



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 31110614

Date: JUN. 11, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a language educator, 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 that the record did not establish the Petitioner's eligibility for the requested national interest waiver. The matter is now before us on appeal. 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 establish eligibility for a national interest waiver, a 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. An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States 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. 8 C.F.R. § 204.5(k)(2).

Once a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term "national interest," *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 discretion¹, 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.

II. ANALYSIS

The Director determined that the Petitioner qualified as an advanced degree professional but did not establish eligibility for a national interest waiver under the *Dhanasar* framework. For the reasons set forth below, we agree that the Petitioner has not met the *Dhanasar* framework and we will dismiss the appeal.

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* We agree with Director’s conclusion that the Petitioner’s proposed endeavor, which aims to provide language education in the United States, has substantial merit. Yet, the record does not establish that the endeavor rises to the level of national importance as contemplated in *Dhanasar*.

The Petitioner intended to continue working in the United States as a secondary school teacher focusing on language education in public schools. In her first professional plan and statement, she stated she planned to “create[e] a Portuguese curriculum for [s]econdary [s]chool and teach[] Portuguese, both as a foreign language and a heritage language,” noting that “the Portuguese course [she] teach[es] have been very sought after and [she] would like to . . . continue . . . to build the course from the beginning to advanced levels.”

In response to the Director’s request for evidence (RFE), the Petitioner submitted a new, in-depth professional plan elaborating on her plans to provide “high-quality language education to students learning academic content through English, Portuguese, and Spanish, as world languages.” In this updated professional plan, she also provided a detailed summary of her academic and professional background. She asserted that, by working as a language educator, she would “play a crucial role in enabling students to develop competencies and fulfill their potential for intellectual and social growth,” and “contribute to the evolution of the country’s education path by establishing a multilingual tutoring program . . . [and] join the teachers’ workforce. . . [to] promote linguistic diversity and facilitate language learning for individuals of all ages and backgrounds.” The Petitioner’s professional plan also elaborated on the demand and shortage of qualified teachers in the U.S., as well as the importance of language education due to increased globalization. In support of her endeavor, the record also contains several industry articles and reports discussing the current state of the U.S.

¹ See *Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

education system, the importance of language skills in employment opportunities, and the prevalence and importance of the Portuguese language. The Petitioner further provided articles detailing the cognitive and educational benefits of bilingual education, and the importance of bilingual education in supporting non-English speaking students. Additionally, the Petitioner submitted multiple recommendation letters.²

After reviewing the complete record, the Director denied the petition, concluding that the Petitioner did not establish eligibility for the requested national interest waiver, as she did not satisfy the *Dhanasar* three-prong framework. With respect to the first prong, the Director determined that the Petitioner's endeavor had substantial merit, but that she did not establish her endeavor was nationally important as contemplated under the *Dhanasar* framework. Specifically, the Director concluded the evidence did not demonstrate that the Petitioner's work would result in broader implications to the education field commensurate with national importance. Moreover, the Director concluded that the evidence did not establish her endeavor would result in substantial economic benefits discussed in *Dhanasar*.

Upon de novo review, we agree that the record does not establish, by a preponderance of the evidence, that the Petitioner's proposed endeavor would have national importance. In *Dhanasar* we said that, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which a petitioner may work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Dhanasar* at 889. We therefore "look for broader implications" of the proposed endeavor, noting that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* 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.* at 890

On appeal, the Petitioner submits new evidence that she contends establishes her "work in the field of curriculum and program development" and indicates this endeavor would result in "impacts which can be measured beyond the immediate classroom." This evidence includes a copy of the Petitioner's revised curriculum vitae (CV), a new personal statement from the Petitioner, four additional letters of recommendation, and an excerpt from the publication *Interpreting Spoken Languages in Schools*, discussing federal laws requiring language access for non-English speaking students in public schools and the benefits of bilingual education. In her revised personal statement, the Petitioner reiterates her academic and professional background, and reasserts the national importance of her endeavor, stating that, she "actively collaborate[s] with peers in education and create[s] curricula, including curriculum adaptations that ensure inclusivity." In addition, she asserts a "goal [] to enhance the language learning experience by developing an innovative curriculum aligned with national language frameworks, the latest educational research, and dynamic approaches that elevate and motivate students academically."

In her appellate brief, the Petitioner relies most heavily on the letter of recommendation from Dr. S-D-, 6-12 Humanities and World Language Director for [REDACTED] which details the Petitioner's work in "develop[ing] groundbreaking curriculum in World Language Portuguese." She

² While we do not discuss each piece of evidence contained in the record individually, we have reviewed and considered each one.

explains that the Petitioner incorporated several strategies for classroom management adopted from the latest research in education. Based on her experience working closely with the Petitioner in developing this curriculum, Dr. S-D- asserts that she “firmly believe[s] that [the Petitioner’s] work in developing a World Language Portuguese curriculum is of national interest.”

Notably, however, the Petitioner’s CV indicates that she began her employment with [REDACTED] [REDACTED] the same month the Director denied the underlying petition, ten months after the filing of the petition. As such, she cannot rely on her development of the curriculum for [REDACTED] to establish her eligibility for the national interest waiver as a petitioner must establish eligibility for the benefit sought at the time the petition is filed. 8 C.F.R. § 103.2(b)(1); *Matter of Katigbak* 14 I&N Dec. 45, 49 (Comm’r 1971). Moreover, beyond commending the Petitioner for her development of the curriculum, Dr. S-D- does not elaborate on how this would result in broader implications to the field, beyond the prospective impact to her students, or students in her school district.

Likewise, in her personal statement, the Petitioner does not address the Director’s conclusions regarding the limited impact of her work, and instead asserts, that her work “directly contributes to the national interest by fortifying the education foundation of our future workforce and preparing students for success in an interconnected world.” Yet, the record does not support these assertions. For example, the Petitioner has not shown that her curriculum development would result in impacts to other school districts’ curriculum development or otherwise result in impacts in the language education field. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. *See 1756, Inc. v. U.S. Att’y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). In the same way teaching activities proposed by the petitioner in *Dhanasar* were not shown to have a broader impact on the field of STEM education, the Petitioner has not shown that her endeavor would lead to broader implications in the language education field. *Dhanasar* at 893.

In addition, the letters of recommendation contained in the record do not establish the national importance of the Petitioner’s proposed endeavor, as they are limited to discussing her past accomplishments as a teacher and the impact she already had on her workplace and students. The letters do not discuss the direct impact of her proposed endeavor. While we acknowledge that the Petitioner is a valuable teacher for her employer and has meaningfully impacted the lives of her students, her past accomplishments and praise from former colleagues relates to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the Petitioner has demonstrated the national importance of her proposed endeavor.

Furthermore, the Petitioner contends on appeal that her “structural improvements to educational curricula would have broad, generational impacts by improving knowledge skills of the U.S. workforce, enhancing societal welfare and understanding, and enhancing cultural enrichment and understanding.” However, these assertions are also not supported by the record. The Petitioner has not shown how her introduction of curriculum for her prospective employers would result in broader implications to the U.S. education field, or the U.S. workforce. And she has not demonstrated that her undertaking has implications beyond the students under her tutelage. While we recognize the record contains several industry reports and research articles establishing federal interest in bilingual education, the federal mandate ensuring equal access to education for non-English speaking students,

these articles and industry reports establish the substantial merit of the Petitioner’s endeavor, not its national importance. In *Dhanasar*, we explained that the issue was not the national importance of a field, industry, or profession in which the individual will work; instead, we focus on the “the specific endeavor that the foreign national proposes to undertake.” *Id.* at 889. The articles provided do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner’s specific proposed work as a language educator will result in broader implications in her field or enhancements to U.S. societal welfare that rise to the level of national importance.

Nor has the Petitioner shown that her proposed work has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to her future work, the record does not indicate that the benefits to the regional or national economy resulting from the Petitioner’s teaching activities would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

For all the reasons discussed, the evidence does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion. Since the identified basis for denial is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the Petitioner’s eligibility and appellate arguments under *Dhanasar*’s second and third prongs. *See INS v Bagamasbad*, 429 U.S. 24, 25 (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reached”); *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.