



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

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

In Re: 8303594

Date: MAY 27, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a mathematics educator, seeks classification as an individual of extraordinary ability. *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 Nebraska Service Center denied the petition, concluding that the Petitioner had established that he met only two of the ten initial evidentiary criteria for this classification, of which he must meet at least three. The Director further determined that the Petitioner did not establish that he seeks to enter the United States to continue to work in his area of extraordinary ability or that his entry will substantially benefit prospectively the United States. The matter is now before us on appeal.

The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we agree with the Director's determination that the Petitioner did not meet at least three criteria. Accordingly, we will dismiss the appeal.

I. LAW

Section 203(b)(1) 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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through 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 sufficient qualifying 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).

II. ANALYSIS

The Petitioner is a mathematics educator who has taught elementary and middle school students and coached competitive mathematics teams for these age levels in China. Most recently, he has been employed as the school principal and mathematics teacher for [REDACTED] Education Training School.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the ten alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner maintains that he submitted evidence to satisfy six criteria, summarized below:

- (i) Lesser nationally or internationally recognized awards or prizes;
- (iii) Published material in professional publications or major media;
- (iv) Participation as a judge of the work of others in his field;
- (v) Original contributions of major significance;
- (vi) Authorship of scholarly articles; and
- (ix) High salary or other high remuneration.

The Director found that the Petitioner met two of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), relating to judging and scholarship of scholarly articles. The record reflects that the Petitioner served on the judging committee of the [REDACTED] World Math [REDACTED] Competition (China trials) and that he has co-authored and edited mathematics textbooks and other educational publications.

On appeal, the Petitioner asserts that the Director misinterpreted and undervalued the significance of evidence submitted with respect to the remaining four claimed criteria. After reviewing all the

evidence in the record, we find that the Petitioner does not meet at least three of the initial evidentiary criteria.

Documentation of the individual'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)

In order to fulfill this criterion, the Petitioner must demonstrate that he received the prizes or awards, and they are nationally or internationally recognized for excellence in the field of endeavor.¹ Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.²

The Petitioner claims that he satisfies this criterion based on his receipt of the following:³

- A certificate awarding the title of “China Mathematical Olympiad First Class Coach” by the Chinese Mathematical Olympiad Committee [redacted]
- A certificate issuing the “Gold Award for Coaching” at the World Olympics Mathematics Competition (China), based on “outstanding results” achieved by his students at China’s final trials [redacted]

With respect to the Petitioner’s “First Class Coach” title, the Petitioner submitted a letter from [redacted] of [redacted] University, who states that he is associated with the China Mathematics Association and Mathematics Olympiad Committee. He indicates that according to the regulations of “China Olympics Mathematics” a “1st level coach” must “have a coaching record of winning national level competition as top three team” or “have a coaching record of winning at least 3 times, as top 3 team, at provincial level.” In addition, [redacted] stated that “the confirmation must be approved by the judging panel.”

In response to a request for evidence (RFE), the Petitioner submitted two additional reference letters that mention this title or award. [redacted] who states that he is the [redacted] of the Organizing Committee of the World Olympics Math Competition (China), explains that “the standard” for awarding the First Level Coach title is: (1) “first, participating in the National Finals, the main instructors of the top three teams of the group”; and (2) “second, passing the training through the Chinese Mathematical Committee Olympic Committee Examinations and rigorous reviews will be eligible for propositions [*sic*] and judges in each division.” He states that in [redacted] the

¹ 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/policymanual/HTML/PolicyManual.html>.

² *Id.*

³ The Petitioner initially provided a certificate indicating that his essay won second prize at the [redacted] Conference of the National Mathematics Teaching and Research Institute (elementary school category) in [redacted]. However, on appeal, the Petitioner does not mention this prize or contest the Director’s determination that he did not demonstrate that it satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(i).

Petitioner “successfully passed the assessment and won the title of National Mathematical Olympics National First Class Coach.”

The Petitioner’s RFE response also included a second letter from [redacted] He states that “the head coach of the top three teams in the final group will be evaluated. The winners will be awarded the title of China Mathematical Olympics first-level coach.” He also states that “only the holders will be qualified to serve as judges and propositions [sic] for mathematics competitions in the country and in various regions.”

While all three of the submitted letters confirm the Petitioner’s receipt of the First Class or First Level Coach award in [redacted], they do not contain consistent or sufficiently detailed information regarding the criteria for bestowing the title, which appears to be akin to a credential that allows a coach to serve as a judge than a “prize or award for excellence” as required by the regulation. We note that the certificate granting the Petitioner this title indicates that it was awarded “according to the Chinese Mathematical Olympiad Level Coaching Accreditation Regulations.” The Petitioner did not provide a copy of these regulations but instead relied on the letters from [redacted] and [redacted], whose statements lacked consistency.

For example, [redacted] initially stated that an individual could qualify for evaluation by coaching three top three teams at the provincial level, while the subsequent statements indicate that only those coaches whose teams place at the national finals may qualify. [redacted] mentions that individuals must complete training and pass examinations in order to receive the title, while [redacted]’s letters make no mention of these requirements. Overall, the information provided regarding the First Class Coach title appears to be incomplete, inconsistent, or both, and is not supported by corroborating evidence that would clarify the actual criteria used to bestow the title and the purpose for doing so. Accordingly, the Petitioner did not establish that his First Level Coach title satisfies the plain language of this regulation.

The Petitioner also claims eligibility under this criterion based on his “Gold Award for Coaching” received at the World Olympics Mathematics Competition (China), based on “outstanding results” achieved by his students at China’s final trials in [redacted] Initially, the Petitioner submitted a copy of the certificate without providing additional information regarding the award or its national or international significance.

In response to the RFE, counsel for the Petitioner stated that the “Golden Coach Award” is given to “only one head coach whose team captured gold medal in the national finals with full scores.” In his letter, [redacted] states:

The Organizing Committee of the World Olympic Mathematical Competition (China) Competition awarded the title of “Golden Coach” to the main instructor (1 person) who won the special gold medal (out of the score) in the finals. So far, only nine coaches have won the highest honor in the Olympic Mathematical Competition . . . , including [the Petitioner], who won the title of “Olympic Mathematical Competition Gold Medal Coach” in [redacted]

[redacted]’s letter also references the Petitioner’s “Golden Coach” title and states that “the total number of outstanding coaches who won this award in China is less than ten.” The Director acknowledged these letters but determined that the letters alone were insufficient to establish that the Petitioner’s “Gold Award for Coaching” is a nationally or internationally recognized prize or award for excellence in his field.

On appeal, the Petitioner submits a document titled [redacted] World Mathematical Olympiad ‘China Region’: Notice of Competition and Selection of National Team.” According to this document, medals and certificates (including seven gold medals), are awarded to the top 20 teams, with “the head coach of the special gold team at the national final (1 person)” receiving a “gold coach award.” The document indicates that the results of the national finals are announced on the “World Cup” website (www.women.com) but the Petitioner did not provide the results from this website or any other publicity or public announcement related to the competition at which he received his award.

While this evidence appears to confirm that only one coach receives this award annually, it does not address the Director’s concern regarding the lack of evidence demonstrating that the award is a nationally or internationally recognized award for excellence. This documentation does not demonstrate the recognition that the “gold coach” award received in the field beyond the awarding entity itself. Without additional evidence, the Petitioner has not demonstrated that the field recognizes the aforementioned awards at a national or international level as awards for excellence. In light of the above, the Petitioner has not satisfied the requirements of this criterion.

Published material about the individual in professional or major trade publications or other major media, relating to the individual’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)

In support of this criterion, the Petitioner submitted two articles that are about him and relating to his work in the field:

- [redacted]
[redacted]’ Published on *Cultural People’s Daily Media Platform*, sourced from *Min Sheng Weekly* (<http://www.msweekly.com>), [redacted] 2019.
- [redacted]
[redacted] published in *Global Chinese Times*, [redacted] 2019.

The Petitioner emphasized that the circulation of *People’s Daily* is the ninth largest in the world among paid daily newspapers, according to 2014 rankings from WAN-IFRA’s World Press Trends Data. The Petitioner described *Global Chinese Times* as “a major Chinese newspaper widely circulated in the states of New York, New Jersey and Connecticut,” but did not provide evidence of the paper’s circulation figures or ranking in comparison to other publications.⁴

⁴ See USCIS Policy Memorandum PM 602-0005.1, *supra* at 7 (providing that evidence of published material in professional or major trade publications or in other major media publications should establish that the circulation (on-line or in print) is high compared to other circulation statistics).

In a request for evidence (RFE), the Director acknowledged that *People's Daily* appeared on the WAN-IFRA report as a major daily newspaper as of 2014 but noted that the submitted rankings were outdated. Further, the Director emphasized that the submitted ranking list did not include *Min Sheng Weekly* or *Cultural People's Daily Media Platform*. In response, the Petitioner submitted additional evidence in support of its claim that *People's Daily* qualifies as major media in China, including more recent documentation regarding its ranking among Chinese newspapers. The Petitioner did not further pursue his claim that the *Global Chinese Times*, which appears have an intended audience consisting of Chinese language speakers living in the New York metropolitan area, is a professional or major trade publication or other major media.

In determining that the Petitioner did not meet this criterion, the Director acknowledged that *People's Daily* appears on rankings of top newspapers, but again noted that the Petitioner did not provide evidence related to *Min Sheng Weekly* or *Cultural People's Daily Media Platform*. The Director stated that “[w]hile USCIS notes that *Cultural People's Daily Media Platform* may be a component of *People's Daily*, this does not correspond to the published material presented.”

On appeal, counsel asserts:

[The Director] misunderstood the “Cultural People’s Daily Media Platform.” It actually is a section of People’s Daily, that is particularly designated for the topic of cultural events called “cultural media platform.” In essence, the media report of the [Petitioner] is in People’s Daily, on its section of Cultural Media Platform. This criterion, hence, has been met.

Assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (citing *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980)). Counsel’s statements must be substantiated in the record with independent evidence, which may include affidavits and declarations. The Petitioner has not submitted evidence establishing that “Cultural People’s Daily Media Platform” is a “section” of *People's Daily*, or that the [redacted] 2019 article about him appeared in the print edition or online edition (www.people.cn) of *People's Daily*.

The individual who translated the article provided a URL address indicating that the material he translated was from the website of *Minsheng Weekly* (msweekly.com), and we note that the article can be found at the address provided. As the record does not contain evidence of the circulation figures for *Minsheng Weekly*, or evidence demonstrating that the article was published in the print or online editions of *People's Daily*, we agree with the Director’s determination that the Petitioner did not meet this criterion.

Evidence of the individual’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)

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he 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 “experts in the field across China universally consider [his] work important and his contributions significant” and points to testimonial evidence in the record and his claimed service as a “principal lecturer” on a children’s mathematics television program. While the Petitioner generally asserts that the Director “downplayed the significance” of the testimonial evidence, we find no error in the Director’s analysis of the submitted reference letters. The Director considered their content and concluded that they did not specify how the Petitioner’s contributions rise to a level consistent with original contributions of major significance in the field. If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for a petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998). The opinions of experts in the field are not without weight and we have considered them below.

The Petitioner provided several letters in support of the petition, but the authors did not specifically address how he has made an original contribution of major significance to the field of mathematics education. For example, the initial evidence included a letter from [redacted] who is identified as the [redacted] Mathematics Education Professional Committee of the China Education Association. The letter appears to have been submitted to confirm the Petitioner’s receipt of a second prize award for his essay [redacted] at the [redacted] National Mathematics Conference for Elementary and High Schools [redacted]. [redacted] commented that this was a “major national event” organized by the China Education Association, and explained that out of over 1,000 essays, a panel of five scholars chose seven first prize winners, 18 second prize winners and 56 third prize winners. The letter does not discuss how the Petitioner’s prize-winning essay, or the curriculum reform issues addressed therein, has widely impacted or influenced the field, whether it has been published in a journal or other professional publication, or whether it has been cited by others. The record, therefore, does not support a finding that the Petitioner’s essay is recognized in the field as an original contribution of major significance.

On appeal, the Petitioner also references the letters from [redacted] of [redacted] University. One of his letters describes the criteria for confirmation as a “First Level Coach” of China Olympics Mathematics but does not discuss the Petitioner. The second letter from [redacted] confirms that the Petitioner has received the titles of “First Class Coach” and “Golden Coach,” and notes that he served as a judge in the [redacted] World Olympic Mathematics Competition. [redacted] states that the Petitioner “was recognized by the world for his outstanding talents and outstanding achievements” and that he “has made outstanding contributions to the popularization of the Chinese Olympic Mathematical Competition.” While he summarizes the Petitioner’s success as a mathematics coach and confirms his experience as a judge, he does not expand upon his claim that the Petitioner has individually contributed to the popularization of this mathematics competition in China or explain how his involvement with these competitions is recognized as an “original” contribution, or one that is majorly significant to the mathematics education field based on its impact and influence.

Similarly, the letter from [redacted] mentions the Petitioner’s First Class Coach title, his experience as a judge of the [redacted] Chinese national finals of the World Olympic Math Competition, and his participation as a member of the organizing committee for the competition’s trials in China. He states

⁵ We note that the Petitioner’s award certificate indicates that he received his second prize award (for an essay with essentially the same title) at the [redacted] annual conference of the National Mathematics Teaching and Research Institute in [redacted] not at the [redacted] annual conference held in [redacted]. Based on the submitted cover letter, the Petitioner did not claim that he earned two different awards.

that the Petitioner has made “significant contributions to the Olympic Mathematical Competition (China) trials,” but does not identify a specific novel or original contribution or explain how the Petitioner’s involvement in these trials is consistent with a contribution of major significance that has had a major impact or influence in the field.

Finally, the record includes a letter from [redacted] [redacted] of [redacted]’s Press, confirming that the Petitioner has served as a chapter author and editor of a series of mathematics textbooks for elementary schools published by his company. He states that, over a period of ten years, “the total publication of those books written/edited by [the Petitioner] has been in excess of 900,000 copies” and “they are among most widely circulated publications in the field.” The record contains several Chinese language books along with translations of their covers. One of the books, ‘[redacted] [redacted]’, a [redacted] math book, identifies the Petitioner as an author/editor and [redacted]’s Publishing House as the publisher. The version provided is a “10 Years Collector’s Edition” whose cover states “Classic of 10 years, over a hundred thousand copies sold.” The record does not contain supporting evidence indicating the actual number of copies published, sold or circulated in Chinese school systems.

This evidence confirms that the Petitioner co-authored and co-edited a [redacted] math textbook that is being used in some Chinese classrooms, but is not sufficient to establish that it is based on original concepts that are not found in other grade school math books, or to establish that this book and the Petitioner’s other academic publications are recognized by the field as having a significant impact or influence on mathematics education in China.

Overall, the letters, as well as other evidence in the record, reflect that the Petitioner’s activities in his field extend beyond classroom teaching to authoring and editing educational mathematics materials and participating as a coach and sometimes judge for Chinese Mathematics Olympiad competitions. The evidence, however, is insufficient to confirm that the level of attention he has received for these activities reflects that the field of mathematics education has regarded his work as authoritative or impactful. The Petitioner’s letters do not contain specific, detailed information explaining the unusual influence or high impact his work has had on the overall field. Letters that specifically articulate how a petitioner’s contributions are of major significance to the field and its impact on subsequent work add value.⁶ On the other hand, letters that lack specifics do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.⁷ Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att’y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

In addition to the submitted reference letters and evidence surrounding his publications and Mathematics Olympiad activities, the Director acknowledged counsel’s claim that the Petitioner “has served as ‘principal lecturer’ at the TV program titled [redacted]’ which was broadcasted through [redacted] Education TV Station.” The Director correctly observed that counsel’s assertion was not supported by any corroborating evidence of the Petitioner’s participation in the referenced television program. On appeal, counsel references the Petitioner’s service as a lecturer on this program and asserts that it “significantly promoted mathematics education.” However,

⁶ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

⁷ *Id.* at 9.

the record remains devoid of documentary evidence corroborating counsel's assertion that the Petitioner appeared on [redacted] and otherwise lacks any information about this program and its influence. Assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (citing *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980)). Counsel's statements must be substantiated in the record with independent evidence.

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that he has made original contributions of major significance in the field.

Evidence that the individual 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 claims that he meets this criterion based on his salary and other remuneration received from [redacted] Education Training School. Initially, he submitted a letter from the school's vice president, who stated that the Petitioner served as principal and math teacher, with an annual salary of RMB 450,000 for the years 2013 through 2016.

In his cover letter, counsel stated that the Petitioner's annual salary is equivalent to \$72,000. He cited figures for middle and high school math teachers from the Bureau of Labor Statistics and *Glassdoor* in support of his claim that the Petitioner's annual salary is "higher than that of top 10% of math teachers in the United States, not to mention the average income of Chinese is only 30% of that of Americans." The initial evidence did not include supporting documentation related to the currency conversion used, the referenced comparative salary data, or the "average income of Chinese" relative to Americans. Further, we note that, as the Petitioner has only worked in China, salary surveys reflecting U.S. wages are not relevant to a determination of whether his salary is high in relation to others in his field.⁸

In the RFE, the Director requested copies of foreign tax documents or other evidence demonstrating the Petitioner's receipt of the stated salary from [redacted] Education Training School, and additional evidence to establish that the salary is high in relation to others, such as "geographical or position appropriate compensation surveys." The Petitioner did not respond to this request or reference this criterion in his response to the RFE. Accordingly, the Director determined that he did not meet the criterion.

On appeal, the Petitioner now submits: (1) a copy of his employment contract indicating that his total remuneration package is RMB 486,000, paid annually; and (2) a "domestic payment business payment receipt" showing that [redacted] Educational Training School transferred RMB 486,000 to the Petitioner's Bank of China account in January 2018. In his brief, counsel cites U.S. salary figures for math teachers from *Glassdoor*, *Payscale* and *ZipRecruiter* and reiterates his assertion that "the [Petitioner] is receiving an annual salary of \$70,000/yr which is equal to or higher than top 10% in the United States." He indicates that he is enclosing copies of the referenced salary surveys, but the submission on appeal does not include this documentation.

⁸ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 11 (instructing that individuals "working in different countries should be evaluated based on the wage statistics or comparable evidence in that country").

We note that the Petitioner does not claim that the previously submitted evidence was sufficient to meet this criterion or claim that the Director's determination was otherwise erroneous based on the evidence before him at the time of the decision. When, as here, the record shows that a petitioner was put on notice of an evidentiary deficiency and was given an opportunity to address that deficiency, we will not accept evidence regarding that deficiency when offered for the first time on appeal. *See, e.g., Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988).

Regardless, while the Petitioner has now submitted documentation of his past earnings, the record still lacks any comparative salary information for the Petitioner's occupation and geographical location. Even if the appeal submission included copies of the salary surveys referenced by counsel, we note that the relevant comparative information would relate to the occupation of school principal in the Petitioner's geographic location in China, rather than math teachers employed in the United States. Accordingly, we agree with the Director's determination that this criterion has not been met.

B. Reserved Issues

Based on the foregoing discussion, we agree with the Director's determination that the Petitioner has not met at least three of the ten initial evidentiary criteria for this classification, as required. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding whether he seeks "to enter the United States to continue work in the area of extraordinary ability" and whether his entry "will substantially benefit prospectively the United States," under section 203(b)(1)(A)(ii)-(iii) of the Act. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

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.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.