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U.S. Department of Justice
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
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File: EAC 99 110 53508 Office: Vermont Service Center

Date: JAN 18 2002

IN RE: Petitioner:
Beneficiary:



Petition: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(2)

IN BEHALF OF PETITIONER:



PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

Section 203(b) of the Act states in pertinent part that:

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. --

(A) In General. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of Job Offer. -- The Attorney General may, when he deems it to be in the national interest, waive the requirement of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The petition was filed with the Vermont Service Center on February 16, 1999. The petitioner holds a Master of Arts degree in Adult and Community Education from Indiana University of Pennsylvania. The petitioner's occupation falls within the pertinent regulatory definition of a profession. The petitioner thus qualifies as a member of the professions holding an advanced degree. The remaining issue is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor Service regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to Service regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

The Service believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation, I.D. 3363 (Acting Assoc. Comm. for Programs, August 7, 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, it must be shown that the alien seeks employment in an area of substantial intrinsic merit. Next, it must be shown that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

It must be noted that, while the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term "prospective" is used here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

Prior counsel comments on the petitioner's work and the means by which she will serve the national interest:

Since October 1993, [the petitioner] has been utilizing her expertise in English instruction and adult education as the sole instructor of the Mature Workers Program ("the Program"), established by the Chinese-American Planning Council ("the CPC") in 1988. The Program is an employment training program designed specifically to train and place low-income individuals aged fifty-five years and older in full-time non-subsidized positions in the field of Home Attendant/ Home Care. The Program is funded by the New York City Department of Employment, and all services are free of charge to participants. The Program's intensive curriculum includes vocational skills training in Home Care, English as a second language instruction, counseling and job placement services.

* * *

[The petitioner] qualifies for a national interest waiver as a member of the professions (an educator) with an advanced degree whose employment, achievements and contributions in the field of adult education strongly indicate that she will serve the national interest by decreasing unemployment and welfare-dependence among the elderly, by meeting the increasing demand for home attendants in the health care field, and by improving the home situations of the families of the elderly.

The petitioner has submitted letters from coworkers at the Chinese-American Planning Council, personnel at the New York City Department of Employment, former students, and various community organizations. These letters, however, essentially limit the petitioner's impact to her students in the Chinese community of New York City. Similarly, while the "1997 Award of Excellence" from the New York City Department of Employment and local attention in the Chinese media of New York reflect the successes of the Mature Workers Program, they fail to demonstrate convincing evidence of the petitioner's achievements and significant contributions to the field of adult education.

Man Nam Ma, Director of the Mature Workers Program and Senior Aides Program, Chinese-American Planning Council, states:

CPC Mature Workers Program has been rated an excellent program by New York City Department of Employment for the past few years and [the petitioner] is an important part of the team for that achievement. As [the petitioner's] immediate supervisor, I rate her teaching and work ethics excellent.

Karina Lee, Assistant Director for Field Operations, Chinese-American Planning Council, states:

In order to qualify as an instructor for this program, one must be bilingual, in both home care workers. Qualified bilingual instructor for this program is not an easy task to locate. [The petitioner] represents an ideal candidate for this position, not simply because of her language skills, but because she is also a Certified Home Attendant by the New York State Department of Social Services. It is absolutely necessary for the [the petitioner] to preserve her active participation with this rapidly growing segment of immigrant Chinese home care workers.

Marisel Pearson-Silver, Project Director of the Senior Aides Program for the City of New York, states:

It was due to [the petitioner's] efforts and assistance that my program met the federally mandated unsubsidized employment goal. As a result of her contribution and success, it is my intention to continue referring our participants to her. Through her help, strength, training and continued working relationship, I know both programs can benefit society, that is, to promote and self-empower individuals to become self-sufficient.

Gordin Pinner, Associate Contract Manager of the New York City Department of Employment, states:

In performing my duties at C.P.C.'s Mature worker program, I came to be familiar with, and in admiration of, the professional appreciation of teaching skills performed by [the petitioner]. During my reviews of C.P.C.'s professional staff's performance, I came to recognize the outstanding ability of the entire program's staff and director. Chief among

these superb professionals was the excellent performance of [the petitioner], who exhibited in the process of delivering English as a Second Language and skill courses to her charges in the Home Attendant Course which constitutes the main component of the C.P.C.'s Mature Worker Program.

The petitioner, however, has offered no evidence that she has influenced the field of adult education as a whole. The petitioner's direct impact appears limited to her own students in New York City. We do not dispute that the petitioner's work has yielded results in training her elderly students for a vocation in home care, but it has not attracted significant attention from other educators in the field. All of the witnesses provided by the petitioner are her co-workers, supervisors, students or collaborators involved with the funding of the Chinese-American Planning Council's various projects. These individuals say little apart from discussing the success of the Mature Workers Program and describing the petitioner as an effective bilingual educator. The petitioner's skill as a certified home attendant and bilingual educator, while useful to the Mature Workers Program in New York, does not appear to represent a national interest issue.

The director requested further evidence that the petitioner has met the guidelines published in Matter of New York State Department of Transportation. In response, prior counsel submitted a memorandum, dated September 27, 1999, reflecting the petitioner's appointment as Acting Director of the Mature Worker/ Senior Aides Program in New York City. Prior counsel states: "As Director of the Mature Worker and Senior Aides Program, [the petitioner] is uniquely situated to direct a one of a kind program that focuses on helping the elderly become gainfully employed again." This appointment to Acting Director, while notable, occurred subsequent to the filing of her petition. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to Service requirements. See Matter of Izumii, Int. Dec. 3360 (Associate Commissioner for Examinations, July 13, 1998). The standard for amending a petition is whether the petition was approvable at time of filing. In Matter of Katigbak, 14 I&N Dec. 45, 49 (Comm. 1971), the Service held that beneficiaries seeking employment-based immigrant classification must possess the necessary qualifications as of the filing date of the visa petition.

Previous counsel submits a Senior Aides Program flyer reflecting the National Council of Senior Citizens as the source of its funding through a grant from the Department of Labor, a copy of the web site from the National Council of Senior Citizens mentioning the Senior Aides Program, a copy of the funding proposal for the Senior Aides Program between the National Senior Citizens Education & Research Center and the Chinese-American Planning Council, and an attachment listing agencies where Senior Aides Program graduates have obtained employment.

Previous counsel argues persuasively that the petitioner's participation in the training of elderly students for a vocation in home care possesses substantial intrinsic merit. Through the documentation submitted, prior counsel is able to demonstrate the national scope of the Senior Aides Program which "provides about 10,500 jobs in 27 states and in the District of Columbia." However, previous counsel fails to provide evidence establishing that the petitioner's individual role, limited solely to her involvement with the Senior Aides Program of New York City, is

national in scope. In regard to a waiver of the labor certification process, prior counsel states: "No other individual within the U.S. labor market can similarly duplicate [the petitioner's] accomplishments." However, it cannot suffice to simply state that the petitioner has useful skills or a unique background. The petitioner must establish that the benefit her skills will provide to the United States will considerably outweigh the inherent national interest in protecting United States workers through the labor certification process.

The director denied the petition, stating: "The record does not clearly establish that what the beneficiary does or has/will accomplish, is national in scope... her job and accomplishments reach a very small, but important population of an ethnic group of people in the suburbs of New York City." The director also stated: "The evidence submitted does not clearly establish that the petitioner's past record justifies projections of future benefit to the national interest." The director noted that the petitioner failed to demonstrate that the national interest would be adversely affected if a labor certification were required for the beneficiary. An alien cannot establish qualification for a national interest waiver based solely on the overall importance of his or her occupation.

On appeal, the petitioner is represented by new counsel. Counsel states that "the Service did not give proper weight to the accomplishments of the petitioner" and that "the petitioner's accomplishments were clearly national in scope." Counsel submits information from the Committee for Economic Development reflecting future employment opportunities for elderly Americans. Additionally, counsel submits information from the U.S. Census Bureau reflecting the growth rate of the elderly population in the United States and the substantial increase of the foreign-born population. Also submitted was a National Senior Citizens Education and Research Center flyer entitled *Why is Training for Low-Income, Older Adults Important?* This flyer discusses the importance of developing training programs to suit the needs of older adults. Counsel includes a copy of the National Senior Citizens Education and Research Center's web site describing the national Senior Aides Program. Counsel also provides an article from the New York Times entitled *Home Aides for the Elderly in Short Supply* discussing how "the booming economy is worsening a severe shortage of low-wage workers who care for the nation's growing numbers of elderly people." Counsel also includes a chart from the Bureau of Labor Statistics listing home care aides as the fourth fastest growing occupation in the United States.

The documentation submitted indicates the importance of developing training programs for the elderly and demonstrates the shortage of home aides available to care for our nation's elderly. While the Service acknowledges the importance of vocational training for the elderly as home care aides, eligibility for the waiver must rest with the alien's own qualifications rather than with the position sought. In other words, we generally do not accept the argument that a given project is so important that any alien qualified to work on this project must also qualify for a national interest waiver.

On appeal, the petitioner submits two additional letters of reference and a Certificate of Excellence presented to the Chinese American Planning Council on December 11, 1999. The award was presented by the National Senior Citizens Education and Research Center in recognition of

enrollment, budget management and subsidized placement for the project year 1998-1999. It should be noted that the petitioner was not appointed to Acting Director of the Senior Aides Program until September 27, 1999. She had served in that capacity for slightly more than two months when this award was presented to the Chinese-American Planning Council. For the majority of the project year 1998-1999, Man Nam Ma, served as Director of the Mature Workers Program and Senior Aides Program, Chinese-American Planning Council. We do not dismiss the petitioner's involvement as an instructor in the Senior Aides program as contributing to the council's receipt of this award, however, it cannot be concluded that she was solely responsible for this award while another individual was serving as director during the 1998-1999 project year. This award, while demonstrative of the overall success of the Chinese-American Planning Council's Senior Aides Program in New York, does not reflect the petitioner's specific achievements and contributions of significance to the field of adult education. Further, receipt of this award occurred subsequent to the filing of the petition. See Matter of Katigbak, supra.

Dorinda Fox, Director of Community and Employment Programs, National Senior Citizens Education and Research Center, states:

As director of a NSERC SCSEP project, [the petitioner] serves a growing population of low-income seniors. Using her language abilities and her extraordinary teaching skills, she is able to match a largely monolingual Chinese-speaking pool of employees to a largely monolingual English-speaking pool of employers. As project director, [the petitioner] works closely with enrollees to design Individual Development Plans, increasing their skills and self-confidence to achieve their personal employment goals. To employers, she demonstrates the benefits of hiring seniors, such as their work ethic, loyalty, and adherence to employer policies. Contrary to myth, seniors are open to learning new things. The achievements of [the petitioner] and our project in Chinatown are a model to projects nationwide. At our recent national conference in Washington, D.C., she received an award for outstanding achievement, placing 70% of enrollees into jobs in the private sector. Her work was presented as a standard to the project directors and sponsors from the 144 NSERC projects across the country who attended the conference.

Austin Manaloto, Program Coordinator, Seniors in Community Service, of the National Urban League in New York, states:

[The petitioner's] accomplishment of 75% surpassed the United States Department of Labor's 20% annual unsubsidized employment goal. Her commendable performance has greatly contributed to helping older workers find gainful employment. Her accomplishment sets a good model to the national sponsors and other statewide service-provider organizations to do as well.

Counsel states that the Service erred in its interpretation and application of the "national in scope" requirement set forth in Matter of New York State Dept. of Transportation. Counsel argues that "work within a federal project which improves health care, education, training, wages, and working conditions of under-qualified U.S. workers, and serves as a national model, is sufficiently national

in scope.” General arguments about the undoubted importance of federal projects involving vocational training for the elderly and fulfilling the demand for home care workers are not sufficient to demonstrate the national scope of the petitioner’s local program. While improving shortages of home care aides and increasing elderly participation in the work force are national issues, it does not follow that every individual who works for these goals has made a significant contribution to the field of adult education as a whole. Counsel’s arguments regarding the importance of these federal projects apply to all adult educators involved and do not single out the petitioner for the special benefit of a waiver. By law, advance degree professionals and aliens of exceptional ability are generally required to have a job offer and a labor certification. A statute should be construed under the assumption that Congress intended it to have purpose and meaningful effect. Mountain States Tel. & Tel. v. Pueblo of Santa Ana, 472 U.S. 237, 249 (1985); Sutton v. United States, 819 F.2d 1289, 1295 (5th Cir. 1987). By asserting that participation as an adult educator in these projects inherently serves the national interest, the petitioner essentially contends that the job offer requirement should never be enforced for these visa classifications, and thus this section of the statute would have no meaningful effect. Congress plainly intends the national interest waiver to be the exception rather than the rule.

The petitioner’s impact is limited to the students she trains in New York and, in a much less direct sense, the employers of her former students. The broader reach of the Senior Aides Program does not establish that the petitioner has influenced individuals receiving educational services at its other locations throughout the United States.

Counsel disputes the director’s statement that “the majority of the participants in the program are of Chinese descent.” It should be noted that the director based this description on the evidence provided by the petitioner. In her letter, Karina Lee, Assistant Director for Field Operations, Chinese-American Planning Council, stated: “It is absolutely necessary for the [the petitioner] to preserve her active participation with this rapidly growing segment of immigrant Chinese home care workers.” Even on appeal, the petitioner has submitted evidence which further supports the director’s statement. Dorinda Fox, Director of Community and Employment Programs, National Senior Citizens Education and Research Center, states:

Using her language abilities and her extraordinary teaching skills, she is able to match a largely monolingual Chinese-speaking pool of employees to a largely monolingual English-speaking pool of employers... The achievements of [the petitioner] and our project in Chinatown are a model to projects nationwide.

Counsel asserts that the director’s description regarding the majority of the participants in the petitioner’s program as being of Chinese descent is “factually incorrect.” The evidence submitted by the petitioner, however, contradicts counsel’s assertion. We accept counsel’s assertion that the “project is open to individuals from any ethnic group and consists of members of a wide spectrum of Asian ethnic groups,” as well as all Americans, regardless of ethnic background. However, counsel has not provided quantitative data or any other evidence to refute the director’s claim that the “majority” of the petitioner’s program participants are of Chinese descent and limited to the

New York City area. The above-noted letter of reference provided on appeal clearly refers to the petitioner's "largely monolingual Chinese-speaking pool of employees."

Counsel asserts that the petitioner "has an influence on the field as a whole at the national level." Counsel cites the witness letter from Dorinda Fox describing the petitioner's work "as a standard to the project directors and sponsors from the 144 NSCERC projects across the country." It is not clear, however, how much impact the petitioner has had on her fellow directors and instructors. The record does not establish the extent to which other directors and instructors have relied upon the petitioner's methods as a model, or that the petitioner has developed an original method which represents a significant improvement upon existing methods. No evidence has been submitted to establish the petitioner's impact upon other Senior Aides programs in different states. Counsel asserts that the petitioner has "conducted training sessions and presentations before national leaders in the field in a national forum." However, other than three photographs of the petitioner posing with other individuals in front of an easel, there is no evidence to support this claim. The assertions of counsel do not constitute evidence. Matter of Laureano, 19 I&N Dec. 1, 3 (BIA 1983); Matter of Obaighena, 19 I&N Dec. 533, 534 (BIA 1988); Matter of Ramirez-Sanchez, 17 I&N Dec. 503, 506 (BIA 1980). Furthermore, these photographs were all taken on April 11, 2000, and therefore, even if counsel were to prove the pictures were taken at a "national forum," this event occurred more than one year after the filing of the petition. See Matter of Katigbak, *supra*.

Counsel argues that "the Service has erroneously equated the requirement of national scope with having a nationwide impact in the geographic sense" contradictory to the guidelines set forth in Matter of New York State Dept. of Transportation. Counsel cites the AAO's finding: "While the aliens employment may be limited to a particular geographic area, New York's bridges and roads connect the state to the national transportation system. The proper maintenance and operation of these bridges and roads therefore serve the interests of other regions of the country." Counsel states that "as a local director of a federal project, [the petitioner] works towards solving the problems of poverty and unemployment among the elderly, the strain on public assistance due to the Senior Boom and the nationwide shortage of health care workers." Counsel notes the petitioner's "direct contribution towards the numbers of elderly nationwide who are wholly reliant on public assistance to survive, thereby saving the taxpayers of America hundreds of thousands of dollars." Counsel also notes that the petitioner has been selected to train other project directors and leaders from other organizations. However, as previously noted, other than three photographs, dated April 11, 2000, counsel has offered no evidence to support this claim. Even if this alleged training were to have occurred, according to the date on the three photographs, it took place more than one year after the filing of the petition. See Matter of Katigbak, *supra*.

We disagree with counsel's argument regarding the published precedent. While the maintenance of New York's bridges is clearly vital to the national transportation system (as commerce from many regions throughout the United States flows through New York), it has not been established that the petitioner's Senior Aides Program of New York City has a similar effect that is national in scope. The petitioner's individual participation has not been proven vital to the survival of the twenty seven other Senior Aides Programs established throughout the country. National success in areas such as health care, education, training, wages, and working conditions of under-qualified U.S.

workers are not tied directly to the success of the New York Senior Aides Program like the national transportation system is reliant upon the operation of New York's bridges. While the petitioner has made localized contributions, her project is limited to students from the New York area and exists as an independent part of a larger nationwide program. Counsel has not established how the Senior Aides Project of New York serves other regions across the nation. Thus, it cannot be argued that a project serving a specific population in New York City, whether federally funded or not, is national in scope.

Counsel asserts: "The national interest would be adversely affected if a labor certification were required for the beneficiary." Counsel also states that the petitioner "serves the national interest to a substantially greater degree than available U.S. workers with the same qualifications." Counsel refers to the petitioner's witness attestations, academic background and adult education experience. Counsel further states the petitioner "plays a critical role in the success of work of national importance and that she has made a substantial contribution using skills not normally encountered in her field." Counsel notes the petitioner's success rate in the job placement of her students. Counsel contends that the petitioner's employer "cannot afford the time and expense of going through the labor certification process." Counsel adds: "...it would be substantially disruptive to the continuity of the programs if the petitioner was subjected to the slow process of the labor certification."

Nothing in the legislative history suggests that the national interest waiver was intended simply as a means for employers (or self-petitioning aliens) to avoid the inconvenience of the labor certification process. We note that the petitioner was covered by an H-1B visa at the time she filed this petition; therefore, her continued participation in these programs is obviously not contingent on her obtaining permanent resident status. The regulation at 8 C.F.R. 214.2(h)(16)(i) permits an alien to work under an H-1B visa while a visa petition or labor certification is pending. If a local recruitment effort yields no qualified applicants, then the petitioner's employment would not be interrupted.

The inapplicability or unavailability of a labor certification cannot be viewed as sufficient cause for a national interest waiver; the petitioner must still demonstrate that she will serve the national interest to a substantially greater degree than do others in the same field. Congress plainly intended that, as a matter of course, advanced degree professionals should be subject to the job offer/ labor certification requirement. The national interest waiver is not merely an option to be exercised at the discretion of the alien or her employer. Rather, it is a special, added benefit which necessarily carries with it the additional burden of demonstrating that the alien's admission will serve the national interest of the United States. It cannot suffice for the petitioner to simply enumerate the benefits of her work. To hold otherwise would eliminate the job offer requirement altogether, except for advanced-degree professionals whose work was of no demonstrable benefit to anyone.

While the petitioner has proven herself to be a successful adult educator in an important field of endeavor, these factors alone cannot establish eligibility for the national interest waiver. While several witnesses have asserted the importance and effectiveness of the petitioner's work in New

York, the record fails to demonstrate that her achievements and contributions have attracted the attention of independent adult educators in her field. Superior localized job placement ratios alone cannot satisfy eligibility for the waiver. The record does not establish the extent to which other directors and instructors have relied upon the petitioner's methods as a model, or that the petitioner has developed an original method which represents a significant improvement upon existing methods. No evidence has been submitted to establish the petitioner's impact upon other Senior Aides Programs in different states. Further, we cannot conclude that, because there exists a shortage of home care aides, every competent vocational instructor is to be exempt from the job offer/ labor certification requirement, which, by law, attaches to the visa classification sought.

We note also that the record reflects little formal recognition of the petitioner's work, arising from various groups taking the initiative to recognize the petitioner's contributions, as opposed to private letters solicited by the petitioner expressly for the purpose of supporting the visa petition. The awards from the New York City Department of Employment and the National Senior Citizens Education and Research Center were both presented to the "Chinese-American Planning Council." According to the press release from the New York City Department of Employment, this agency gave out the same award to fifty-three other "Outstanding Employment and Training Service Providers" in New York City in 1997.

While the petitioner certainly need not establish national fame as an adult educator, the claim that her work is especially significant would benefit greatly from evidence that it has attracted significant attention from other educators outside of her group of collaborators involved with the funding of her projects. At issue is whether this petitioner's contributions in the field are of such unusual significance that the petitioner merits the special benefit of a national interest waiver, over and above the visa classification she seeks. By seeking an extra benefit, the petitioner assumes an extra burden of proof. Without evidence that the petitioner has been responsible for significant achievements in the field of adult education, we must find that the petitioner's assertion of prospective national benefit is speculative at best.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, U.S.C. 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.