



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

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

In Re: 35172902

Date: DEC. 16, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a pharmacist, seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as a noncitizen with “extraordinary ability.” *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate “sustained national or international acclaim” and extensively document recognition of their achievements in their fields. Section 201(b)(1)(A)(i) of the Act.

The Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner did not meet any of the requested category’s ten evidentiary requirements – three less than needed for a final merits determination. On appeal, the Petitioner asserts that the Director imposed a stricter standard of proof than authorized and misapplied law. The Petitioner contends that she submitted evidence of:

- Her membership in professional associations requiring outstanding achievements as judged by experts;
- Her authorship of scholarly articles in her field;
- Display of her work in her field at artistic exhibitions or showcases; and
- Her performance in a critical role for organizations with a distinguished reputation.

8 C.F.R § 204.5(h)(3)(ii), (vi), (vii), (viii).

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that she has not satisfied the minimum number of evidentiary requirements. We will therefore dismiss the appeal.

## I. LAW

To qualify as a noncitizen with extraordinary ability, a petitioner must demonstrate that they:

- Have “extraordinary ability in the sciences, arts, education, business, or athletics;”
- Seek to continue work in their field of expertise in the United States; and
- Through their work, would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term “extraordinary ability” means expertise commensurate with “one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). Evidence of extraordinary ability must demonstrate a noncitizen’s receipt of either “a major, international recognized award” or satisfaction of at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3)(i-x).<sup>1</sup>

If a petitioner meets either evidentiary standard and the statutory requirements at section 203(b)(1)(A)(ii), (iii) of the Act, U.S. Citizenship and Immigration Services (USCIS) must then make a final merits determination. For approval, the record – as a whole – must establish a petitioner’s sustained national or international acclaim and recognized achievements placing them among the small percentage at their field’s very top. *Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010); *see generally* 6 *USCIS Policy Manual* F.2(B), [www.uscis.gov/policy-manual](http://www.uscis.gov/policy-manual).

## II. ANALYSIS

### A. Facts

The record shows that the Petitioner, a Brazilian native and citizen, earned a bachelor’s degree in pharmacy from a university in her home country. She then worked in Brazil as a pharmacist for more than five years, gaining experience in clinical and hospital pharmacy, and laboratory and toxicological analyses. She states that, during the COVID-19 pandemic, she “[w]orked 24/7 shifts with patients in critical condition.”

The Petitioner arrived in the United States in 2022 and states her intent to continue working here in her field. She says: “I am committed to bringing my expertise to the United States and contributing to the healthcare industry in the country.”

The record does not indicate – nor does the Petitioner claim – her receipt of a major internationally recognized award. She must therefore meet at least three of the ten evidentiary requirements at 8 C.F.R. § 204.5(h)(3)(i-x).

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<sup>1</sup> If an evidentiary criterion does not “readily apply” to a petitioner’s occupation, they may submit “comparable evidence” to establish eligibility. 8 C.F.R. § 204.5(h)(4).

The Director found that the Petitioner did not meet any of the evidentiary criteria. To satisfy the requirements, her proof must objectively meet the parameters of applicable regulatory descriptions. *See generally 6 USCIS Policy Manual F.2(B).*

## B. Evidentiary Requirements

### 1. Membership in Associations

This criterion requires “[d]ocumentation of the [noncitizen]’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.” 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner submitted evidence of her membership in two Brazilian pharmaceutical associations. She provided a letter from one association’s president and a copy of her identification card in the other group.

As the Director found, however, the Petitioner’s documentation does not demonstrate that these memberships required her attainment of outstanding achievements in her field as judged by recognized experts. *See* section 203(b)(1)(A)(i) of the Act (requiring petitioners to establish recognition of their achievements “through extensive documentation”). We will therefore affirm the Director’s determination on this evidentiary criterion.

### 2. Authorship of Scholarly Articles

To meet this requirement, a petitioner must submit evidence of their “authorship of scholarly articles in the field, in professional or major trade publications or other major media.” 8 C.F.R. § 204.5(h)(3)(vi).

In adjudicating this criterion, USCIS first determines whether a petitioner authored scholarly articles in their field. *See generally 6 USCIS Policy Manual F.2(B)(1), Criteria 6.* If so, the Agency then considers whether a publication qualifies as a professional publication, major trade publication, or major media publication. *Id.* Relevant factors for professional journals include the intended audience. *Id.* In contrast, for major media, considerations include the circulation or readership relative to other media in the field. *Id.*

The Petitioner provided copies of summaries of four articles she co-wrote as a student in 2016. The articles focus, respectively, on congenital syphilis, green tea as an alternative treatment for obesity, urinary tract infections, and gastrointestinal parasites in children. She claims that these articles appeared in major trade publications.

We disagree with the Director’s finding that the Petitioner’s documentation does not demonstrate the articles’ publications. The articles’ summaries indicate that journals published the articles. We confirmed their publications by accessing a reputable online index of scholarly literature.

As the Director also found, however, the Petitioner has not provided evidence that the journals constitute major trade publications. To be a major trade publication, “the trade journal must be one of the major publications in the field.” *Braga v. Poulos*, No. CV 06-5105 SJO (FMOx), 2007 WL 9229758, \*6 (C.D. Cal. July 6, 2007). Thus, she has not demonstrated her claimed authorship of scholarly articles in her field in major trade publications. *See* section 203(b)(1)(A)(i) of the Act (requiring petitioners to establish recognition of their achievements “through extensive documentation”). We will therefore affirm the Director’s determination regarding this evidentiary requirement.

### 3. Display of Work at Artistic Exhibitions or Showcases

This criterion requires “[e]vidence of the display of the [noncitizen]’s work in the field at artistic exhibitions or showcases.” 8 C.F.R. § 204.5(h)(3)(vii).

USCIS first determines whether the displayed materials constitute a petitioner’s work product. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criteria 7. Second, the Agency considers whether the display of a petitioner’s work was at artistic exhibitions or showcases. *Id.* We interpret the regulation’s term “exhibition” using its ordinary, common meaning. *See, e.g., Perrin v. United States*, 444 U.S. 37, 42 (1979) (“A fundamental canon of statutory construction is that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning . . . .”). In this context, the term “exhibition” ordinarily means “a public showing (as of works of art . . . .)” *Exhibition*, Merriam-Webster.com, [www.merriam-webster.com](http://www.merriam-webster.com).

The Petitioner submitted copies of photographs of herself between 2018 and 2022 at various events, including images of her speaking at a “roundtable” and workshop. As the Director found, however, the photos do not establish the events’ status as artistic exhibitions or showcases. *See Kazarian*, 596 F.3d at 1122 (holding that a petitioner’s self-published textbook, lectures at a community college, and presentations at conferences did not constitute displays at artistic exhibitions or showcases).

On appeal, the Petitioner contends that this evidentiary requirement “is not exclusive to artists.” She notes that the word “showcase” does not necessarily refer to art. “Showcase” ordinarily means “a setting, occasion, or medium for exhibiting *something or someone* especially in an attractive or favorable aspect.” *Showcase*, Merriam-Webster.com, *supra* (emphasis added).

The Petitioner’s interpretation of this evidentiary requirement, however, disregards the modifier “artistic.” The criterion requires display of work “at *artistic* exhibitions or showcases.” 8 C.F.R. § 204.5(h)(3)(vii) (emphasis added). Thus, the regulation “explicitly requires that the exhibitions or showcases be artistic in nature.” 6 *USCIS Policy Manual* F.2(B)(1), Criteria 7. We therefore decline to adopt her regulatory interpretation. Because the record does not demonstrate the artistic nature of the events in which the Petitioner participated, we will affirm the Director’s determination regarding this evidentiary equivalent.

### 4. Performance in Leading or Critical Roles

Even if the Petitioner submitted evidence of her performance in leading or critical roles for organizations with distinguished reputations, *see* 8 C.F.R. § 204.5(h)(3)(viii), she would not meet the

requisite amount of evidentiary requirements. We therefore need not reach and hereby reserve consideration of her appellate arguments regarding this evidentiary criterion and a final merits determination. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies need not make “purely advisory findings” on issues unnecessary to their ultimate decisions).

### III. CONCLUSION

The Petitioner has not met the requisite number of evidentiary requirements for the requested classification. We will therefore affirm the petition’s denial.

**ORDER:** The appeal is dismissed.