



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

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

In Re: 23377510

Date: DEC. 29, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, a general and operations professional, seeks second preference 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 record did not establish that the Petitioner qualified as a member of the professions holding an advanced degree or merited a 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. If a petitioner qualifies as an advanced degree professional or a noncitizen of exceptional ability, they must then demonstrate that they merit a discretionary waiver of the job offer requirements “in the national interest.” 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).

Neither the statute nor the pertinent regulations define the term “national interest.” To establish it, U.S. Citizenship and Immigration Services (USCIS) requires A petitioner to show that:

- Their proposed endeavor has substantial merit and national importance;
- They are well-positioned to advance their proposed endeavor; and
- On balance, waving the job offer requirement would benefit the United States.

Matter of Dhanasar, 26 I&N Dec. 884, 889 (AAO 2016).

II. ANALYSIS

A. Eligibility for the EB-2 Classification

The Petitioner submitted a diploma and transcripts showing that after three years of study at the A-G-A-E-C- in Brazil he earned a bachelor's degree in nautical science. He also submitted two educational evaluations from the same evaluator which concluded that based upon this evidence he "satisfied requirements substantially similar to those required toward the completion of a Bachelor of Nautical Sciences" from a college or university in the United States. The Director acknowledged these evaluations in his decision, but concluded that they should be given reduced evidentiary weight since they were not in accord with information obtained from the Electronic Database for Global Education (EDGE) created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). EDGE indicates that the Petitioner's degree is equivalent to three years of university study at a U.S. college or university. Based on this, the Director concluded that the Petitioner was not eligible for the EB-2 classification as a member of the professions holding an advanced degree.

On appeal, the Petitioner resubmits the more recent academic evaluation and the Petitioner's diploma and transcripts, and asserts that per the evaluation he completed the equivalent of 160 credit hours in earning this degree, comparing this to the 120 credit hours typically required for a bachelor's degree in the United States. We note that the evaluation also states that some U.S. universities offer accelerated bachelor's degree programs in which students can graduate in three years, and that the Petitioner's degree "can be thought [of] as the U.S. equivalent of an accelerated Bachelor's degree in Nautical Science with a concentration in Marine Engineering."

A U.S. bachelor's degree usually requires four years of university studies. *Matter of Shah*, 17 I&N Dec. 244, 245 (Comm'r 1977). We acknowledge that some institutions in the United States offer accelerated three-year bachelor's degree programs, but the Petitioner has not submitted evidence to support the evaluation's statement that his degree was earned in a similar accelerated program. Further, the evaluation suggests that based upon the number of U.S. equivalent credits (160) earned by the Petitioner, he completed what would be the equivalent of a five-year degree program in the United States in three years. And this is after the evaluator discounted a third of the total hours listed on the Petitioner's transcripts for four classes which he stated "may not have equivalencies in the United States," but which the transcript indicates occupied a significant portion of his time as a student.

We may, in our discretion, use an evaluation of a person's foreign education as an advisory opinion. *Matter of Sea, Inc.*, 19 I&N Dec. 817, 820 (Comm'r 1988). However, where an opinion is not in accord with other information or is in any way questionable, we may discount or give less weight to that evaluation. *Id.* Here, the implausible conversion of the hours listed on the Petitioner's transcripts to equivalent credits towards a U.S. bachelor's degree, the information from EDGE in the Director's decision, and the lack of evidence to support the claim of an accelerated program lead us to discount

the evaluator's conclusions. As the Petitioner has not established that he has earned the equivalent of a U.S. bachelor's degree, he is not eligible as a member of the professions holding an advanced degree. Further, because he does not claim eligibility as an individual of exceptional ability per 8 C.F.R. § 204.5(k)(3)(ii), he has not established his qualification for the EB-2 classification.

B. National Interest Waiver

As the Petitioner has not established his eligibility for the underlying EB-2 classification, he is not eligible for a national interest waiver. While he asserts on appeal that he meets all three of the prongs under the *Dhanasar* analytical framework, we will reserve these issues.¹ The petition will remain denied.

ORDER: The appeal is dismissed.

¹ See *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).