U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37172577

Date: FEB. 26, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a special education teacher, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional, 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 that the record did not establish 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 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

[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).

- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

The Director determined the Petitioner qualified for EB-2 classification as an advanced degree professional because she submitted evidence of her bachelor's degree in pedagogy and five years of progressive post-baccalaureate experience in her field. We agree. The only issue on appeal is whether the Petitioner qualifies for a waiver of the job offer requirement in the national interest.

In the business plan for her proposed company, [redacted] the Petitioner stated she would work as Lead Special Educator for the company, which would be "a multidisciplinary space with a responsive approach, focused on the neurodevelopment and psychomotor skills of children with special needs in [redacted] Texas." The business plan explains the company will offer a full range of services "from initial assessment to intervention and ongoing monitoring, ensuring holistic and continuous support for each child."

A. Substantial Merit and National Importance

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined the Petitioner's proposed endeavor has substantial merit. We agree.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. The Director determined the Petitioner did not establish that his proposed endeavor would have broader implications in his field beyond the individuals and entities using his work.

On appeal, the Petitioner asserts the Director erred and her proposed endeavor has national importance because it will address the shortage of educators specializing in inclusive education by offering ongoing training and development programs for teachers and promoting a culture of empathy and understanding. The Petitioner further asserts her company will have a significant economic impact by creating direct and indirect jobs in [redacted] Texas. The Petitioner's business plan projects the company will employ 16 individuals the first year increasing to 35 individuals by the fifth year. The Petitioner acknowledged that [redacted] Texas is not an economically depressed area. The record also does not establish that the employment of 16 to 35 people constitutes job creation on a level commensurate with national importance.

The Petitioner also claims her proposed endeavor will benefit social welfare by providing personalized education and therapy services for children with special needs. While the record indicates the

Petitioner's company would provide beneficial services to her company's clients, it does not establish that those services would extend beyond her company's clients to impact her field more broadly in a manner indicative of national importance.

The Petitioner also asserts her company will have national and global implications in inclusive education through the dissemination of innovative and adaptive educational practices. Specifically, the Petitioner states her company will provide services including early intervention, specialized education, and family support. The record does not demonstrate that any of these services are unique, innovative, or otherwise have national or global implications in her field. *See id.* at 889. (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field).

The Petitioner submitted a letter from S-Q-[2], Director of [redacted] expressing her opinion that the Petitioner qualifies for a national interest waiver. S-Q- states the Petitioner's company will have an economic impact by extending its services through online platforms and integrating research and development into practice. S-Q- does not indicate that the effect of these aspects of the Petitioner's company would extend beyond her company's clients to impact her field more broadly on a level commensurate with national importance. S-Q- asserts the Petitioner's company will broadly enhance societal welfare by promoting inclusivity and understanding autism and related conditions within society and providing direct services to individuals with special needs. S-Q- does not articulate how the Petitioner's company's promotion of inclusivity would extend beyond her company's clients to impact her field more broadly in a manner indicative of national importance.

S-Q- also claims the Petitioner's company will have national or even global implications in her field by providing comprehensive services that include early intervention, specialized education, and family support. S-Q- does not identify any specific services of the Petitioner's company that has received recognition as innovative or impactful within her field such that they would have national or global implications in her field indicative of national importance. *See id.* (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field). S-Q- also asserts the Petitioner's proposed endeavor closely aligns with national priorities regarding the education and integration of individuals with disabilities. However, our assessment of national importance does not focus on the importance of issues within a field in general, but instead "focuses on the specific endeavor that the foreign national proposes to undertake." *Id.*

On appeal, the Petitioner resubmits support letters from colleagues. F-R-A- praises the Petitioner's past work at [redacted] and expresses confidence in the Petitioner's "potential to revolutionize inclusive and special education in the United States." F-R-A- does not, however, address the Petitioner's specific proposed endeavor. L-F-C- praises the Petitioner's past work and states the Petitioner could improve inclusive education by implementing innovative and personalized pedagogical practices that meet the needs of students with disabilities, developing new teaching methodologies, creating extracurricular programs that promote social inclusion, and ensuring schools comply with federal guidelines for special education. L-F-C- does not indicate that the effect of these activities would extend beyond the Petitioner's company's clients to impact her field more broadly in

[2] We use initials to protect the privacy of the referenced individuals.

a manner commensurate with national importance. M-A-A- praises the Petitioner's past work and her ability to implement inclusive practices, educate teachers, transform institutions, develop community programs, formulate educational policies, support families, and contribute to educational research. M-A-A- does not discuss the Petitioner's proposed endeavor or indicate that her future work would extend beyond her company's clients to impact her field more broadly at a level indicative of national importance.

In sum, the record does not establish that the Petitioner's company has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within her field, or has other broader implications indicating national importance. Consequently, the Petitioner does not meet the first *Dhanasar* prong.

B. The Remaining *Dhanasar* Prongs

The Petitioner has not established the national importance of her specific proposed endeavor and she does not meet the first prong of the *Dhanasar* framework. As this issue is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve determination of her eligibility under the second and third prongs of 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).

III. CONCLUSION

The Petitioner has not established the national importance of her proposed endeavor and does not meet the first prong of the *Dhanasar* analytical framework. Consequently, she has not demonstrated that she is eligible for or merits a waiver of the job offer requirement in the national interest as a matter of discretion.

ORDER: The appeal is dismissed.