U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37600228

Date: MAY 7, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a science and chemistry teacher, 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).

The Director of the Texas Service Center denied the petition, concluding although the Petitioner established that she qualifies for the underlying EB-2 visa classification as an advanced degree professional, she did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.[1] 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.

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.

[1] While the Petitioner provided copies of her *Titulo de Licenciada* in chemistry and *Titulo de Magister* in education, she did not provide the respective academic transcripts as required by 8 C.F.R. § 204.5(k)(3) (requiring the submission of an official academic record). But we need not reach whether the Petitioner established she is an advanced degree professional, however, as our decision on her eligibility for a national interest waiver is dispositive. The Petitioner must submit copies of her academic transcripts in any future filings to establish her underlying eligibility.

Citizenship and Immigration Services (USCIS) may, as matter of discretion,[2] 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's proposed endeavor is to continue working as a science and chemistry teacher in Florida "to promote STEMM (Science, Technology, Engineering, Mathematics, and Medicine) education in the United States and to train the country's STEMM experts of tomorrow."

The Director determined that the Petitioner's proposed endeavor was of substantial merit, and we agree. However, the Director concluded the Petitioner did not establish that her proposed endeavor has national importance.

On appeal, the Petitioner asserts she has established, by a preponderance of the evidence, the national importance of her work, and that the Director disregarded evidence and applied "a stricter standard" of proof. With respect to the standard of proof in this matter, a petitioner must establish that she meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. In other words, a petitioner must show that what she claims is "more likely than not" or "probably" true. To determine whether a petitioner has met her burden under the preponderance standard, USCIS considers not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

Moreover, in determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. We look for broader implications. An 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.* at 889-890.

Here, the Petitioner relies on the importance of the STEM field and its "critical importance to U.S. economic competitiveness and innovation." In addition, she claims her proposed endeavor has national importance because it "align[s] with matters deemed of national importance by government entities or national initiatives" and references the Federal Strategic Plan for Advancing STEM Education and Cultivating STEM Talent from the National Science and Technology Council of November 2024. However, 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." *Id.* at 889.

[2] *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).

The Petitioner also highlights that her endeavor will address the shortage of teachers. However, the national shortage of teachers is not, in and of itself, sufficient to establish the national importance of the Petitioner's endeavor.[3] Further, the Department of Labor directly addresses U.S. worker shortages through the labor certification process.

In addition, we reviewed the Petitioner's letters of support from colleagues. The authors praise the Petitioner's abilities and the personal attributes that make her an asset as a teacher. While they evidence the high regard the Petitioner's colleagues have for her and her work, they do not offer persuasive detail concerning the impact of her proposed endeavor or establish how such impact would extend beyond her students and employer. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*.

Moreover, we acknowledge the Petitioner's claim that because her colleagues work for a government run school, she has the full support of the government public educational system of Florida. In support, she references the USCIS Policy Manual regarding STEM fields and highlights "*letters from quasi-governmental entities*" such as government run schools "*could prove favorable for purposes of the first prong if, for example, they establish that the agency or entity has expertise in the proposed endeavor and that the proposed STEM endeavor promises to advance a critical and emerging technology or is otherwise important for purposes of maintaining the United States' technological prominence.*" First, there is no evidence that any of these letters were written on behalf of a governmental or even quasi-governmental agency. Rather, they were provided by the Petitioner's colleagues. Second, with respect to the first prong, as in all cases, the evidence must demonstrate that a STEM endeavor has both substantial merit and national importance.[4] While proposed classroom teaching activities in STEM, for example, may have substantial merit in relation to U.S. educational interests, such activities, by themselves, generally are not indicative of an impact in the field of STEM education more broadly, and therefore generally would not establish their national importance.[5] Here, the Petitioner has not shown that her endeavor aims to advance STEM technologies and research or has broad implications rather than providing her limited professional services by working within a STEM profession.

We also reviewed the expert opinion letters from two professors. In the letters, the authors describe the growing demand for STEM teachers, the importance of STEM education, assert a shortage of qualified professionals in the STEM fields, and highlight national initiatives. These are broad and general issues, well beyond the scope of the Petitioner's proposed endeavor to work as a science and chemistry teacher at a magnet school in Florida. The Petitioner must establish the national importance of *her* specific proposed endeavor. Assertions about the industry as a whole do not establish the national importance of the specific proposed endeavor within that industry. The authors of the letters do not explain how the Petitioner's employment as a science and chemistry teacher would alleviate the STEM teacher shortage or otherwise broadly impact the education system in the United States at a nationally important level.

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[3] *See 6 USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5. *See also* USCIS Policy Alert, P A-2025-03, National Interest Waivers for Advanced Degree Professionals or Persons of Exceptional Ability (Jan. 15, 2025), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250115-Employment-BasedNationalInterestWaivers.pdf.

[4] *See generally 6 USCIS Policy Manual* F.5(D)(2), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5.

[5] *Id.*

Here, the Petitioner has not met her burden of proof to establish that her intended teaching activities satisfy the national importance element of *Dhanasar*'s first prong. *See Matter of Dhanasar*, 26 I&N Dec. at 893 (determining that the alien's proposed teaching activities did not rise to the level of having national importance absent evidence that they would impact his field more broadly); *see also generally 6 USCIS Policy Manual* F.5(D)(1), https://www.uscis.gov/policy-manual (stating that endeavors such as classroom teaching, for example, without broader implications for a field or region, generally do not rise to the level of having national importance for the purpose of establishing eligibility for a national interest waiver).

Because the Petitioner has not established eligibility under the first prong of the *Dhanasar* test, we need not address her eligibility under the remaining prongs, and we hereby reserve them.[6] The burden of proof is on the Petitioner to establish that she meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-376. The Petitioner has not done so here and, therefore, we conclude that she has not established eligibility for a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.

[6] *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 alternate issues on appeal where an applicant is otherwise ineligible).