



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

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

In Re: 19897654

Date: FEB. 24, 2022

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Outstanding Professors/Researchers)

The Petitioner, a research institution, seeks to classify the Beneficiary as an outstanding researcher. Immigration and Nationality Act (the Act) section 203(b)(1)(B), 8 U.S.C. § 1153(b)(1)(B). This first preference classification makes immigrant visas available to foreign nationals who are internationally recognized as outstanding in their academic field.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Beneficiary has achieved recognition at the international level as a researcher in the field of Biomicroscopy.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will sustain the appeal.

I. LAW

Section 203(b)(1)(B)(i) of the Act provides that a foreign national is an outstanding professor or researcher if:

- (i) the alien is recognized internationally as outstanding in a specific academic area,
- (ii) the alien has at least 3 years of experience in teaching or research in the academic area, and
- (iii) the alien seeks to enter the United States [for a qualifying position with a university, institution of higher education, or certain private employers].

To establish a professor or researcher's eligibility, a petitioner must provide initial qualifying documentation that meets at least two of six categories of specific objective evidence set forth at 8 C.F.R § 204.5(i)(3)(i)(A)-(F). This, however, is only the first step, and the successful submission of evidence meeting at least two criteria does not, in and of itself, establish eligibility for this classification.¹ When a petitioner submits sufficient evidence at the first step, we will then conduct a

¹ USCIS has previously confirmed the applicability of this two-part adjudicative approach in the context of outstanding

final merits determination to decide whether the evidence in its totality shows that the beneficiary is recognized as outstanding in his or her academic field. 8 C.F.R. § 204.5(i)(3)(i).

In addition, the regulation at 8 C.F.R. § 204.5(i)(3)(ii) provides that a petition for an outstanding professor or researcher must be accompanied evidence that the beneficiary has at least three years of experience in teaching and/or research in the academic field.

II. ANALYSIS

The Beneficiary is currently employed by the Petitioner as an assistant scientist, and was initially hired as a postdoctoral researcher in 2017. She earned a Ph.D. in biomedical engineering from the University [redacted] in 2016.

In his decision, the Director concluded that the Petitioner met all of its requirements for this classification, and that the Beneficiary met four of the six evidentiary criteria under 8 C.F.R. § 204.5(i)(3)(i). However, in his final merits determination, he concluded that the evidence was not sufficient to show that the Beneficiary had been recognized as outstanding in her field at the international level. On appeal, the Petitioner asserts that the Director applied an elevated standard when reviewing the evidence. After review, we agree that the Petitioner has established that the Beneficiary meets at least two of the evidentiary criteria, and will therefore conduct a final merits determination.

In a final merits determination, we examine and weigh the totality of the evidence to determine whether the Petitioner has established, by a preponderance of the evidence, that the Beneficiary has been recognized internationally as outstanding in a specific academic field. Here, the Petitioner has offered sufficient evidence that the Beneficiary meets that standard.

The record primarily focuses on the Beneficiary's work in [redacted] [redacted] to study [redacted] stress, tumor metabolism, and other processes in cells that can lead to cancer. As explained by her Ph.D. supervisor, [redacted] the Petitioner was part of a research project which developed a [redacted] for the study of cancer, and she used [redacted] in conjunction with this device to study tumor metabolism. The paper reporting the results of this study was published in 2016 in the journal *Scientific Reports*, and the record reflects that it has been cited in the published work of hundreds of researchers. In further support of the recognition of this work in the scientific field, the Petitioner submitted several review articles written by other researchers which include extensive discussion of the research completed in this paper. Two of these review articles also included figures from the Beneficiary's paper, with one including that figure as one of four [redacted]

Another article, published in *Trends in Endocrinology & Metabolism* as a [redacted] article and written by [redacted] in 2019, focuses exclusively on a different paper co-authored by the Beneficiary which was published in *Cell Metabolism*. The article describes the paper's findings

professors and researchers. USCIS Policy Memorandum, *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*, PM-602-0005.1 (Dec. 22, 2010).

regarding [redacted] disease, and notes that its significance and importance lies in the questions it raises concerning the “molecular pathophysiology and potential new clinical treatment options” for [redacted]. It also states that the group “harnessed the power of several innovative and complimentary technologies,” describing in detail how the group used [redacted] to achieve their results. Professor [redacted] confirmed these statements in a reference letter, and noted that the team’s “highly innovative research results” could not have been achieved without the Beneficiary’s contributions.

In addition to the discussion and recognition of the Beneficiary’s published work noted above, the Petitioner also submitted evidence of her publication of several other papers in journals with international circulation, including *Biomedical Optics Express*, *Journal of Biomedical Optics*, and *PLoS ONE*. The record contains evidence showing that the Beneficiary’s scholarly articles have garnered an extensive number of citations, and that others researchers have applied and built upon this work. The Editor in Chief of the *Journal of Biomedical Optics* notes that a paper on which the Beneficiary was the first author was published in that journal in 2020, and quickly became the most viewed article for the journal in that year despite its publication in [redacted]. He further writes that the number of citations it received in that short time span placed it in the top 1% for the journal.²

Reference letters from experts in the field which detail the Beneficiary’s contributions and their importance to the field of biomicroscopy were also included in the record. For example, Professor [redacted] of [redacted] University explains that the Beneficiary’s development of a [redacted] [redacted] “has shaped subsequent study of [redacted] and disease” and that it is already being used by other groups “to understand the mechanisms of how [redacted] stress affects out physiology and leads to various disorders and diseases.” She indicates that her own research group has built upon the Beneficiary’s work, and that she referred to it in a review article highlighting “important studies [redacted] for non-invasive metabolic tissue assessments.” The evidence of the extensive citations to the Beneficiary’s work and other corroborating evidence in the record supports Professor [redacted]’s statements, as well as that of other experts who submitted reference letters, regarding recognition of her work as outstanding.

The record shows that the Beneficiary has been very active in her field in other aspects as well. Copies of emails demonstrate that she has peer reviewed numerous articles for *Scientific Reports* and *Biomedical Optics Express*, as well as a small number of reviews for several other journals. A letter from The Optical Society confirms that the Beneficiary has provided a total of 22 peer reviews for four of its journals, that she has received its highest reviewer rating “for very useful referee reports,” and that reviewers are chosen based upon “a proven record in the field for which the article is written.” She also served as a session chair for two sessions of the [redacted] conference in 2020. A letter from [redacted] states that this is their most well attended event, including more than 8500 virtual attendees in that year, and notes that selection as a session chair is considered an honor and an indication of recognition within the field. The Beneficiary’s service as a reviewer for dozens of manuscripts submitted to respected international journals in her field, and participation as a session chair for multiple sessions at a reputable conference, supports her recognition at the international level

² The evidence shows that at the time the petition was filed, the article had been cited 30 times. As of the writing of this decision less than a year later, Google Scholar indicates that it has received 126 citations. While the Petitioner must establish the Beneficiary’s eligibility for the requested classification at the time of filing, we note that this information supports the editor’s statements regarding the influence of this article and recognition of the Beneficiary’s work.

as an outstanding researcher. In addition, her receipt of the [] Prize for Biological Fluorescence, awarded every three years for research related to a doctoral dissertation, deserves mention. While lightly contested and including a relatively small cash prize, it adds to the evidence of recognition of her work in the field.

After review of the totality of the record, including the extensive discussion of the Beneficiary's work in multiple articles, the impact of her published research on other researchers in the field of biomicroscopy, the numerous occasions in which her expertise has been relied upon by distinguished scientific journals, and her participations as a chair for multiple sessions of a reputable conference, we conclude that the Petitioner has established that she is internationally recognized as outstanding in her field.

III. CONCLUSION

The Petitioner has submitted evidence showing that the Beneficiary meets the requisite two evidentiary criteria and is recognized as outstanding in her academic field at the international level.

ORDER: The appeal is sustained.