivalent of a U.S. bachelor's degree, and we need not determine whether her degree was followed by five years of progressive experience in the specialty, pursuant to 8 C.F.R. § 204.5(k)(2).[5]

In addition, the Petitioner has not demonstrated that her intended occupation, through which she plans to advance the proposed endeavor, meets the definition of a profession. *See* 8 C.F.R. § 204.5(k)(1) and (2); *see generally* 6 *USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policymanual (providing, as guidance, it is the petitioner's burden to establish by a preponderance of the evidence that the intended occupation requires at least a bachelor's degree or its foreign equivalent degree for

[3] As explained in SCOPS' request for evidence, "[i]f you submit a foreign language translation . . ., you must also include a copy of the foreign language document."

[4] We may, in our discretion, use an evaluation of a person's foreign education as an advisory opinion. *Matter of Sea, Inc.*, 19 I&N Dec. 817, 820 (Comm'r 1988). However, where an opinion is not in accord with other information or is in any way questionable, we may discount or give less weight to that evaluation. *Id.* Here, the unsupported conclusions and discrepancies drawn by the evaluation report raise issue with its reliability. The Petitioner must resolve the inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

[5] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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)

entry). Within the petition, the Petitioner claimed she will be a student coach, consultant, and manager. However, as noted above, she identified the SOC code 25-3041 on the Form I-140, which, according to the Department of Labor's *Occupational Outlook Handbook,* is for tutors for which the typical entry-level education for the occupation is some college, but no degree.[6] Therefore, the Petitioner has also not established the intended occupation through which she intends to advance her proposed endeavor meets the definition of a profession.

For all these reasons, the Petitioner has not established she is an advanced degree professional. And because the Petitioner did not assert that she is an individual of exceptional ability in the record below or on appeal, we deem the issue waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)) (Any ground of ineligibility that is not raised on appeal is waived.) As a result, the Petitioner has not established her eligibility for the EB-2 visa classification and we withdraw SCOPS determination to the contrary.

B. National Interest Waiver

In support of the substantial merit and national importance of her proposed endeavor, the Petitioner discussed the importance of ESL teachers and the U.S. educational services sector, and how her endeavor aligns with many of U.S. government priorities. She provided a business plan, support letters, and articles including those discussing the impact of ESL teachers, how education affects the economy, the benefits of supporting English language speakers, White House priorities, government grants and training programs, and the effects of english proficiency. SCOPS found the Petitioner's proposed endeavor has substantial merit, but did not have national importance and thereby did not satisfy *Dhanasar's* first prong requirements. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we noted that, in assessing national importance, "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* at 890. 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.*

On appeal, the Petitioner asserts that SCOPS misapplied the legal standard by not properly considering the Petitioner's evidence, such as her economic projections, and failed to articulate a reason for why the Petitioner's endeavor did not meet national importance. However, SCOPS's decision explained that in determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work, but the specific endeavor the Petitioner proposes to undertake, citing *Matter of Dhanasar*, 26 I&N Dec. at 889. SCOPS also determined that the Petitioner had not shown that her specific endeavor would have social and economic impact as contemplated by *Dhanasar* and that her letters focus on her skills and experience, and do not discuss the potential impact of her proposed endeavor. SCOPS further found that her evidence did not demonstrate that her endeavor

[6] *See* Bureau of Labor Statistics, U.S. Dep't of Labor, *Occupational Outlook Handbook*, Tutors, https://www.bls.gov/ooh/education-training-and-library/tutors.htm).

would be an impetus for progress or would broadly influence the education field. Based on our de novo review, SCOPS properly analyzed the record and determined the Petitioner had not established the national importance of her proposed endeavor.

The Petitioner also reasserts arguments raised below, including that her proposed endeavor will reduce the effects of limited English proficiency, such as public safety issues and chronic unemployment, thereby broadly enhancing societal welfare. She highlights new data points, such as, the number of foreign-born individuals in the [redacted], Georgia region and extrapolates the economic and societal costs associated with not having ESL programs, which she claims her proposed endeavor will alleviate. She amends, for example, her academy's personnel plan to grow to 51 staff members from the original projection of 21 staff members, and shows additional areas of impact, discusses how her academy's enrollment will grow from 160 students in year one to 900 students in year five, will reduce public systems spending by up to 20 million annually when fully deployed, and contribute over $300,000 in payroll taxes by year five, demonstrating her endeavor's national economic impact. However, it is the Petitioner's burden to establish her eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Here, the Petitioner in her appeal, as in the petition, does not corroborate her assertions and estimates of her academy's potential to broadly enhance societal welfare with independent evidence. Nor does she explain and substantiate how her assertions and projections, even if substantiated, would sufficiently extend beyond the benefits to her prospective clients and/or students to reach the level of "substantial positive economic effects," particularly in an economically depressed area, as contemplated by *Dhanasar*. *Matter of Dhanasar*, 26 I&N Dec. at 890.

The Petitioner also reargues that her proposed endeavor aligns with current government priorities. However, as explained by SCOPS, 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 id.* at 889. In other words, the Petitioner must demonstrate the national importance of her specific, proposed endeavor of providing services through her academy to integrate immigrants into the U.S. educational system and corporate landscape by providing ESL programs, cultural adaptation support, and personal development coaching in the state of Georgia, which she has not done.

SCOPS's decision determined that because the Petitioner had not met the requisite first prong of the *Dhanasar* analytical framework, she had not demonstrated she is eligible for or otherwise merits a national interest waiver as a matter of discretion. As a result, SCOPS' analysis stopped after analyzing *Dhanasar's* first prong. On appeal, the Petitioner asserts that "under well-established precedent," silence on *Dhanasar's* prongs two and three is presumptively favorable. The Petitioner then cited two cases, but neither of them stand for such a presumption.

Further, we do not believe the record supports that the Petitioner meets the remaining *Dhanasar* prongs. For example, for *Dhanasar's* prong two analysis, we consider factors, such as education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals in determining whether petitioners are well-positioned to advance their proposed endeavor. *Id.* at 890. Here, the Petitioner has not established her educational background to demonstrate she is prepared to pursue her endeavor. Her

evidence does not show how her background in teaching would prepare her to lead her endeavor here in the United States. For example, she has not provided sufficient documentation that her experience and background have provided her with the skills required to advance her proposed endeavor as her employment, recommendation, and expert letters do not speak to her ability to lead a business, nor has she provided evidence of past successes in related efforts. In addition, while her employment letters discuss her duties, they do not discuss accomplishments or the impact of her work to demonstrate she is well positioned to advance her proposed endeavor. Further, the underlying record does not contain evidence of potential customers or investors.

In addition, for *Dhanasar's* third prong, we assess whether the proposed endeavor and the individual being well positioned to advance that endeavor, taken together, provide benefits to the nation such that a waiver of the labor certification requirement outweighs the benefits that ordinarily flow from that requirement. *See generally* 6 *USCIS Policy Manual*, *supra,* at F.5(D)(3). Here, as discussed above, the Petitioner has not demonstrated that her contributions to integrate immigrants into the U.S. educational system and corporate landscape would be nationally important or that she is well positioned to advance the proposed endeavor. As a result, she has not demonstrated that the benefit of approving a national interest waiver on her behalf would supersede the benefits of protecting the domestic labor supply inherent in the labor certification process.

III. CONCLUSION

The Petitioner has not established her eligibility for the underlying classification and *Dhanasar's* mandatory prongs. She consequently has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

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.