



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

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

MATTER OF C-G-C-

DATE: AUG. 18, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a Spanish language specialist and teacher, seeks classification as an individual of extraordinary ability in education. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had not satisfied any of the initial evidentiary criteria, of which she must meet at least three.

On appeal, the Petitioner submits a statement, indicating that the Director did not consider her evidence regarding one of the criteria.

Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1)(A) of the Act makes visas available to qualified immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth two options for satisfying this classification’s initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

## II. ANALYSIS

The Petitioner, a Spanish language specialist and teacher, is employed at a school in the [REDACTED] [REDACTED]. Because she has not indicated or established that she has received a major, internationally recognized award, the Petitioner must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the Petition, the Director found that the Petitioner did not meet any of the regulatory criteria.

On appeal, the Petitioner contends that the Director did not properly consider her evidence under original contributions at 8 C.F.R. § 204.5(h)(3)(v). She does not, however, contest the Director’s findings, offer further arguments, or present additional evidence for any other criteria. Upon review of the record, we find the evidence insufficient to demonstrate that the Petitioner meets at least three criteria.

*Documentation of the alien’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

The Director determined that the Petitioner did not indicate or provide any evidence of prizes or awards even though she claimed eligibility for this criterion. We concur with the Director’s conclusion. The record does not contain any nationally or internationally recognized prizes or

awards for excellence in her field to satisfy this criterion. Accordingly, the Petitioner has not established that she meets this criterion.

*Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii).*

The record contains an article from [REDACTED] three articles from the [REDACTED] an article from the [REDACTED] and an article from an unidentified website. The articles are about Delaware [REDACTED] visiting [REDACTED] and its Spanish immersion program. Although the Petitioner is cited in some of the articles as being one of the teachers whose classroom the governor visited, the articles do not pertain to the Petitioner. Further, most of the articles never mention the Petitioner. The plain language of the regulation requires published material about a petitioner and not solely about projects with which they associate. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at \*1, \*7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles relating to a show are not about the actor). In addition, the Petitioner did not include the date for [REDACTED] article and did not offer the authors for the [REDACTED] articles, as required by this regulatory criterion. Moreover, the Petitioner did not demonstrate that any of the publications are professional or major trade publications or other major media. For these reasons, the Petitioner did not show that she meets this criterion.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).*

Although the Petitioner contends that the Director “inappropriately ignored the evidence that would prove [her] contributions were majorly significant and had a significant impact,” she did not identify which evidence the Director considered and how her contributions are original and of major significance. Regardless, in response to the Director’s request for evidence, the Petitioner provided a statement claiming that her work as a Spanish immersion teacher “has been used as part of a state funded public relations effort, to bring increased exposure to the success endeavor on a national level.” In addition, the Petitioner asserts that “there is now a large demand for the enrollment of additional students to this program, as it has expanded to other areas within rural areas of the state, creating new opportunities for employment in the public education system.” While the previously discussed articles discuss the Spanish immersion program, they do not support the Petitioner’s claims that she was responsible for student demand, expansion of the program to other parts of the state, and increased employment. Moreover, the Petitioner has not established how her work at [REDACTED] has impacted the field in a significant manner. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).

The Petitioner also indicates that she is “a highly qualified specialist teacher” and provided evidence of her training. She did not, however, explain how her qualifications and training are considered

original contributions of major significance in the field. Having a diverse or unique skill set is not in-and-of-itself a contribution of major significance, unless a petitioner shows that she has used those skills to impact or influence the field; in this case, the Petitioner has not made such a showing. Without supporting evidence, the Petitioner has not met her burden of showing that she has made original contributions of major significance in the field.

*Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.* 8 C.F.R. § 204.5(h)(3)(vii).

The Director found that a photograph of the Petitioner teaching children in a classroom did not meet this criterion. In order to demonstrate eligibility for this criterion, the Petitioner must show that her work was on display, and the venues were artistic exhibitions or showcases.<sup>1</sup> Here, the Petitioner has not established that her classroom constituted an artistic venue that displayed her work. Accordingly, the Petitioner does not satisfy this criterion.

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

In the Director's decision, he determined that the Petitioner did not establish that she performed in a leading or critical role for [REDACTED]. In general, a leading role is evidenced from the role itself, and a critical role is one in which a petitioner was responsible for the success or standing of the organization or establishment. Although her previously discussed articles confirm her employment at the school, they do not demonstrate that her role was either leading or critical. The Petitioner did not show how her role as a Spanish immersion specialist or teacher in a kindergarten classroom was leading to the other teachers and administrators at [REDACTED] or that she was responsible for the success or notoriety at [REDACTED].

In addition, the regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires the organizations or establishments to have a distinguished reputation. Here, the Petitioner did not demonstrate [REDACTED] standing in the field or show that it enjoys a distinguished reputation. For these reasons, the Petitioner did not demonstrate that she meets this criterion.

*Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.* 8 C.F.R. § 204.5(h)(3)(ix).

The Petitioner provided her income tax documentation for 2012-2015. In order to meet this criterion, the Petitioner has to establish that she has commanded a high salary or other significantly high remuneration for services in relation to others in her field. Here, the Petitioner has not

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<sup>1</sup> See USCIS Policy Memorandum PM-602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 9* (December 22, 2010), <http://www.uscis.gov/laws/policy-memoranda>.

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compared her salary to other teachers or foreign language immersion specialists to show that she earned a high salary. Accordingly, the Petitioner did not demonstrate that she meets this criterion.

### III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought. For the foregoing reasons, the Petitioner has not shown that she qualifies for classification as an individual of extraordinary ability.

**ORDER:** The appeal is dismissed.

Cite as *Matter of C-G-C-*, ID# 453388 (AAO Aug. 18, 2017)