



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

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

MATTER OF L-I-T-

DATE: NOV. 20, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, an educational entrepreneur and innovator, 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 concluding that the Petitioner had satisfied only one of the ten initial evidentiary criteria, of which she must meet at least three.

On appeal, the Petitioner submits additional documentation and a brief arguing that she satisfies at least three of the ten criteria.

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

.I. LAW

Section 203(b)(1)(A) of the Act makes visas available to 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual’s occupation.

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 describes herself as an “innovator in the field of school education.” 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 met only one of the initial evidentiary criteria, published material¹, but the evidence does not support that determination, as discussed below. On appeal, the Petitioner maintains that she also meets the awards, membership, judging, and original contributions criteria.² For the reasons discussed below, the record does not support a finding that the Petitioner satisfies at least three criteria.

¹ *See* 8 C.F.R. § 204.5(h)(3)(iii).

² These four criteria correspond to the categories of evidence at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iv), and (v), respectively.

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 Petitioner submitted a diploma from [REDACTED] honoring her as "Personality of the Year [REDACTED] 2011." In addition, she provided a catalog from [REDACTED] listing numerous laureates of its "Personality of the Year" contest for 2011, 2012, and 2013.³ On page 28, she is identified as a "Personality of the Year [REDACTED] – 2011" laureate for her expertise "in evaluation of financial and human proposals for society."⁴ The record includes another diploma from [REDACTED] naming her "Professional of the Year – 2013 in creation [*sic*] socially-oriented enterprises and educational institutions." The Director determined that the aforementioned awards were "regional in nature" and therefore did not meet this criterion.

With the appeal, the Petitioner submits a document identifying [REDACTED] as "founder of the contest," [REDACTED] as event partner, and [REDACTED] as media partner. This document also lists multiple "links on the internet" to the aforementioned organizations. In addition, she presents documents from [REDACTED] relating to its "Personality of [REDACTED] of the Year" contest. These documents are entitled "Regulations on Status of 'Personality of the year of [REDACTED] contest," "Regulation on contest committee of 'Personality of the year of [REDACTED]" "Regulation on contest 'Personality of the year of [REDACTED]" and "Meeting of the Organizing Committee of Public Rating Contest 'Personality of the Year [REDACTED]." The Petitioner contends that while [REDACTED] is a regional organization, the aforementioned documents show that "the contest is All-Ukrainian." For example, the document entitled "Regulations on Status of 'Personality of the year of [REDACTED] contest" refers to this event as an "all-Ukrainian contest."

Regardless of the geographic scope of the area from which laureates are selected, in order to meet this criterion, a petitioner must demonstrate that her prizes or awards are nationally or internationally recognized for excellence in the field.⁵ Here, the aforementioned documents from [REDACTED] and its partners do not show that its awards are nationally or internationally recognized for excellence in the field, nor does the record include other evidence demonstrating such recognition. Accordingly, the Petitioner has not established that she satisfies this criterion.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as

³ This catalogue includes biographies and promotional information for each of the 67 laureates.

⁴ We note that the record contains a Certificate of Gratitude from [REDACTED] indicating that the Petitioner was involved in selecting other laureates for this contest.

⁵ 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 6* (Dec. 22, 2010), <https://www.uscis.gov/legal-resources/policy-memoranda>.

judged by recognized national or international experts in their disciplines or fields.
8 C.F.R. § 204.5(h)(3)(ii).

As evidence under this criterion, the Petitioner presented documentation indicating that she is a member of the [REDACTED]

and [REDACTED]. While the Petitioner provided background information about these organizations, the record does not demonstrate that they require outstanding achievements of their members. For example, with respect to [REDACTED] admission requirements, she submitted a document, entitled "About the Order of Creation and Termination of Membership,"⁶ which states:

Members of the Union can be: persons with positive personal and business (professional) reputation, who work in the field of education and psycho-pedagogical science, as well as scientists with a Ph.D. or doctorate degree; public associations, educational organizations, educational institutions (higher, general, pre-school, out-of-school and vocational) irrespective of the forms of ownership and types of management. A new member to the Union is admitted by his/her written application by electing (accepting) him/her on the Congress of the Union upon filing one of the valid members of the Union who knows the professional and personal qualities of this candidate well.

The aforementioned [REDACTED] admission requirements do not rise to the level of outstanding achievements. Nor has the Petitioner demonstrated that any of the remaining organizations listed above require outstanding achievements. Furthermore, the record does not show that their members' achievements are judged by recognized national or international experts. The Petitioner therefore 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 Director found that that the Petitioner had demonstrated her eligibility under this criterion. For the reasons outlined below, we find that the Petitioner has not submitted sufficient documentary evidence showing that she meets the requirements of this criterion. Accordingly, the Director's determination on this issue will be withdrawn.

⁶ The Petitioner's evidence also includes minutes from a [REDACTED] meeting in which she was recommended for membership, but this document does not list the organization's membership requirements.

The Petitioner offered articles about herself in *Ridna Dnipropetrovshchyna*, *Visti Prydnyprovia*, and *Dneper Vecherniy*, but their author was not identified as required by this criterion.⁷ In addition, with regard to the information she presented about these publications, although she included internet addresses for their webpages, she did not submit actual copies of the online source material. For example, the information she compiled states that *Visti Prydnyprovia* is “a regional socio-political newspaper” with a circulation of 56,700 copies and that *Dneper Vecherniy* is “a socio-political newspaper” distributed in the “Dnipropetrovsk region” with an “average number of views per day” of 70,000. The record, however, does not include copies of these newspapers’ webpages that provided this information. Regardless, the Petitioner has not established that the circulation or number of online views for the aforementioned newspapers elevate them to major media relative to other publications. Based on the foregoing, she has not demonstrated that she meets this regulatory criterion.

Evidence of the alien’s participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv).

The record includes a Certificate of Gratitude from [REDACTED] thanking the Petitioner “for conducting expert evaluation of applicants of nationwide contest [REDACTED] Personality of the Year 2013’ in the categories of financial humanitarian profile.” In addition, the Petitioner provides a copy of her letter to the head of the contest’s organizing committee listing her selection of winners for the categories of “Science and education luminary,” “Successful scientific and educational activity,” and “Effective English language teaching.”⁸ The Director determined that this documentation did “not establish that the [Petitioner] has judged the work of other entrepreneurs working in the field of education.” The language of this criterion, however, provides for judging the work of others in “an allied field of specification for which classification is sought.” We find that the aforementioned evidence is sufficient to corroborate her involvement in judging educational and teaching categories that are allied with her field of specification. Accordingly, we conclude that the Petitioner meets this criterion and withdraw the Director’s finding on this issue.

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).

As evidence under this criterion, the Petitioner provided various recommendation letters, honor certificates and diplomas, and information about the school and company she founded. The Director considered this documentation, but found that it was not sufficient to demonstrate that the

⁷ We note that the record also includes an article about the Petitioner in the [REDACTED] “Personality of the Year” contest catalog, but the author of this article was not identified. Furthermore, the Petitioner has not demonstrated that [REDACTED] contest catalog is a professional or major trade publication or other form of major media.

⁸ We note that the Petitioner’s selections correspond to the laureates appearing in the [REDACTED] “Personality of the Year” contest catalog.

Petitioner's work constituted original contributions of major significance in the field. For the reasons discussed below, we agree with that determination.

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has she made original contributions but that they have been of major significance in the field. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

On appeal, the Petitioner asserts that the introduction of her "educational system into the school education of Ukraine has been gradual," but "it is consistently being introduced into the educational institutions of Ukraine, and is researched by scientists of the [REDACTED]

[REDACTED] While the Petitioner has developed educational programs at the [REDACTED] she founded, she does not identify the other Ukrainian educational institutions where her education system has been implemented and improved student performance at a level commensurate with a contribution of major significance in the field. Regarding the Petitioner's assertion that her educational system has been the subject of [REDACTED] scientific research, the record includes cooperative agreements between [REDACTED] and [REDACTED] to collaborate on training, consult on social-pedagogical problems, conduct education research, develop educational approaches, and review curricula. These agreements show that the Petitioner's school partnered with [REDACTED] to improve [REDACTED] learning environment and its students' academic performance, but the record does not demonstrate that her contributions to these efforts were considered "of major significance in the field" rather than mainly affecting her school.

The Petitioner also contends that her "contribution to education and upbringing system has been recognized by experts in the field, namely by scientists of [REDACTED]." For example, [REDACTED] director of the [REDACTED] at [REDACTED] states: "In the process of studying the educational process in [REDACTED] school, we cooperated with the founder and president of the school – [the Petitioner]. . . . As it was shown by the Commission research, [the Petitioner] created excellent conditions for the education and training of students." In addition, [REDACTED] former vice president of [REDACTED] indicates that "[a]s a result of the commission's work, [REDACTED] was recommended as an experimental platform of [REDACTED] on innovation in the field of education of students." [REDACTED] further asserts that the Petitioner "managed to create wonderful conditions for education and upbringing children." Although these letters from [REDACTED] leadership praise the Petitioner for her skills as an educational manager at [REDACTED], they do not explain what specific original pedagogic contributions the Petitioner has made, or how they are "of major significance in the field."

⁹ The record includes information from the president of [REDACTED] indicating that the [REDACTED] educational system was introduced long before the Petitioner's founding of [REDACTED] "Taking into consideration universal importance of creative activity of the [REDACTED], their participation of cultural achievements of 20 century, diligent search for new ways of humanity development, . . . [REDACTED] [f]inds it reasonable to support the idea of applying the ideas of [REDACTED] by [REDACTED] which is the core of [REDACTED] private school."

As further evidence under this criterion, the Petitioner points to her “diplomas and certificates of honor issued by recognized experts in the field of education and upbringing.” For instance, the Petitioner received a certificate of honor from [REDACTED] in her capacity as president of [REDACTED] “for the effective implementation of the [REDACTED] ideas of living ethi[cs] in school education.” The record also includes a 2001 diploma from the [REDACTED]

[REDACTED] This diploma was presented by the vice president of [REDACTED] to [REDACTED] “for active implementation of new educational methodology into educational process.” The appellate submission contains additional certificates of honor from [REDACTED] recognizing the Petitioner for establishing [REDACTED] and developing an educational program based on the cultural ideas of the [REDACTED]. The aforementioned diplomas and certificates, however, are not sufficient to show that the Petitioner’s work has affected the field of education in a substantial way or that her work otherwise constitutes original contributions of major significance in the field. For the above reasons, the Petitioner has not established that she satisfies 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 acclaim and recognition required for the classification sought.

ORDER: The appeal is dismissed.

Cite as *Matter of L-I-T-*, ID# 1767277 (AAO Nov. 20, 2018)