



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

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

In Re: 26379957

Date: APR. 17, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, an English language arts teacher, seeks classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree but 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. 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. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

While neither the statute nor the pertinent regulations define the term "national interest," we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that, after a petitioner has established eligibility for EB-2 classification, USCIS may, as a matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the noncitizen's proposed endeavor has both substantial

merit and national importance; (2) that the noncitizen is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen 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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

## II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest. For the reasons discussed below, the Petitioner has not established that a waiver of the requirement of a job offer is warranted.

Initially, the Petitioner described the endeavor as an “aspiration[] to continually contribute to the education sector in the United States” and “to increase [her] dedication to research in the lives of students from undeserved [sic] populations.” More specifically, on the Form I-140, Immigrant Petition for Alien Workers, the Petitioner described her job as “teaching English [l]anguage [a]rts (ELA) to students in grades 7-12.” The Petitioner addressed her education and prior experience, the importance of literacy in general, and nationwide teacher shortage statistics; however, she did not initially elaborate on what her endeavor of contributing to the education sector in the United States and increasing her dedication to research would entail.

The Director informed the Petitioner in a request for evidence (RFE), in relevant part, that the record does not establish what the proposed endeavor would entail. The Director also informed the Petitioner that a “petitioner’s position, field, or industry is not an endeavor” and that, without more information, the record does not establish that her work as a teacher “would impact the field of education more broadly, as opposed to being limited to her students.”

In response to the Director’s RFE, the Petitioner submitted a resumé, which indicates that, since September 2021, she has “[provided] 9th-12th grade incarcerated youth and students with Common Core Standards-based instruction in English [l]anguage [a]rts classes” at a “youth academy.” Other documents in the record, such as a letter from the Chair of the [redacted] Department of Language, Literature, and Cultural Studies, describe the Petitioner’s employer as “a correctional facility,” not as a school or other facility primarily operating as an academic institution. The Petitioner discussed her “current teaching philosophy” in response to the RFE and stated:

As a teacher therefore, I hope to contribute immensely to the growth of the educational sector in the United States by working with the given students in my care per time, knowing fully well that my classroom observations will instigate groundbreaking research and my subject matter expertise will train the students so they can in turn help others around them, thereby expanding the scope of my impact, directly or indirectly.

The Petitioner further stated in response to the RFE that her endeavor will accomplish the following:

- Reduce educational inequalities and unequal graduation employability opportunities by granting students access to interdisciplinary studies regardless of their race, gender, religion, or other factors;
- Contribute to educational policy and leadership via practical classroom experiences and research endeavors. Contrary to the popular disconnection of policy makers to the classroom, I will be an informed contributor about the workings of the classroom by being in the classroom. These classroom experiences and research findings will then be applied to other classrooms in the United States;
- Minimize the shortage of workforce in my local community: by being a part of a school system, as an advanced degree holder, I contribute to the progress of my school community thereby reducing the number of schools with teacher shortages. The proposed educational model will also place the passion for teaching back in the hearts of teachers in the United States . . . ;
- Provide quality resources for homeschooled children . . . ;
- Help students in writing and English classes in the United States to experience integrated learning experiences of literacy, science, technology, and the digital humanities, thereby creating more employable and informed workforce . . . ; and
- Provide a nurturing environment for writing and storytelling as a vehicle for trauma healing and cultural enrichment . . . .

The Director found that, although the proposed endeavor has substantial merit, the “record does not convey an understanding of how the [P]etitioner’s proposed employment activities as a [t]eacher stand to have a broader impact on the education field.” Rather, the Director found, “it appears that the prospective impact would be localized to the [P]etitioner’s business, prospective employers and students in the local community.” The Director acknowledged that the Petitioner stated, in response to the RFE, that the endeavor “will lead to the creation of jobs.” However, the Director concluded that “the record does not show how this endeavor would offer substantial economic benefits to the region where it operates or to the nation, as a whole; nor does it demonstrate how the endeavor would significantly impact employment levels regionally or nationally.” The Director further found that “the [P]etitioner has not demonstrated that the specific work she proposes to undertake will offer original innovations that will contribute to the education field more broadly.” In light of those findings, the Director concluded that “USCIS cannot determine that the [P]etitioner’s intended employment activities have national importance.”

On appeal, the Petitioner asserts that her “engagement in membership associations and national bodies such as the National Council of Teachers of English (NCTE) and Correctional Education Association (CEA) among others listed in the initial documentation, promotes the impact of the [P]etitioner as a teacher beyond the classroom.” The Petitioner also asserts that “USCIS excludes [her] proposed research intentions and focuses solely on the teaching endeavors while determining the proposed endeavor’s qualification of national importance under the first prong.” The Petitioner further asserts that her “proposed educational model is designed and envisioned for use by the nation and the world at large.” The Petitioner also reiterates the bullet-point list provided above, adding that the endeavor will “enhance the educational system, societal welfare, and cultural enrichment via an interdisciplinary approach to education through technology . . . .”

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” and endeavors that have broader implications, such as “significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

As the Director acknowledged, the Petitioner’s proposed endeavor of teaching English language arts to incarcerated youth at a correctional facility has substantial merit. However, the endeavor, as articulated in the record, appears to benefit the correctional facility that employs the Petitioner and the children incarcerated at that facility whom she teaches. As the Director addressed, the record does not establish how the Petitioner, teaching English language arts to children incarcerated at a correctional facility, will have national or even global implications within the field of education, nor does it establish how the endeavor will have broader implications, such as “significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area.” *Id.*

Although the Petitioner generally asserts on appeal that her “engagement in membership associations and national bodies” is an opportunity for her to broaden her teaching philosophy “beyond the classroom,” the record does not elaborate on what her referenced “engagement” activities would entail and how those activities will cause broader implications. Relatedly, although the Petitioner asserted in response to the RFE that her endeavor will “reduc[e] the number of schools with teacher shortages” and “place the passion for teaching back in the hearts of teachers in the United States,” the record does not elaborate on how, as a teacher of children incarcerated at a correctional facility, the Petitioner affects the number of schools with teacher shortages or how her particular educational model at the correctional facility affects the passion for teaching among teachers in schools in the United States. Similarly, although the Petitioner asserts on appeal that her proposed educational model is “envisioned for use by the nation and the world at large,” the record does not establish how the pursuit of her endeavor will accomplish a national or even global implementation of it.

In turn, although the Petitioner references “research intentions” on appeal, neither the initial documentation nor the RFE response provide sufficient information to establish whether that research may have national importance, such as what she proposes to research, how she intends to conduct that research while working as an English language arts teacher at a correctional facility, and how she plans to organize and disseminate her research findings, in order to have the type of broader implications contemplated by the first *Dhanasar* prong. *See id.* As addressed above, in determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the “specific endeavor that the [noncitizen] proposes to undertake.” *See id.* at 889.

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prong. *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).

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.