



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

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

In Re: 18204637

Date: OCT. 15, 2021

Appeal of Texas Service Center Decision

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

The Petitioner, a surgical ophthalmologist, 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 Texas Service Center denied the petition, concluding that the Petitioner had satisfied only two of the ten initial evidentiary criteria, of which she must meet at least three.

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. A petitioner can either demonstrate a one-time achievement (that is, a major, internationally recognized award), or 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 qualifying 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 they are 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).

II. ANALYSIS

The Petitioner is a surgical ophthalmologist. At the time of filing, she was employed as the Associate Chief Physician for the Department of Ophthalmology at the [redacted] Hospital [redacted] University in China. 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).

Initially, the Petitioner claimed that she meets seven of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), summarized below:

- (i), Lesser Awards;
- (ii), Membership in associations that require outstanding achievements;
- (iii), Published material in major trade publications or other 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;
- (viii), Leading or critical role for distinguished organizations; and
- (ix), High salary.

In denying the petition, the Director found that the Petitioner only fulfilled two of the initial evidentiary criteria relating to judging the work of others and authorship of scholarly articles. On appeal, the Petitioner maintains that she meets three additional criteria relating to her receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor, original contributions of major significance to her field, and her leading or critical role for organizations having a distinguished reputation. The Petitioner has not pursued her initial claim that she meets the criteria related to memberships in associations in the field that require outstanding achievements of their members (8 C.F.R. § 204.5(h)(3)(ii)) or that she 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)). Therefore, we deem these issues to be waived and will not address these criteria in this decision. *See, e.g., Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009).

After reviewing all of the evidence in the record, we agree with the Director's conclusion regarding her participation as a judge of the work of others, as the record demonstrates that the Petitioner performed peer review for a number of scholarly journals. The record also demonstrates the Petitioner's authorship of numerous scholarly articles in the medical field. However, as discussed below, we find that she does not meet the requisite three evidentiary 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).

In order to fulfill this criterion, the Petitioner must demonstrate that she, rather than her employer, is the recipient of prizes or awards that 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 Director determined that the Petitioner did not establish that the awards documented in the record are nationally or internationally recognized awards or prizes in the field. On appeal, the Petitioner maintains that she received two nationally regarded awards for excellence in her field. She asserts that the evidence she submitted in support of the petition and in response to the Director's request for evidence (RFE) included detailed descriptions of the awards and the processes for granting them, and was therefore sufficient to establish that all elements of the criterion were satisfied.

The Petitioner presented evidence demonstrating that she won the [redacted] Medical Science & Technology Award" (2nd prize) in [redacted] 2006, accompanied by evidence demonstrating that the award recognizes the city [redacted]'s medical and health industry. The Director determined that because the award was limited to those within the city [redacted] the award was not nationally or internationally recognized. In response to the RFE, the Petitioner submitted additional evidence, including a document titled "Implementing rules for incentive regulation of [redacted] Medical Science and Technology Award." In the document's "Scope of Declaration," it states that "[a]ll medical schools and all levels of health system, various medical, scientific research and prevention institutes *in this city* are eligible to apply for the [redacted] Medical Science & Technology Award." (Emphasis added). The Director concluded that this document further demonstrated that the scope of the award was limited to the institutions operating within the city of [redacted] and therefore did not satisfy the plain language of this criterion.

On appeal, the Petitioner argues that although eligibility for this award is limited to individuals or institutions in [redacted], it does not mean that the award is not nationally recognized. The Petitioner notes that [redacted] is one of China's most prestigious cities, and that the [redacted] Medical Association, who awards the prize, is a "nationally prestigious medical association." She further notes that because only 15-20 prizes for 2nd place are awarded annually, and they are accompanied by a

¹ See 6 USCIS Policy Manual F.2 appendix, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2> (providing guidance on the review of evidence submitted to satisfy the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x)).

² *Id.*

cash award of RMB 10,000, it is more likely than not that her receipt of this award satisfies this criterion.

We agree with the Director's determination that the evidence did not sufficiently demonstrate that this award is a nationally or internationally recognized award for excellence, as eligibility appears to be limited to individuals and companies operating in the city of [REDACTED]. While we acknowledge the Petitioner's assertions that the awarding entity and the city of [REDACTED] are well respected in China, the award is not accompanied by evidence of the national or international recognition associated with it, or evidence that the Petitioner received national or international recognition as a recipient of this 2nd place award. Therefore, although the Petitioner established that she was one of approximately 20 recipients of the 2nd place [REDACTED] Medical Science & Technology Award" in 2006, the evidence submitted does not establish that this honor qualifies as a nationally or internationally recognized award or prize for excellence in her field.

The Petitioner also claimed receipt of a certificate issued by the Science and Technology Commission of [REDACTED] of Achievement for [REDACTED] in [REDACTED] 2005. The certificate states, "The certificate is hereby issued to conform that the science and technological achievements you have participated in are [REDACTED] science and technological achievements upon review." It identifies the "Work Unit" as [REDACTED] Affiliated to [REDACTED] Medical University, and under a section titled "Main Contribution" it identifies the Petitioner as "the 9th contributor." The Director found this certificate insufficient to satisfy this criterion, as the certificate did not indicate that the Petitioner was awarded a prize or award outside of the city of [REDACTED] or its municipality. The Director further noted that the certificate was issued in conjunction with a national funding initiative.

On appeal, the Petitioner asserts that this certificate, which she refers to as the [REDACTED] Medical Science & Technology Achievement [REDACTED], "qualifies as a nationally recognized prize for excellence in the Petitioner's field of endeavor," noting that the program issuing the certificate is a "major Chinese national initiative dedicate[d] to promoting important national interests via cutting-edge scientific research achievements." The Petitioner provides a basic overview of the [REDACTED] referred to formally as the [REDACTED] which appears to provide funding to improve research in a variety of scientific fields.

Here, the evidence is insufficient to demonstrate that the Petitioner's receipt of this certificate constitutes a nationally or internationally recognized award or prize in his field of endeavor. Moreover, the minimal evidence submitted suggests that the Petitioner's receipt of this certificate may indicate her receipt of a research grant or research funding from the [REDACTED] principally designed to fund her future research, and not to honor or recognize her past achievements. Absent additional evidence regarding the nature of this certificate, we cannot determine whether her receipt of this certificate constitutes a nationally or internationally recognized prize or award for excellence in her field of endeavor.

For the reasons discussed above, the Petitioner did not establish that she meets 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 regulatory criterion at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only have they made original contributions but that those contributions have been of major significance in the field.³ 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. Here, the Petitioner claims that she has made original contributions of major significance in the field as evidenced by her published research, citation record, patents, and a letter of recommendation from an expert in the field.

The Petitioner provides evidence demonstrating that she published articles in journals such as the *International Journal of Molecular Sciences*, *Ophthalmology*, and *Tissue Engineering (Part A)*, and asserts that the journal rankings, as well as each journal's impact factor, are elements that should contribute to her satisfying this criterion's requirements. The Petitioner, however, has not established that publication of articles in highly ranked or popular journals inevitably demonstrates that the field considers the research and work to be an original contribution of major significance. Moreover, a publication that bears a high ranking or impact factor reflects the publication's overall citation rate; it does not show an author's influence or the impact of research on the field or that every article published in a highly ranked journal automatically indicates a contribution of major significance. Here, the Petitioner has not established that publication in a popular or highly ranked journal alone demonstrates a contribution of major significance in the field. Publications and presentations are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "major significance." See *Kazarian*, 580 F.3d at 1036, *aff'd in part*, 596 F.3d 1115.

In addition, the Petitioner contends that her published papers and articles had been cited 60 times at the time of filing.⁴ This criterion requires the Petitioner to establish that she has made original contributions of major significance in the field. Thus, the burden is on the Petitioner to identify her original contributions and explain why they are of major significance. The Petitioner did not demonstrate how her cumulative number of citations represents contributions of major significance in the field. Moreover, aggregate citation figures tend to reflect a petitioner's overall publication record rather than identifying which research the field considers to be majorly significant.

The Petitioner submitted evidence from Google Scholar reflecting that her three highest cited articles received 31, 9 and 9 citations, respectively.⁵ Once again, this criterion requires the Petitioner to establish that she has made original contributions of major significance in the field. Generally, citations can serve as an indication that the field has taken interest in a petitioner's research or written

³ See 6 USCIS Policy Manual F.2 appendix, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2> (providing guidance on the review of evidence submitted to satisfy the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x)) (stating that although funded and published work may be "original," this fact alone is not sufficient to establish that the work is of major significance).

⁴ In response to the RFE, the Petitioner provided an updated citation record demonstrating additional citations to her work subsequent to the filing of the petition. The additional citations to articles after the initial filing will not be considered. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of filing and continuing through adjudication. See 8 C.F.R. § 103.2(b)(1).

⁵ The Petitioner did not specify how many citations, if any, for each of her articles contained self-citations.

work. However, the Petitioner has not sufficiently shown that the citations for any of her published papers or articles are commensurate with contributions of major significance. The Petitioner did not articulate the significance or relevance of the citations to her articles. For example, she did not demonstrate that these citations are unusually high in her field or how they compare to other articles that the field views as having been majorly significant. We acknowledge the Petitioner's assertions, both before the Director and again on appeal, that her citation statistics rank her as one of the top 1,140 scientists and physicians publishing in *Ophthalmology*, and that she ranks in the top 0.54% of cited physicians given the fact that there are approximately 210,730 ophthalmologists worldwide. The issue here, however, is how, or the extent to which, the Petitioner's work impacted the work of those researchers that cited her publications. Although her citations and perceived ranking are indicative that her research has received some attention from the field, the Petitioner did not establish that her citation numbers to her individual articles represent majorly significant contributions in the field.⁶

Further, the record indicates that the Petitioner submitted examples of articles which cited to her work.⁷ A review of those articles, though, does not show the significance of the Petitioner's research in the overall field beyond the authors who cited to her work.⁸ For example, the Petitioner provided a copy of an article titled [REDACTED]

[REDACTED] in which the authors cited one of her articles.⁹ However, the article does not distinguish or highlight the Petitioner's written work from the other cited papers.¹⁰ The article does not indicate that the Petitioner's article is authoritative or otherwise viewed as being majorly significant in the field, nor does it reflect that the authors found the Petitioner's work of such value that they discuss her work extensively. Instead, the article briefly cites to her work when discussing an example of how [REDACTED] have been used as substitutes for [REDACTED] during the development of bioengineered [REDACTED]

The Petitioner has not shown that her published articles through citations rise to a level of "major significance" consistent with this regulatory criterion.

Moreover, we acknowledge the Petitioner's claim that one of the seven authors of the above-referenced article is [REDACTED], Co-Director of the [REDACTED] Center of Excellence. The Petitioner submits a professional profile for [REDACTED] outlining her accomplishments in the field, and asserts that the fact that her work was cited by [REDACTED] indicates that that her work "has been recognized as important and noteworthy by at least one of the world's leading researchers in the field." Again, although the above article co-authored by [REDACTED] did cite to one of the Petitioner's articles, it does not indicate that the Petitioner's work is authoritative or otherwise viewed as being majorly significant in the field. Researchers throughout a given field may cite other published works without the cited work being notably influential or serving as a foundational basis for their own work. The fact that the Petitioner performed moderately valuable research and

⁶ See 6 USCIS Policy Manual, *supra*, at F.2(B)(2) (providing an example that peer-reviewed articles in scholarly journals that have provoked widespread commentary or received notice from others working in the field, or entries (particularly a goodly number) in a citation index which cite the individual's work as authoritative in the field, may be probative of the significance of the person's contributions to the field of endeavor).

⁷ Although she notes that her work has been cited by researchers around the world, the Petitioner did not establish how being cited by international researchers shows that her research is considered to be majorly significant.

⁸ See 6 USCIS Policy Manual, *supra*, at F.2(B)(2); see also *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).

⁹ Although we discuss an example article, we have reviewed and considered each one.

¹⁰ The paper's citation index lists a total of 45 citations to various sources.

received a reference to her work does not inherently demonstrate a contribution of major significance to the field, as this activity is inherent to the Petitioner's occupation.

The Director also acknowledged the Petitioner's patents, but determined that there was no evidence submitted to determine that they have garnered widespread commentary or use. On appeal, the Petitioner emphasizes that the patents, and associated research, have been cited 31 times by scholars from all over the world, and further notes that her patented [redacted] and [redacted] tube used during operations to flush [redacted] a surgical region and [redacted] as required, has also been cited by a subsequent patented technology in the field. She claims that these citations to her patents and associated research demonstrate that her contributions have been substantially relied on by subsequent research in the field, and thus demonstrate that they constitute original contributions of major significance in the field as contemplated by this criterion.

In general, a patent recognizes the originality of an invention or idea but does not necessarily establish a contribution of major significance in the field. Although the Petitioner argues that her groundbreaking patented research was selected for publication by a premier journal and has been widely cited, she did not demonstrate how the patents already qualify as contributions of major significance in the field, rather than prospective, potential impacts. The record, for example, does not reflect that her patents resulted in widespread usage or influenced the field of ophthalmology in a majorly, significant manner. Here, the significant nature of her patents has yet to be determined.

Finally, the Petitioner relies on a testimonial from [redacted] S, Professor of Clinical Ophthalmology at the University of [redacted], which she claims attests to her majorly significant contributions. In general, the letter recounts the Petitioner's research and findings, indicates their publications in journals, and points to the citations of her work by others. Although it reflects the novelty of her work, it does not sufficiently articulate how her research and findings have been considered of such importance and how their impact on the field rises to the level of major significance required by this criterion. For instance, [redacted] stated that the Petitioner's work in identifying [redacted] targets for [redacted] injury resulted in a paper that was cited nine times by "several foreign experts inclusive of those from the USA." While [redacted] noted that this research "has furthered the study and treatment in clinical [redacted] especially in the U.S.A.," he did not offer any examples of further research in this area or describe how the Petitioner's work in this area has significantly influenced the field. Similarly, while [redacted] claimed that the Petitioner "is the expert of the diagnosis and treatment of [redacted] surgery, especially specializing in the postoperative reconstruction of [redacted] tumors," he did not supplement his letter with specific examples corroborating this statement or otherwise showing how the Petitioner impacted the field in a significant way.

Furthermore, the letter speculates generally on the potential influence of the Petitioner's work and proposes that she will have an impact at some undefined point in the future. [redacted] opined that if the Petitioner one day "has the opportunity to enter the USA, she definitely will make good use of her experience and proficiency to enhance the medical standard whether in the research institutes or in the medical schools." He did not elaborate or explain how her research to date has been applied in the field, and did not further discuss whether the Petitioner's research has affected previous procedures, let alone actual implementation in the field. While the letter shows promise in the

Petitioner's work, it does not establish how her work already qualifies as a contribution of major significance in the field, rather than prospective, potential impacts. The significant nature of her work has yet to be determined or measured.

Here, the testimonial letter from [redacted] does not contain specific, detailed information explaining the unusual influence or high impact the Petitioner's research or 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.¹¹ On the other hand, letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.¹² 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).

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 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).

To satisfy this criterion, the Petitioner must satisfy three elements: that her role was (1) leading or critical; (2) that such role was for an organization or establishment; and (3) that the organization or establishment has a distinguished reputation. A leading role should be apparent by its position in the overall organizational hierarchy and through the role's matching duties. A critical role should be apparent from the Petitioner's impact on the organization or the establishment's activities. The Petitioner's performance in this role should establish whether the role was critical for the organization or establishment as a whole. For the reasons outlined below, we find that the Petitioner has not submitted evidence sufficient to demonstrate that she meets the requirements of this criterion.

The Petitioner asserts that her role as the Associate Chief Physician for the Department of Ophthalmology at the [redacted] Hospital [redacted] University in China was leading or critical for that organization. In support of this assertion, the Petitioner initially submitted an employment verification from the hospital affirming her position and stating that she had been employed by the hospital since July 2007, along with a hospital organizational chart. She also supplemented the record with evidence of her participation in volunteer clinics and trainings as well as various presentations. Additionally, she submitted evidence in support of the claimed distinguished reputation of the hospital.

The Director found the initial evidence insufficient, and issued an RFE requesting additional evidence in the form of letters from the Petitioner's current or former employers or trainers with personal knowledge of the significance of her leading or critical role, as well as evidence to assist in determining whether the organizations or establishments for which the Petitioner claimed to have performed a leading or critical role have distinguished reputations. In response, the Petitioner submitted a "Certificate" from the hospital dated August 5, 2020, which provided a general overview of her position. The Petitioner also submitted an organizational chart for the hospital and two documents

¹¹ See 6 USCIS Policy Manual, *supra*, at F.2(B)(2).

¹² *Id.*; see also *Kazarian*, 580 F.3d at 1036, *aff'd in part*, 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

titled “Certificate from Joint Conference Office for Standardized Residency Training of [redacted] and “Notice of the Municipal Health and Family Planning Commission on the Issuance of the Measures for the Standardized Training of Resident Doctors in [redacted]

The Director found the Petitioner’s evidence insufficient to satisfy this criterion. In denying the petition, the Director declined to acknowledge the certificate issued by the hospital, as it post-dated the filing of the petition. The Director determined that the certificate issued by the Joint Conference Office for Standardized Residency Training of [redacted] which indicated that the Petitioner served as an examiner for the completion of the standardized training of resident doctors in [redacted] from April 2014 to April 2017, and the notice of the Municipal Health and Family Planning Commission on the Issuance of the Measures for the Standardized Training of Resident Doctors in [redacted], lacked sufficient detail to show that her role was leading or critical.

On appeal, the Petitioner does not address the Director’s determinations regarding the deficiencies in the certificate issued by the Joint Conference Office for Standardized Residency Training of [redacted] or the notice of the Municipal Health and Family Planning Commission on the Issuance of the Measures for the Standardized Training of Resident Doctors in [redacted]. Rather, she challenges the Director’s failure to consider the certificate issued by the [redacted] Hospital [redacted] University, arguing that it should have been considered as the content of the document discusses the Petitioner’s employment history and role at the hospital. We agree that the document warrants consideration under this criterion; however, as discussed below, it is insufficient to demonstrate that she performed in a leading or critical role for the hospital.¹³

Preliminarily, we note that both the certificate and the organizational chart from the hospital are not signed by an individual claiming personal knowledge of her role; rather, both documents are merely stamped with the hospital seal. *See* 8 C.F.R. § 204.5(g)(1) (providing that evidence of experience shall consist of letters from the employer). As a result, we are unable to determine from whom the information was provided, and to what extent the writer was familiar with the Petitioner’s role and associated duties at the hospital. There is no indication that the information contained in these documents reflects firsthand knowledge of an employer or trainer familiar with the Petitioner’s role at her current employer.

Moreover, this certificate did not provide sufficient detail regarding the Petitioner’s role at the [redacted] Hospital [redacted] University. It states simply that she began her employment with the hospital in 2007, served as a visiting scholar at the University of [redacted] in from 2014 - 2015, and is currently the “Deputy Chief Physician of the Department of Ophthalmology and Ocular Oncology.” The certificate did not indicate where the Petitioner’s role fit within the overall hierarchy of the [redacted] Hospital of [redacted] University, so as to demonstrate that it was a “leading” position within the organization. Moreover, the organizational chart submitted by the Petitioner does little to clarify her position within the organization’s hierarchy, as it lists the Petitioner’s position several tiers below the hospital’s President and general departments. Specifically, her position is placed under the

¹³ We exercise de novo review of all issues of fact, law, policy, and discretion. *See Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). This means that we look at the record anew and are not required to defer to findings made in the initial decision. Furthermore, our decision may address new issues that were not raised or resolved in the prior decision.

[redacted] Department, which appears to be a sub-department of the Department of Oncology.

Furthermore, while the certificate indicates that the Petitioner is involved in the coordination of clinical and administrative affairs for 175 ophthalmologists and is in charge of the medical education and research of the Department of Orbital and Ocular Oncology, she has not provided evidence sufficient to show that these duties and responsibilities were critical for the [redacted] Hospital [redacted] University as a whole. The submitted documentation, therefore, does not establish that the Petitioner's role was "leading" based on her title, placement in the organization, or her duties, nor does the Petitioner provide information sufficient to establish that the Petitioner's duties and responsibilities were of significant importance to the organization, to the extent that her role was deemed critical.

Additionally, we note that the certificate identifies her position as the "Deputy Chief Physician of the Department of Ophthalmology and Ocular Oncology," in contrast to the organizational chart (and the Petitioner's own assertions) which indicate that she is currently the "Associate Chief Physician of the Department of Clinical Treatment Technology." The Petitioner must resolve this discrepancy in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Moreover, both the certificate and the organizational chart indicate that she *currently* holds the respective positions. Because this criterion requires evidence that she "has performed" in a leading or critical role in the past, we cannot determine whether she has satisfied the plain language of this criterion absent evidence confirming the date of her appointment to the claimed position and/or the length of time she has spent in this role. This evidentiary deficiency, coupled with the discrepancy with her job titles, further precludes a determination that she has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.¹⁴

For these reasons, the Petitioner has not established 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 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

¹⁴ We acknowledge the Petitioner's submission of evidence in support of the assertion that the [redacted] Hospital [redacted] University is a organization with a distinguished reputation, including an excerpt of a document titled "Best Eye Hospital: Top 100 Most Influential Ophthalmology Hospitals in 2016 (with list)" from the website www.askCI.com, a printout from [redacted]'s Department of Ophthalmology website, a U.S. News & World Report article on [redacted] University, and an excerpt from an article titled "Honor rolls of best hospitals in China released" published in the *Journal of Hospital Management and Health Policy* in [redacted] 2017. As the Petitioner has not established that she performed in a leading or critical role, further analysis of the reputation of the hospital serves no meaningful purpose.

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 her 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 she 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 her 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. In visa petition proceedings, it is the petitioner’s burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has not met that burden.

ORDER: The appeal is dismissed.