



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

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

In Re: 28809273

Date: NOV. 17, 2023

Appeal of Texas Service Center 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 EB-2 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 Petitioner qualified for classification as a member of the professions holding an advanced degree, but that she 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.

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 sustain 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. If 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;

¹ *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

- 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 found that the Petitioner qualifies as a member of the professions holding an advanced degree. The sole issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

With regard to her proposed endeavor, the Petitioner stated that she intends to continue her work as the head of a school located in a U.S. commonwealth, which she claims is the only school in her region where Indigenous languages are taught to children through a curriculum she designed. In addition, the Petitioner indicated that she planned to continue overseeing another school that teaches her native language to the commonwealth's residents. She also asserted that she intends to continue her involvement as a community leader and volunteer with nonprofit organizations such as S-I- and 5-S-. The Petitioner further explained:

[The Petitioner's] proposed endeavor . . . focuses on cultural enrichment, education, furtherance of human knowledge, and economic activity. In the [Commonwealth], she has started two schools, designed curricula, and created jobs for [Commonwealth] residents. [The Petitioner] is also the creator of the only early education curriculum [in her region] that includes Indigenous languages, and she has been recognized by the [Commonwealth] government as someone whose efforts are key to Indigenous language revitalization efforts throughout the [Commonwealth].

For the reasons discussed below, we conclude the Petitioner has established eligibility for a national interest waiver under the analytical framework set forth in *Dhanasar*.

A. Substantial Merit and National Importance of the Proposed Endeavor

We withdraw the Director's determination that the Petitioner did not establish the national importance of her proposed endeavor under *Dhanasar's* first prong. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. As evidence that her proposed work has substantial merit and national importance, the Petitioner presented information about Biden Administration initiatives relating to native language revitalization. Her evidence also included letters of support from high level government and community leaders discussing how her undertaking broadly contributes to cultural enrichment in the commonwealth where she resides.²

For example, the Executive Director of the Commonwealth's Humanities Council asserted that "incorporating the humanities into education is crucial. The humanities provide an opportunity for students to explore the cultures, traditions, and perspectives of our indigenous people." He further stated that "[a] unique component to [the Petitioner's] school is their approach to integrating our

² In *Dhanasar*, we determined that "[e]ven ventures and undertakings that have as their focus one geographic area of the United States may properly be considered to have national importance." *Id.* at 889.

indigenous Chamorro and Carolinian history, culture, and languages into the curriculum. . . . As an educational leader in our community, [the Petitioner] is involved with education decisions and initiatives that enhance teaching practices in the [Commonwealth].” The Executive Director concluded that “[t]he impact of [the Petitioner’s] approach to providing for the educational needs and interests of students in [the Commonwealth] will be felt for generations to come.”

Likewise, the Resident Executive for the Commonwealth’s Indigenous Affairs Office indicated that the Petitioner’s school “specializes in the promotion of the indigenous culture” and that her proposed work “is extremely valuable to the Chamorro community . . . because of the ever-increasing risk of the erasure of Chamorro culture in the [Commonwealth].” He further asserted:

[The Petitioner’s] school is a significant contributor to preserving Chamorro culture by building connections between the new generation and the indigenous beliefs and heritage. . . . One of the primary focuses of [the Petitioner’s school’s] education program is on the learning of the languages native to the [Commonwealth], Chamorro, and Carolinian. This program helps facilitate the rebirth of the local culture and to bring back the importance of native customs and traditions.

Furthermore, the Governor of the Commonwealth stated:

[The Petitioner] continues to zealously advocate for curriculum development centered on revitalizing the native languages of our indigenous people, the Chamorros and the Carolinians. She continues to expand on the school’s Chamorro language courses and has developed a successful afterschool program that allows for members of our youth to partake in Chamorro language classes on a regular basis.

Moreover, [the Petitioner] is an active member of 5-S- which is a nonprofit organization dedicated to reviving indigenous canoe-building and sailing in our Commonwealth. Through her involvement in 5-S-, she has assisted in the spearheading of the restoration of indigenous navigational practices and the conferring of this knowledge onto the youth and other interested community members.

In addition, the mayor of the Commonwealth’s largest municipality noted that the Petitioner is the head of two schools in his municipality. He asserted that one of the Petitioner’s schools “provides kids with the opportunity to learn local culture and local languages” while the other “offers kids and adults a unique chance to learn Russian language.”

Similarly, the Chairwoman of the Education Committee for the Commonwealth’s House of Representatives stated that the Petitioner’s “Chamorro language program . . . helps children learn the local language that is spoken by many of their relatives and the local people of the [Commonwealth]. Not only does it teach them the language, but it also connects them with the Chamorro culture.” She also indicated that the Petitioner’s Russian language school helps “workers effectively communicate with tourists from Russia” and therefore stands to “expand [the Commonwealth’s] reach in the Russian tourism industry.”

The aforementioned letters of support offer meaningful details showing a wide level of regional support for the Petitioner's education programs. These letters, as well as other corroborating evidence contained in the record, are sufficient to demonstrate that the benefits of the Petitioner's proposed work offer broader implications for U.S. cultural enrichment. As the Petitioner has demonstrated both the substantial merit and national importance of her proposed endeavor, she has established that she meets the first prong of the *Dhanasar* framework.

B. Well Positioned to Advance the Proposed Endeavor

We agree with the Director's determination that the Petitioner satisfies the second prong of the *Dhanasar* framework. For example, the Petitioner submitted evidence indicating that she received hundreds of thousands of dollars in grant funding for her school from the Commonwealth's Department of Community and Cultural Affairs.³

C. Balancing Factors to Determine Waiver's Benefit to the United States

We also withdraw the Director's determination that the Petitioner did not establish that she meets *Dhanasar*'s third prong. This prong requires a petitioner to demonstrate 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. *Id.* at 890. In addition to having earned two master's degrees, the Petitioner possesses considerable experience and expertise in cultural enrichment and education. The record also demonstrates the benefits associated with Indigenous language revitalization and cultural heritage preservation. Further, the Petitioner has documented her past successes in operating two schools, as well as attracting governmental interest and funding relating to her work. Based on the Petitioner's track record of success in her field and the significance of her proposed work to advance U.S. cultural and educational interests, we conclude that she offers contributions of such value that, on balance, they would benefit the United States even assuming that other qualified U.S. workers are available. The Petitioner, therefore, satisfies the *Dhanasar* framework's third prong.

III. CONCLUSION

The Petitioner has met the requisite three prongs set forth in the *Dhanasar* analytical framework. We conclude that she has established she is eligible for and otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is sustained.

³ In *Dhanasar*, we determined that "the sustained interest of and funding from government entities" positioned the petitioner well to continue to advance his proposed endeavor. *Id.* at 893.