



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

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

In Re: 29734776

Date: FEB. 14, 2024

Appeal of Nebraska Service Center Decision

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

Intending to work as a provider of training and educational services to U.S. newcomers, the Petitioner seeks classification under the employment-based, second-preference (EB-2) immigrant visa category and a waiver of the category's job-offer requirement. *See* Immigration and Nationality Act (the Act) section 203(b)(2)(i), 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) has discretion to excuse job offers in this category - and, thus, related requirements for certifications from the U.S. Department of Labor (DOL) - if petitioners demonstrate that waivers of these U.S.-worker protections are "in the national interest." *Id.*

The Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner did not demonstrate the merits of her national interest waiver request. On appeal, the Petitioner contends that the Director erred overlooked evidence, asserting that: her proposed endeavor has "national importance;" she is "well positioned" to advance it; and, on balance, a waiver would benefit the United States.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we agree with the Director that the Petitioner has not established the claimed national importance of her proposed venture. We will therefore dismiss the appeal.

I. LAW

To establish eligibility for national interest waivers, petitioners must first demonstrate their qualifications for the EB-2 category, either as members of the professions holding "advanced degrees" or noncitizens of "exceptional ability" in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. To protect the jobs of U.S. workers, this category usually requires prospective employers to offer noncitizens jobs and to obtain DOL certifications to permanently employ the individuals in the country. *See* section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D). Petitioners may avoid the job offer/labor certification requirements by demonstrating that waivers of the U.S.-worker protections would be in the national interest. Section 203(b)(2)(B)(i) of the Act.

Neither the Act nor regulations define the term “national interest.” So, to adjudicate these waiver requests, we have established a framework. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889-91 (AAO 2016). If otherwise qualified as advanced degree professionals or noncitizens of exceptional ability, petitioners may warrant waivers of the job-offer/labor certification requirements by demonstrating that:

- Their proposed U.S. work has “substantial merit” and “national importance;”
- They are “well positioned” to advance their intended endeavors; and
- On balance, waivers of the job-offer/labor certification requirements would benefit the United States.

Id.

II. ANALYSIS

A. The Proposed Endeavor

The record shows that the Petitioner earned a master’s degree in English from a university in the Republic of Georgia, her home country. She then worked about 25 years as an English teacher at a Georgian public school, from 1996 to 2021. In 2011, she founded a non-governmental organization where she organized various projects promoting youth development and civic awareness. She also established a travel agency.

In 2021, the Petitioner came to the United States. She plans to establish an organization called [REDACTED] [REDACTED] to help newcomers assimilate into U.S. culture. She submitted a business plan and addendum, stating that the organization would help people learn English and provide vocational training in fields such as: bookkeeping; restaurants; and home care. The Petitioner would teach English classes and serve as the organization’s education and civic engagement program director. At the end of the organization’s first five years of operation, the business plan’s addendum projects annual revenues of more than \$997,000 and employment of 18 people.

B. EB-2 Qualifications

The record supports the Director’s finding that the Petitioner qualifies for the requested EB-2 category. A professional, independent evaluation of her foreign educational credentials states the equivalency of her Georgian master’s degree equates to a U.S. bachelor’s degree in English. The Petitioner also provided copies of a letter and training certificates documenting her 25-year teaching career. She therefore demonstrated her eligibility as an advanced degree professional. *See* 8 C.F.R. § 204.5(k)(2) (defining the term “advanced degree” to include “[a] United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty”).

C. Substantial Merit

A proposed endeavor may have substantial merit whether it “has the potential to create a significant economic impact” or it relates to “research, pure science, and the furtherance of human knowledge.” *Matter of Dhanasar*, 26 I&N Dec. at 889.

The record shows that, in addition to generating revenues and creating jobs, the Petitioner's proposed endeavor could provide English and workforce training to new U.S. immigrants, helping them to obtain employment and assimilate into U.S. culture. We therefore affirm the Director's conclusion that the Petitioner's proposed work has substantial merit.

D. National Importance

In determining whether a proposed endeavor has national importance, USCIS must focus on the particular venture, specifically on its "potential prospective impact." *Matter of Dhanasar*, 26 I&N Dec. at 889. "An undertaking may have national importance, for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* A nationally important venture may even focus on only one geographic area of the United States. *Id.* at 889-90. "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.*

The Director found that the Petitioner did not demonstrate that her proposed endeavor would have national implications for the economy or the educational/training field. The Director found insufficient evidence that the venture would impact more than the Petitioner's organization, its employees, and its clients.

On appeal, the Petitioner states that her endeavor would have a "multiplying effect" because she would promote her "innovative approaches" to others in the field. Upon the petition's approval, she says she would register the organization with appropriate authorities, giving her the legal ability to employ workers and conduct business. The Petitioner notes that she provided letters from businesses and individuals willing to financially support the endeavor and train newcomers in her organization's program. She says these partners would also employ program graduates.

Despite evidence of investors and trainers, the Petitioner has not sufficiently demonstrated that her particular endeavor would have enough scope to merit national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 889 ("The first prong, substantial merit and national importance, focuses on the *specific* endeavor that the foreign national proposes to undertake.") (emphasis added). The Director noted that the addendum to the Petitioner's business plan does not explain the calculations of the business's revenue, profit, and personnel forecasts. But, even assuming the projections' validity, neither the plan nor its addendum indicates that the endeavor would affect the economy on a national level. Also, the Petitioner has not otherwise established or even claimed that her organization would benefit an economically depressed area. Further, she states that she would promote innovative approaches to education and training in the field. But she does not describe the approaches or explain their innovations. The record therefore lacks sufficient evidence that the Petitioner's venture would introduce advancements to the educational/training field.

The Petitioner's endeavor reminds us of one we considered in *Dhanasar*. There, the petitioner proposed teaching U.S. university students courses in science, technology, engineering, and mathematics (STEM) disciplines. *Matter of Dhanasar*, 26 I&N Dec. at 893. We agreed with the petitioner that his proposed endeavor had substantial merit. *Id.* But we held that he did not

demonstrate that his proposed teaching had national importance, as he did not establish that the endeavor would “more broadly” affect the STEM educational field. *Id.*

Similarly, the Petitioner proposes a meritorious endeavor to educate and train newcomers to the United States. But, like the petitioner in *Dhanasar*, she has not sufficiently demonstrated how her endeavor would “more broadly” affect the U.S. economy or the educational/training field.

The Petitioner has not established the claimed national importance of her proposed endeavor. We will therefore affirm the petition’s denial.

E. The Other Denial Grounds

Our conclusion regarding the national importance of the Petitioner’s proposed endeavor resolves this appeal. We therefore decline to reach and hereby reserve her appellate arguments regarding her positioning to advance her proposed venture and a waiver’s potential benefits to the United States. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies need not make “purely advisory findings” on issues unnecessary to their ultimate decisions); *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 did not otherwise qualify for relief).

III. CONCLUSION

Under our *Dhanasar* framework, the Petitioner has not demonstrated that her proposed endeavor has national importance. We will therefore affirm the petition’s denial.

ORDER: The appeal is dismissed.