



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

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

In Re: 28282807

Date: FEB. 5, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a researcher in the veterinary science field, 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). Petitioners in this category may ultimately apply for U.S. permanent residence if they demonstrate “sustained national or international acclaim” and document recognition of their achievements in their fields of expertise. *Id.*

The Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner met one of ten initial evidentiary requirements - two less than needed to warrant a final merits determination. On appeal, the Petitioner claims that he met six other evidentiary criteria.

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 agree with the Director that the Petitioner has not satisfied the requisite number of evidentiary criteria. 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;”
- They seek to continue work in their field of expertise in the United States; and
- Their work would substantially benefit the country.

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

The term “extraordinary ability” means a level of 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 standards. 8 C.F.R. § 204.5(h)(3)(i-x).¹

If a petitioner meets either of the evidentiary requirements discussed above, U.S. Citizenship and Immigration Services (USCIS) must then make a final merits determination to find whether the record, as a whole, establishes sustained national or international acclaim and recognized achievements placing the noncitizen among the small percentage at the very top of their field. *See Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010) (requiring a two-part analysis of extraordinary ability).

II. ANALYSIS

The record shows that the Petitioner, a Nepali native and citizen, earned a bachelor’s degree in veterinary science and animal husbandry in his home country in 2016 and a master’s degree in animal nutrition in the United Kingdom in 2019. He began his research career while an undergraduate. Peer-reviewed journals published his papers on detecting and controlling the avian flu virus in the [redacted] of Nepal and the handwashing habits of residents in the same area. A veterinary journal also published his graduate thesis on the effect of polyphenol on the growth and meat quality of broiler chickens. Subjects of the Petitioner’s other published research articles include: the effect of organic acids in chicken feed; viral disease and bacterial infection in poultry; and dietary fiber in poultry nutrition.

The Petitioner currently works as an assistant adjunct professor at a Nepali college. He stated that he wants to come to the United States to continue research in his field, specifically in the area of veterinary public health. He said he may investigate how to reduce coronavirus transmission in poultry by modifying the fowls’ diets.

The Petitioner has neither claimed nor demonstrated his receipt of a major, international recognized award. *See* 8 C.F.R. § 204.5(h)(3). He must therefore meet at least three of ten lesser evidentiary requirements. *See* 8 C.F.R. § 204.5(h)(3)(i-x).

The record supports the Director’s finding that the Petitioner submitted evidence of his authorship of scholarly articles in the veterinary science field. *See* 8 C.F.R. § 204.5(h)(3)(vi). The Petitioner contends that he also provided published material about himself and his work in the field and evidence of: his receipt of prizes or awards; his membership in associations requiring outstanding achievement; his participation as a judge of others’ work; his original contributions of major significance; and his performance in a leading or critical role for organizations with distinguished reputations. *See* 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (iv), (v), (viii).

A. Receipt of Lesser Prizes or Awards

This criterion requires “[d]ocumentation 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). When

¹ If the standards do not readily apply to a petitioner’s occupation, the noncitizen may submit comparable evidence to establish eligibility. 8 C.F.R. § 204.5(h)(4).

adjudicating under this requirement, USCIS should first determine if a noncitizen - as opposed, for example, to their employer - received a prize or award. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1), www.uscis.gov/policy-manual. If so, the Agency should then determine whether the award is nationally or internationally recognized and was issued for excellence in the endeavor's field. *Id.* To determine whether a petitioner received an award for excellence in their field, USCIS should consider: the criteria used to grant the award; its national or international significance in the field; the number of awardees; and any limitations on competitors. *Id.*

The Petitioner submitted evidence that he received: a full scholarship to graduate school in 2018; a 2014 award to participate in wildlife training from the [redacted] a 2016 travel grant to attend veterinary training; another 2016 travel grant to present his research on the avian flu virus at the [redacted] Annual Meeting; a [redacted] certificate of excellence for a research article in the immunology, disease, and health category; and a 2022 [redacted] [redacted] for his research on polyphenol and its effect on Nepali livestock.²

The record supports the Director's findings that the Petitioner submitted insufficient evidence that his awards garnered national or international recognition, or that he received them for excellence in his field. Copies of website and other Internet information from the awarding organizations accompanies some of his awards. But, while these organizations may have national or international membership, the record lacks sufficient evidence of the awards' national or international recognition beyond organization members. *See, e.g., Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 182 (D.N.J. 2021) (“[I]t is reasonable to find that evidence solely from the awarding organization itself may be insufficient if it does not show ‘how a larger audience viewed [the] awards.’”) (citation omitted).

Also, because the Petitioner's awards honored only students and excluded more educated and experienced competitors in the field, the prizes do not establish their issuance for “excellence in the field.” *See* 6 *USCIS Policy Manual* F.(2)(B)(1); *Dr. Jafar Jafarov v. USCIS*, 23 Civ. 3372 (PAE), 2024 WL 69056, *6 (S.D.N.Y. Jan. 5, 2024) (finding that “limitations on competitors” constitute factors in determining “excellence in the field” under 8 C.F.R. § 204.5(h)(3)(i)).

On appeal, the Petitioner contends that the Director “concluded that scientific works of college and graduate level students are minor as compared to [those of] the established professionals and hence, underrated awards that [I] received through competition at the [redacted] Annual meeting in 2016.”

We agree that the Director found the Petitioner's student awards insufficient to demonstrate “excellence in the field.” But, as previously discussed, USCIS policy and case law support the Director's findings. *See* 6 *USCIS Policy Manual* F.(2)(B)(1); *Dr. Jafar Jafarov*, 2024 WL 69056 at *6. Thus, the Director appropriately weighed the Petitioner's student awards.

² The Petitioner also submitted evidence that he won awards at a film festival in 2021 and 2022 for best educational short movie and best motivational story/script. As the record does not demonstrate the awards' relationship to the Petitioner's field of veterinary science, we will not consider those awards or their supporting evidence. His appeal also does not mention these awards.

The Petitioner has not sufficiently demonstrated his receipt of nationally or internationally recognized prizes or awards for excellence in his field. We will therefore affirm the Director's finding under this criterion.

B. Membership in Associations Requiring Outstanding Achievement

To meet this requirement, a petitioner must submit "[d]ocumentation of the alien'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). A membership generally does not call for outstanding achievements if it solely requires: a level of education or years of experience in a particular field; payment of a fee or subscription to an association's publications; or employment in a certain occupation, as with a union or guild membership. *See generally 6 USCIS Policy Manual F.(2)(B)(1).*

The Petitioner submitted evidence that he is: a general and specialist member of the [redacted] [redacted] a lifetime member of the [redacted] an expert roster member of the [redacted] and a lifetime member of the [redacted]

As the Director found, except for evidence from the [redacted] the record does not demonstrate that membership in these organizations requires outstanding achievements of their members or judgments by recognized national or international experts in their fields. Also, evidence does not establish that the alumni association limits its memberships to those in the Petitioner's field of veterinary science.

Regarding the evidence from the veterinary council, the Petitioner submitted a letter from the council's acting registrar. The letter states that the council committee that assesses eligibility for specialist membership consists of "national experts in [the] veterinary field," including: a vice president; one council member; two specialist veterinary doctors; and a registrar. The letter states that specialist members must have made "scholarly and outstanding contribution[s]" after earning master's, doctoral, or equivalent degrees in the field. The letter indicates that, since the council's establishment in 1999, the Petitioner was the 60th of 166 specialist members.

The Director found that, contrary to the request for additional information that she issued, the Petitioner did not provide copies of the veterinary council's bylaws. The Director stated that "[t]he bylaws would not only add credence that such a council truly exists but may have supported what is outlined in the letter." On appeal, the Petitioner contends that the letter already states the council's bylaws regarding the awarding of specialist memberships.

We will accept that the veterinary council letter sufficiently demonstrates the council's existence.³ *See* 8 C.F.R. § 103.2(b)(14) (requiring a petition's denial for omission of requested evidence only if the evidence "precludes a material line of inquiry"). The record, however, supports the Director's finding that the Petitioner did not demonstrate that his specialist membership in the council stems from outstanding achievements as judged by recognized national or international experts. The council's letter states that "national experts in [the] veterinary field" select specialist members based on

³ Online information also confirms the council's existence. *See* [redacted]

“scholarly and outstanding contribution[s]” in the field. But the letter does not indicate whether the council’s method of awarding specialist memberships, as described in the February 2023 letter, applied at the time the Petitioner received his specialist membership, which by-laws from that period might have established.

Further, the council’s letter states: “Relevant evidence like being a trainer in national and international conference, workshop, seminar, award, and research publication can be submitted as an initial application for the specialist registration.” The letter suggests that a Nepali veterinarian could obtain an initial specialist membership in the council by merely publishing research or training others at a conference, workshop, or seminar in the field. The record does not establish that those achievements need be “outstanding.” See *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988) (requiring a petitioner to resolve inconsistencies of record with independent, objective evidence pointing to where the truth lies).

For the foregoing reasons, the Petitioner has not demonstrated his membership in associations in his field requiring outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. We therefore affirm the Director’s finding under this evidentiary requirement.

C. Published Material About the Petitioner

This criterion requires “[p]ublished 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.” 8 C.F.R. § 204.5(h)(3)(iii). The evidence must include the material’s title, date, and author, and any necessary translation. *Id.*

When adjudicating this requirement, USCIS should first determine whether published material relates to the noncitizen and their specific work in their field. See generally 6 *USCIS Policy Manual* F.(2)(B)(1). The Agency should then determine whether the publication qualifies as a professional, major trade, or major media publication. *Id.*

The Petitioner submitted copies of 2018 online articles regarding his graduate school scholarship. The copies indicate that the Internet sites of a Nepali English-language daily newspaper and a Nepali newsmagazine published the articles. As the online sites are not “professional or major trade publications,” the Petitioner must demonstrate that the sites constitute “other major media.” He did not, however, submit viewership statistics for the sites and their competitors to show that the sites constitute major media. See 6 *USCIS Policy Manual* F.(2)(B)(1) (“In evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include . . . the relative circulation, readership, or viewership (for major trade publications and other major media).” Also, the articles report only the Petitioner’s name, school, field of study, and scholarship receipt. Thus, they do not discuss him and his work substantially enough to meet this criterion. *Id.* (stating that published material covering a broader topic may be considered material about the person relating to their work if the material “includes a *substantial discussion* of the person’s work in the field and mentions the person in connection to the work”) (emphasis added).

The Petitioner also submitted a copy of a 2016 media release from the [redacted], announcing that he and other students won travel grant awards. The copy shows that an online news source for the poultry industry published the release. On appeal, the Petitioner contends that the release meets this evidentiary criterion. But, like the scholarship articles, the published release does not discuss the Petitioner and his work substantially enough to meet this requirement. *See 6 USCIS Policy Manual F.(2)(B)(1)*.

The Petitioner submitted additional information about the [redacted] awards and others he received. But the record does not indicate if or where the information was published to determine whether it was a professional, trade, or major media source. Also, some of the material does not discuss the Petitioner or his work.

The Petitioner has not submitted sufficient evidence to establish published material about himself in professional or major trade publications or other major media relating to his field. We will therefore affirm the Director's decision under this criterion.

D. Participation as a Judge of Others' Work

To meet this requirement, a petitioner must submit "[e]vidence 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). A petitioner must show not only that they were invited to judge the work of others, but also that they actually participated in the judging. *See generally 6 USCIS Policy Manual F.(2)(B)(1)*.

The Petitioner submitted evidence that he: helped rewrite and update a course syllabus about the vocation of "poultry farm worker;" reviewed research proposals and research articles on agriculture and animal science by Nepali undergraduate students; and judged a research article writing competition on poultry disease and health.

The Director questioned the authenticity of a letter from a deputy director of the [redacted] [redacted]. The letter thanks the Petitioner for his participation in developing the poultry farm worker curriculum in 2022. Noting that the letter bears a date in 2023, the Director found that the document was "simply prepared [after the fact] as an attempt to meet this criterion." On appeal, the Petitioner notes that a copy of the 2022 curriculum identifies his contribution as a "subject specialist" to the program's development.

But we need not decide the validity of the [redacted] letter as the evidence regardless would not meet this criterion. Even assuming the Petitioner helped rewrite the poultry farm worker curriculum as the letter states, the record does not demonstrate that his activities included judging others' work. Also, evidence of the Petitioner's review of undergraduate research proposals and research articles does not establish him as a judge of others' work.

But a letter from a coordinator/director of a Nepali non-profit veterinary and agricultural service satisfies this criterion. The letter states that, as part of panels in 2021 and 2022, the Petitioner judged research articles by undergraduate, graduate, and doctoral students in his field. As the record lacks any proof to the contrary, a preponderance of the evidence demonstrates the Petitioner's participation

as a judge of others' work in his field. We will therefore withdraw the Director's contrary decision under this criterion.

E. Original Contributions of Major Significance

To meet this requirement, a petitioner must submit "[e]vidence 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). USCIS should first determine whether a noncitizen has made original contributions in their field. 6 *USCIS Policy Manual* F.(2)(B)(1). If so, the Agency should then determine whether any of them are of "major significance." *Id.*

Evidence of significance may include proof that a noncitizen's published research has provoked widespread commentary from others in the field, or documentation that the research received a high number of citations compared to others' work in the field. *Id.* Detailed letters from experts in a field explaining the nature and significance of a noncitizen's contributions may also aid in evaluating contributions' importance, "particularly when the record includes documentation corroborating the claimed significance." *Id.*

The Petitioner submitted copies of his published research articles and letters from university professors discussing his work. For example, a U.S. Fulbright scholar/animal nutrition professor stated that the Petitioner "has paved the pathway for the upgrading and commercialization of novel [poultry] feed chemicals like organic acid and polyphenol in a dose-dependent manner." Also, a coordinator of the post graduate school at a Nepali university, who advised the Petitioner on his undergraduate research, stated that the Petitioner's "work has already impacted this area and holds many future promises."

The letters, however, do not sufficiently detail the impact of the Petitioner's work on the field or its purported future benefits. The letters indicate that he was the first researcher to study the effect of polyphenol in poultry feed. But the letters do not sufficiently explain how his research has "major significance" in his field. *See Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022) (for a petitioner's contributions to be "of major significance," evidence must demonstrate that their work has been widely adopted or replicated by industry actors unaffiliated with them). The record also lacks sufficient documentation corroborating the claimed significance and purported future benefits of the research.

In response to the Director's RFE, the Petitioner also submitted a letter from the science/commercialization manager of a company with a patented compound that the Petitioner studied in his polyphenol research. The letter states that the Petitioner's research made a "great contribution on our understanding of polyphenol to be used for commercial purposes in [the] bioscience industry." Like the other letters, however, the company's letter does not sufficiently detail the impact of the Petitioner's research, how it increased the company's understanding of polyphenol, or explain its "major significance" in the field. Also, as the Director found, the letter shows the significance of the Petitioner's research to the company more than to his field.

On appeal, the Petitioner contends that the Director's decision misidentifies him as an employee of the company. He states that his research "was independent, and purely based on scientific merit." He states that the company's letter explains that his research aided the firm's development of its patented product.

To the extent the Director misstated the Petitioner's relationship with the company, the error does not affect the underlying conclusion that he has not sufficiently documented an original contribution of major importance in his field. *See generally Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citations omitted) (describing an error that does not prejudice a noncitizen as harmless).

The record does not demonstrate that the Petitioner's research has provoked widespread commentary from others in the field or received a high number of citations compared to others in the field. Thus, we agree with the Director that the Petitioner has not demonstrated original contributions of major significance in his field.

F. Performance in a Leading or Critical Role

This criterion requires "[e]vidence 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). USCIS should first determine whether a petitioner has performed in a leading or critical role for an organization, establishment, division, or department. *See generally 6 USCIS Policy Manual F.(2)(B)(1)*. A leading role means that a petitioner is (or was) a leader within the organization, establishment, division, or department. *Id.* In contrast, a critical role means a noncitizen contributed in a significantly important way to the activities of the organization, establishment, division, or department. *Id.*

USCIS should next determine whether the organization, establishment, division, or department has a distinguished reputation. *Id.* Factors may include: an organization's relative size or longevity; the scale of its customer base, or relevant media coverage of it. *Id.*

The Petitioner submitted letters stating that he: served as a university ambassador to the [] from 2015 to 2016; helped edit and draft the Nepali national vocational training curriculum from 2021 to 2022 for the []; reviewed undergraduate research proposals and projects at a Nepali university; and trained farmers and served as a key speaker for a Nepali nonprofit veterinary and agriculture service.

As the Director found, however, the letters lack sufficient details to demonstrate that the Petitioner's roles with the organizations were leading or critical. The record also lacks sufficient evidence that the organizations have distinguished reputations.

In his RFE response, the Petitioner submitted the letter from the science/commercialization manager of the company with the patented compound studied by the Petitioner. But this letter also lacks sufficient details to demonstrate his service in a leading or critical role for the company or the firm's purported distinguished reputation.

On appeal, the Petitioner contends that the company's letter demonstrates the firm's distinguished reputation by stating that the company has international operations and multiple patents on several chemical compounds in the nutritional science field. But the letter does not provide enough details about the company's size, longevity, customer base, or media coverage to demonstrate its purported distinguished reputation. Also, as previously indicated, the record does not sufficiently explain how the Petitioner served in a leading or critical role for the company.

The Petitioner has not submitted evidence of his participation in a leading or critical role for an organization or establishment with a distinguished reputation. We will therefore affirm the Director's decision under this criterion.

G. Final Merits Determination

On appeal, the Petitioner demonstrated that he submitted evidence of his participation as a judge of others' work in his field. But he has met only two of the ten initial evidentiary requirements - one less than needed to obtain a final merits determination. Thus, we need not make a final determination in this matter. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where a respondent in removal proceedings did not otherwise qualify for relief).

III. CONCLUSION

The Petitioner has not met the requisite number of initial evidentiary requirements for classification as a noncitizen with extraordinary ability. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.