U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42072992

Date: MAR. 30, 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 establishes that the Petitioner qualifies as a member of the professions holding an advanced degree, but the record does not establish that the Petitioner is eligible for a national interest waiver as a matter of discretion. 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.

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 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

As indicated above, the Petitioner must first demonstrate qualification for the underlying EB-2 visa classification as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. SCOPS determined that the Petitioner qualifies as a member of the professions holding an advanced degree concluding that the Petitioner has the foreign equivalent of a U.S. bachelor's degree plus five years of progressive experience in the specialty.[2] 8 C.F.R. § 204.5(k)(2). However, upon de novo review, we conclude that the evidence in the record does not establish the Petitioner has the foreign equivalent of a U.S. bachelor's degree and therefore he does not qualify for the underlying EB-2 classification.

The record contains a diploma, a transcript, and two academic evaluations as evidence of the U.S. equivalency of the Petitioner's foreign bachelor's degree. The record reflects that the Petitioner earned a *titulo de bacharel em administracao* diploma from [redacted] in Brazil. The Petitioner also submitted two academic evaluations. The first, from VisVantage, states that the Petitioner's degree is the equivalent of a U.S. bachelor of science degree in administration. The evaluator further contends that the length of the Petitioner's program is four years, with a total of 251.91 credits. The second academic evaluation is written by World Education Services, and states that the Petitioner has the equivalent of a U.S. bachelor's degree in business administration and that the length of the program is four years, with a total 132.5 credits.[3]

Although both evaluations determine that the Petitioner's length of study was four years, the transcript in the record indicates less than four years of study. First, we note that the record does not contain an English translation of the Petitioner's transcript. Any document containing a 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. *See* 8 C.F.R. § 103.2(b)(3). Second, the

[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] The Petitioner did not submit evidence in support of, or otherwise claim to be, an individual of exceptional ability.

[3] The evaluation from World Education Services also states the Petitioner earned a one-year, post graduate certificate in financial management, however the record does not contain evidence of this certificate. The pertinent regulation at 8 C.F.R. § 204.5(k)(2) requires a bachelor's degree or foreign equivalent degree, which means individuals cannot combine experience, training or education to supplement the three-year education degree to equate to a four-year education degree. *See SnapNames.com, Inc. v. Chertoff*, 2006 WL 3491005 (D. Or. 2006) (where the beneficiary is required to hold a bachelor's degree or a foreign equivalent, a single degree is required). Therefore, the Petitioner cannot use his degree, plus his one-year, post-graduate certificate to meet this requirement.

Petitioner's transcript shows that he completed two semesters of school in 2011 and 2012 and one semester of school in 2013, which does not equal four years of study, and contradicts both evaluations.

Further, although both evaluations state that the Petitioner's length of study was four years, the evaluations contain conflicting information on how many credits the Petitioner completed. The evaluation from VisVantage states the Petitioner completed 251.91 credits and the evaluation from World Education Services states he completed 132.5 credits. 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.* The record contains material inconsistencies that the Petitioner must resolve with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.*; *see also Matter of O-M-O-*, 28 I&N Dec. 191, 197 (BIA 2021) ("by submitting fabricated evidence, the appellant compromised the integrity of his entire claim") (cleaned up).

According to the American Association of Collegiate Registrars and Admissions Officers[4]:

> The *3-year Título de Bacharel/Grau de Bacharel* represents attainment of a level of education comparable to 3 years of university study in the United States. Credit may be awarded on a course-by-course basis. The *4-* or *5-year Título de Bacharel/Grau de Bacharel* represents attainment of a level of education comparable to a bachelor's degree in the United States.

As stated above, while the evaluators indicate that the Petitioner completed four years of academic study, the transcript in the record reflects less than four years of study, and the evaluations include conflicting information on how many credits the Petitioner earned. EDGE reflects that only the "*4-* or *5-year Título de Bacharel/Grau de Bacharel* represents attainment of a level of education comparable to a bachelor's degree in the United States." Here, the record indicates the Petitioner completed less than four years of study and therefore the evidence in the record does not establish the Petitioner has obtained the equivalent of a U.S. bachelor's degree. Accordingly, we cannot conclude that he holds an advanced degree under 8 C.F.R. § 204.5(k)(2).

While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety. The Petitioner contends he is eligible for all three prongs of the *Dhanasar* framework. However, as the Petitioner does not qualify for the underlying EB-2 classification, he is ineligible for a national interest waiver. An applicant or petitioner must establish that he or she is eligible for the benefit sought at the time of filing. 8 C.F.R. § 103.2(b)(1). Here, the record does not establish that the Petitioner qualifies for the EB-2 immigrant visa classification.[5] Because the

[4] We consider EDGE to be a reliable source of information about foreign credential equivalencies. *See Confluence Intern., Inc. v. Holder,* Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); *Tisco Group, Inc. v. Napolitano*, No. 09-cv-10072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); *Sunshine Rehab Services, Inc.* No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). *See also Viraj, LLC v. Holder,* No. 2:12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013). For more information, visit https://www.aacrao.org/edge.

[5] If all required initial evidence is not submitted with the benefit request or does not demonstrate eligibility, USCIS in its

identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. at 24, 25 (1976) per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

We conclude that the Petitioner has not established by a preponderance of the evidence that he qualifies as a member of the professions holding an advanced degree, or that he is otherwise eligible for the underlying EB-2 immigrant visa classification.

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.

discretion may deny the benefit request for lack of initial evidence or for ineligibility or request that the missing initial evidence be submitted within a specified period of time as determined by USCIS. 8 C.F.R. § 103.2(b)(8)(ii). Here, the record lacks evidence to demonstrate that the Beneficiary's degree is equivalent to a U.S. bachelor's degree. Therefore, we dismiss the appeal and deny the benefit request for ineligibility.