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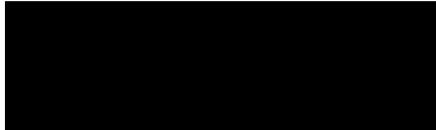
U.S. Department of Homeland Security
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Washington, DC 20529



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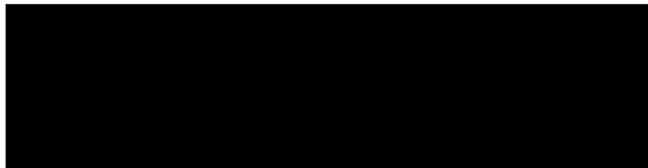
Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an “alien of extraordinary ability” pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). The director determined the petitioner did not seek to work in one of the fields designated by Congress for this classification and had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, counsel submits a brief and additional evidence. For the reasons discussed below, we uphold the director’s finding that the petitioner does not seek to work in one of the fields designated by Congress for the classification sought. Although our finding on the first issue renders the question of whether the beneficiary meets the regulatory criteria in any field moot, we will also consider this second issue. As discussed below, the petitioner only meets two of the regulatory criteria, of which an alien must meet at least three to be eligible for the classification sought.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph 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 Petitioner’s Field of Expertise and Future Employment

On Part 5 of the Form I-140 immigrant visa petition, the petitioner listed his occupation as “clergyman.” The petitioner did not complete Part 6 of the petition, which requests basic information about the alien’s proposed employment. We note that counsel signed the petition as the person preparing the form. In his cover letter, counsel asserted that the petitioner is “the foremost religious

leader in Turkey, as well as the leading (or one of the leading) Islamic religious and educational advocates of religious tolerance and interfaith dialogue in the world.”

In response to the director’s request for additional evidence, counsel asserts that the director “incorrectly characterizes [the petitioner] as a ‘clergyman’ despite the extensive documentary evidence included in the original submission that clearly indicates [that the petitioner] is a world-renowned scholar specializing in interfaith dialogue and the promotion of religious tolerance.” (Emphasis in original.) As stated above, counsel signed the initial petition as the individual who prepared that petition, which lists the petitioner’s occupation as “clergyman.” Counsel does not explain how the director erred in using the same occupation listed on the petition.

A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *See* 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Therefore, a petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to CIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Commr. 1998). The petitioner’s occupation is a material issue. Thus, the petitioner may not now change his occupation.

Also in response to the director’s request for additional evidence, the petitioner asserted that he intended to continue his “scholarly endeavors related to interfaith dialogue and religious tolerance.” He asserts that his work consists of authoring articles and providing guidance “to fellow scholars in the fields of theology, political science, Islamic studies, and education.”

The director concluded that the petitioner had not established how either working as a clergyman or promoting religious tolerance falls within the fields of science, art, education, business, or athletics. On appeal, counsel asserts that both religious scholars and clergy fall within the greater field of education. As an example, counsel notes that Pope Benedict XVI worked as a professor in Germany. Counsel notes the submission on appeal of expert opinions asserting that the petitioner’s work falls within the field of education and concludes: “Whether he is considered a clergyman, religious scholar, leader of interfaith dialogue, or anything else, the nature of what [the petitioner] has accomplished, and as detailed in his affidavit, will continue to accomplish, is the promotion of interfaith tolerance through, *inter alia*, his scholarly research and advancing of secular education.” The letters submitted on appeal, such as the letter from John L. Esposito, a professor at Georgetown University, note the historical role of religious institutions as providers of education and the participation by members of the clergy in teaching theology even today.

We must presume that the phrase “in the sciences, arts, education, business, or athletics” is not superfluous and, thus, that it has some meaning. *See Walters v. Metro. Educ. Enters.*, 519 U.S. 202, 209 (1997); *Bailey v. U.S.*, 516 U.S. 137, 145 (1995). If Congress had intended all aliens of extraordinary ability, regardless of their field, to qualify under section 203(b)(1)(A), there would have been no purpose in including the phrase “in the sciences, arts, education, business, or athletics.”

As Congress *did* use that phrase, it can be presumed that there may be aliens of extraordinary ability, who enjoy sustained national or international acclaim, that are nevertheless ineligible for classification under section 203(b)(1)(A) *solely* because their occupation does not fall within the sciences, arts, education, business or athletics. To hold otherwise would render the clear language of the statute meaningless and undermine Congressional intent.

Counsel cites no legal authority for the implication that Congress intended to include the clergy or authors of religious tracts promoting a specific religious ideology under the category of “education.” The “exceptional ability” classification, now under section 203(b)(2) of the Act, existed prior to the enactment of the Act. When the Act was enacted in 1990, there existed case law interpreting “arts” as including “athletics.” The extraordinary ability classification, however, was an entirely new classification. Thus, Congress chose the fields for this new classification very specifically, expressly adding “athletics” to section 203(b)(1)(A) of the Act, whereas it did not do so under section 203(b)(2) of the Act where it was already presumed to fall within the “arts.” “Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposefully in the disparate inclusion or exclusion.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 432 (1987). Thus, Congress was capable of expanding the fields previously recognized and chose not to expand the list of fields other than by adding athletics.

In light of the above, the petitioner must establish that his field of expertise *and* the employment he intends to pursue fall within the sciences, arts, education, business or athletics.

Moreover, there is no reason to presume that Congress must have intended for the clergy to fall under section 203(b)(1)(A) of the Act. In a separate part of the Act, Congress defined religious workers as special immigrants pursuant to section 101(a)(27)(C) of the Act.¹ To admit a member of the clergy who is not seeking an academic post as an alien of extraordinary ability in education would frustrate Congress’ intent in defining the eligibility requirements for clergy. Given the petitioner’s listed “occupation” on the Form I-140, it is reasonable that he must meet the requirements for a religious worker to obtain an employment based visa petition approved in his behalf. *See e.g. Delta Air Lines, Inc. et al., v. INS*, Civ. Action No. 00-2977-LFO (Dist. of Col. April 6, 2001)(acknowledging that a nonimmigrant whose duties are primarily those of a crewman must be considered under the nonimmigrant classification designed for crewmen).

We acknowledge that religious workers are not precluded from consideration under the L-1 nonimmigrant “managerial” classification pursuant to section 101(a)(15)(L) of the Act. *Matter of*

¹ In fact, the petitioner is the beneficiary of a separate petition, receipt number EAC-01-172-54504, filed on April 30, 2001, seeking to classify the alien as a special immigrant religious worker pursuant to section 101(a)(27)(C) of the Act. While the approval of that petition was subsequently revoked, the alien’s eligibility under the specific requirements for that program is irrelevant in our determination that the petitioner is primarily a religious figure rather than an academic scholar of theology who happens to be a member of the clergy. In counsel’s most recent brief in support of that petition, dated September 10, 2007, counsel references the alien’s status as a spiritual leader and pursuit of a religious vocation.

Church Scientology International, 19 I&N Dec. 593, 596-97 (Commr. 1988). That determination, however, results from the recognition that some religious organizations are sufficiently hierarchical. *Id.* That decision, however, found that since the classification was designed for businesses rather than religious organizations, the same standards used for businesses would apply. Unlike the nonimmigrant L-1 classification, the immigrant classification sought in this matter is expressly limited by statute to those in the sciences, arts, education, business or athletics.

Counsel's example of the Pope is not persuasive. First, his case is not before us. Moreover, while he may have worked as an educator at one point, it cannot be credibly argued that his acclaim is as an educator rather than a religious leader. Finally, his intention in coming to the United States would be relevant. Assuming the Pope would seek to enter the United States to continue leading the Catholic Church or to pursue a lesser clergy position, the provisions of section 101(a)(27)(C) of the Act would be the most applicable to his occupation. If he sought to enter the United States to teach at a university, his past acclaim as an educator, not simply as a member of the clergy, would be relevant.

Where the language of the statute is clear on its face, there is no need to inquire into congressional intent. *INS v. Phinpathya*, 464 U.S. 183 (1984); *Shaar v. INS*, 141 F. 3d 953, 956 (9th Cir. 1998); *Matter of Lemhammad*, 20 I&N Dec. 316 (BIA 1991). Congress' language limiting the fields for extraordinary ability to the sciences, arts, education, business and athletics is clear. The Merriam-Webster Dictionary 228-229 (New ed. 2004) defines "education" as "the action or process of educating or being educated" and "a field of study dealing with methods of teaching and learning." We are not persuaded that promoting a specific religious ideology through the authorship of religious tracts or preaching for religious tolerance falls within the definition of education. We do not contest that certain religious figures, such as the Pope, have previously engaged in educational activities or, as noted by Professor Esposito, that religious organizations have operated institutions of learning. These examples of religious leaders or institutions promoting or providing education do not establish that religious occupations fall within the field of education.

As the petitioner has not established that his field of expertise and proposed activities fall within the sciences, arts, education, business or athletics, any further discussion of the evidence under the regulatory criteria is moot. Nevertheless, for purposes of thoroughness, we will address the evidence below.

Extraordinary Ability

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-9 (Nov. 29, 1991). As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is 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). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set

forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

According to Part 5 of the petition, the petitioner seeks to classify himself as an alien with extraordinary ability as a clergyman. As discussed above, that occupation and the duties proposed by the petitioner do not fall within the sciences, arts, education, business or athletics. Thus, as we consider the evidence below, we will only consider whether it is indicative of or consistent with national or international acclaim in the sciences, arts, education, business or athletics.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Counsel did not initially claim that the petitioner has a one-time achievement. In response to the director's request for additional evidence, however, counsel asserts that the petitioner's receipt of the Award for Contribution to Tolerance and Dialogue from the United Nations Educational, Scientific and Cultural Organization (UNESCO), claimed previously as a lesser nationally or internationally recognized award, is actually a one-time achievement.

The petitioner submitted a posting about the award on a website dedicated to the petitioner. The posting indicates that the award was issued by the Romanian Commission of UNESCO. The award was accepted on the petitioner's behalf by representatives of the Journalists and Writers Foundation. The translation of another Internet story on the award indicates it was awarded because of the petitioner's contribution to education and solidarity. The translated story further states that UNESCO supports Ramadan events organized by the Journalists and Authors Foundation, which has close ties to the petitioner. A second translated article indicates that the recently deceased Pope and "Romania Metropolitan Baptist" also received awards at the same event.

The director concluded that the record lacked evidence of the award itself, certified translations of the foreign language articles as required under 8 C.F.R. § 103.2(b)(3), evidence regarding the circulation of the newspapers that covered the event or a statement from UNESCO explaining the number of awards issued, the criteria for the award and the number of eligible individuals. On appeal, the petitioner submits a copy of the certificate entitled "Award of Merit." The certificate indicates that the award recognizes "contributions which led to dialogue and tolerance." The National Commission of Romania for UNESCO issued the certificate in October 2005.

Congress' example of a one-time achievement is a Nobel Prize. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). The regulation is consistent with this legislative history, stating that a one-time achievement must be a *major, internationally recognized* award. 8 C.F.R. § 204.5(h)(3). Significantly, even a lesser internationally recognized award could serve to meet only one of the ten regulatory criteria, of which an alien must meet at least three. 8 C.F.R. § 204.5(h)(3)(i). The selection of Nobel Laureates, the example provided by Congress, is reported in the top media internationally regardless of the nationality of the awardees, is a familiar name to the public at large and includes a large cash prize. While an

internationally recognized award could conceivably constitute a one-time achievement without meeting all of those elements, it is clear from the example provided by Congress that the award must be global in scope and internationally recognized in the alien's field as one of the top awards in that field.

The petitioner's "Award of Merit" was issued by the Romanian Commission of UNESCO.² The record is absent evidence that UNESCO as an international body considers this award significant. Despite the director's repeated finding, expressed in the request for additional evidence and again in the final decision, that the record lacks evidence from UNESCO explaining the awardee selection process, the petitioner has not provided such evidence. Based on this failure alone, the petition may not be approved. 8 C.F.R. § 103.2(b)(13). Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Regl. Commr. 1972)). Moreover, the record contains no media coverage of the event outside of Turkey, the petitioner's native country. Finally, the Romanian Commission cannot elevate the significance of their merit awards by issuing one to an internationally renowned figure such as the late Pope. Any entity can decide to issue an award to a famous personality. The record lacks evidence that the Vatican considered this honor significant. For example, the record lacks evidence that the Vatican sent a commission from Rome to attend the event and receive the certificate.

In light of the above, the petitioner has not demonstrated that the merit award from the Romanian Commission of UNESCO is an award recognized internationally in the field of education to which the most renowned educators or even religious leaders worldwide aspire to win.

Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. Prior to addressing the regulatory criteria, we acknowledge the submission of several letters supporting the petition. We will consider these letters below as they relate to the regulatory criteria. The opinions of experts in the field, however, while not without weight, cannot form the cornerstone of a successful claim of sustained national or international acclaim. Citizenship and Immigration Services (CIS) may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Commr. 1988). However, CIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; CIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. CIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *See*

² According to UNESCO's own website, <http://portal.unesco.org>, accessed on March 6, 2008, national commissions "are national cooperating bodies set up by the Member States for the purpose of associating their governmental and non-governmental bodies with the work of the Organization." Thus, the Romanian Commission is not an international UNESCO delegation to Romania but a Romanian body created in Romania for the purpose of associating with UNESCO.

also *Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Regl. Commr. 1972)).

In evaluating the reference letters, we note that letters containing mere assertions of widespread acclaim and vague accolades are less persuasive than assertions that relate to the regulatory criteria and are supported by objective evidence. Ultimately, evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with sustained national or international acclaim should be able to produce unsolicited materials reflecting that acclaim.

The regulatory criteria set forth at 8 C.F.R. § 204.5(h)(3) follow.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

Initially, counsel asserted that the following awards serve to meet this criterion: Award for Contribution to Tolerance and Dialogue from the Romanian Commission of UNESCO, selection as an honoree at the Peaceful Heroes Symposium and the Intersociety Adaptation and Contribution to Peace Award from the Kyrgyzstan Spirituality Foundation. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Some of the petitioner's references also mention these awards, but these letters are not from the institutions that issued the awards. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Regl. Commr. 1972)).

As stated above, the petitioner has now submitted the merit award from the Romanian Commission of UNESCO. In response to the director's request for additional evidence, the petitioner submitted evidence that the petitioner was the subject of a session at the University of Texas, San Antonio (UTSA), Peaceful Heroes Symposium sponsored by the Student Association for Islamic Dialogue. This inclusion is not a prize or award. An article posted on www.salsa.net and purportedly reprinted from *The Muslim World*, by [REDACTED] at John Carroll University in Cleveland, Ohio,³ cites an article in the *Zaman Daily* for the proposition that the Kryrgyzstan Spirituality Foundation awarded the petitioner "an honor for his contribution to world peace through his educational efforts in 2004." The record also contains evidence that the Turkish Authors' Association (TYB) issued the petitioner a "Superior Service" award for his contributions to Turkish Culture abroad.

³ According to an issue of the Ecumenical and Interfaith Bulletin of the Archdiocese of Melbourne submitted by the petitioner, the John Carroll Center was one of three centers for interfaith dialogue created after the petitioner's 1998 meeting with the Pope.

While some of the translated articles suggest that the petitioner's merit award from the Romanian Commission of UNESCO recognized contributions to education, the certificate itself reflects that it recognizes the petitioner's "contributions which led to dialogue and tolerance." The inclusion of the petitioner as a subject of a symposium at UTSA relates to the petitioner's religious ideology. There is insufficient evidence regarding the basis of the "award" from the Kryrgyzstan Spirituality Foundation or the award from TYB. Thus, the petitioner has not established that any of these "awards" recognize excellence in education.

Moreover, as discussed above, the petitioner has never responded to the director's request for evidence regarding the selection process for the UNESCO merit award. On this basis alone, the petition cannot be approved. 8 C.F.R. § 103.2(b)(13). In addition, we are not persuaded that inclusion as the focus of a symposium session is not a nationally recognized prize or award. Finally, the record contains no evidence regarding the reputation of the Kryrgyzstan Spirituality Foundation or TYB or the significance of their awards. The evidence of this award consists of an article that cites a news article that is not in the record. We note that the nonexistence or other unavailability of primary evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2). The petitioner has not documented that the primary evidence of the Kryrgyzstan Spirituality Foundation (the award itself) is unavailable such that we can rely on secondary evidence. 8 C.F.R. § 103.2(b)(2)(ii). We note that the petitioner would need to demonstrate that secondary evidence is also unavailable in order to rely on affidavits. *Id.*

In light of the above, the petitioner has not established that he has won a lesser nationally or internationally recognized prize or award for excellence in the field of education.

Documentation 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.

Neither counsel nor the petitioner has claimed that the petitioner meets this criterion and the record contains no evidence relating to it.

Published 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. Such evidence shall include the title, date, and author of the material, and any necessary translation.

The record amply demonstrates that the petitioner and his ideology have been featured in newspaper articles and books. Some of these published materials discuss schools founded by the petitioner's followers. We note that some of the materials include information that is not favorable.⁴ For example, [REDACTED] in her book chapter about the petitioner, notes that the petitioner was charged with, among other things, treason in Turkey. The BBC news article also notes that the petitioner was charged

⁴ Section 203(b)(1)(A)(iii) of the Act requires that the alien's entry into the United States will substantially benefit prospectively the United States. Unfavorable press coverage may, in certain cases, demonstrate that the alien will not, in fact, substantially benefit prospectively the United States.

with “plotting to overthrow the country’s secular state.” A similar article appeared in the *New York Times*. We acknowledge, however, that the Turkish government rescinded the arrest warrant for the petitioner in August 2000, although an April 30, 2001 article in the *Turkish Daily News* notes that the petitioner was “living in exile in the United States.” An undated article in an unidentified newspaper suggests that the petitioner was actually acquitted of the charges. While not all of the published material appears in major media, is primarily about the petitioner or is favorable, the record contains sufficient favorable published material about the petitioner relating to the establishment of schools that we are satisfied that the petitioner meets this criterion.

Evidence 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.

Counsel references the petitioner’s role as founder and honorary president for various organizations to meet this criterion. We find that the evidence relates to the criterion at 8 C.F.R. § 204.5(h)(3)(viii) rather than this criterion, set forth at 8 C.F.R. § 204.5(h)(3)(iv). Thus, this evidence will be discussed below as it relates to the petitioner’s leading and critical roles with various organizations.

Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The record includes numerous letters and articles relating to the petitioner’s promotion of interfaith dialogue. For example, ██████████, an adjunct professor at the George Washington University and a former CIA officer, praises the petitioner’s contributions as a “spiritual leader, guiding the practice of hundreds of thousands and perhaps millions of Muslims throughout the world, and his role as a religious leader, shaping the activities and actions of an active, moderate Muslim community that promotes tolerance and cooperation with other religious traditions and cultures.” ██████████ also affirms the petitioner’s contributions to interfaith dialogue, including the petitioner’s 1998 meeting with the Pope. The remaining reference letters include similar statements. The record contains evidence that the petitioner met with the last Pope and other religious figures. We are not persuaded, however, that this evidence relates to the petitioner’s contributions to the field of education.

Nevertheless, the record also contains evidence that the petitioner’s followers have established numerous apparently secular schools in Turkey and elsewhere in Europe. ██████████ a former U.S. ambassador to Turkey, asserts that the petitioner “has made major contributions to education in Turkey and Central Asia.” ██████████ elaborates that the petitioner’s movement “raised the bar for academic excellence. These schools emphasize moral choices, interfaith cooperation, and peace and tolerance throughout the world.” ██████████ asserts that the petitioner’s movement, a “loose network that shares similar values” has established “several hundred schools throughout Europe and Asia” which provide education to children from different ethnicities and cultural backgrounds. ██████████ Chief Advisor of former President ██████████ asserts that the petitioner created “an educational system that promotes the principles of tolerance, cooperation and peacefulness” and has produced “a new generation of Muslims, who possess the ability to think

critically and who value tolerance in a multicultural, global society.” The petitioner has also been recognized for these schools and the published materials about his movement favorably discuss these schools at length. Thus, while the schools founded by the petitioner are not without critics and, as will be discussed below, the schools are independently founded by the petitioner’s followers, we are persuaded that the petitioner meets this criterion.

Evidence of the alien’s authorship of scholarly articles in the field, in professional or major trade publications or other major media.

We must presume that the word “scholarly” is not superfluous and, thus, that it has some meaning. We distinguish “scholarly” from “popular” and interpret the word “scholarly” to imply that authored materials submitted to meet this criterion must be aimed at an audience of scholars rather than the general public. While we do not question that there have been scholarly analyses of the petitioner’s movement, it is less clear that the petitioner’s writings themselves are scholarly theological treatises.

We acknowledge that the petitioner has authored numerous books and articles. In response to the director’s request for additional evidence, the petitioner submitted several reference letters, including letters from academic theologians, attesting to the petitioner’s impact on interfaith academic programs. As discussed above, we do not contest that the petitioner has made contributions of major significance in education. At issue for this criterion, however, is whether the petitioner’s articles, books and book chapters can be characterized as “scholarly” in and of themselves.

The record reveals that the petitioner’s writings are predominantly religious tracts⁵ expressing the petitioner’s own religious ideology, with minimal scholarly analysis of education or even religion. We acknowledge that Father ██████████ of the Greek Orthodox Archdiocese of America asserts that the petitioner has “been able to unify the ideology and philosophies of East and West in an unprecedented manner” and examines the poetry of Rumi. Father ██████████ further asserts that the petitioner’s articles have been required reading in political culture courses. This fact is not determinative. For example, a class studying the founders of the United States might be required to read the writings of Benjamin Franklin. That assignment would not transform those writings into scholarly treatises on politics and democracy. It is not clear that the petitioner’s written work is aimed at academic scholars rather than his religious followers and others interested in his ideology (including students studying various ideological movements). Consistent with this conclusion, ██████████ a senior political consultant at the RAND Corporation, asserts that the petitioner’s writings express the petitioner’s “commentaries on Islam, on Sufi mysticism and the place of knowledge and science within Islam, and the vital role of education for all Muslims.” (Emphasis added.) ██████████ than notes that there have been academic studies of the petitioner’s “thought.”

⁵ In counsel’s September 10, 2007 brief in support of the petition filed in the alien’s behalf pursuant to section 101(a)(27)(C) of the Act, page 8, he asserts that the petitioner continues to write “religious tracts.” We find that this characterization of the petitioner’s writings is consistent with the record.

Finally, none of the petitioner's articles or books appear to constitute scholarly works analyzing the field of education or any of the other fields identified in section 203(b)(1)(A)(i) of the Act.

In light of the above, the petitioner has not established that he has authored scholarly articles in the field of education in professional or major trade publications in the field of education or other major media.

Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.

While counsel has asserted that the petitioner's speeches serve to meet this criterion, the petitioner does not seek classification as an alien of extraordinary ability in the arts. As this criterion is limited, by the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(vii), to the arts, we cannot conclude that the petitioner meets this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The petitioner is the founder of a large religious movement in Turkey with followers beyond the borders of that country. The movement has been the subject of considerable media attention, much of it favorable. While the petitioner has clearly performed in a leading or critical role for this movement, it is primarily a religious movement. Thus, the petitioner's role with this movement is not indicative of or consistent with extraordinary ability in education. The petitioner's role as "honorary president" is not necessarily indicative of an actual leadership role the petitioner performs. For example, ██████████ President of the Rumi Forum, asserts that the petitioner, the forum's honorary president, has "no organic relationship with the Rumi Forum."

We acknowledge that the petitioner's followers, *inspired by* the petitioner's philosophy, have developed hundreds of schools within Turkey and beyond its borders. We have already acknowledged the petitioner's contributions to education in Turkey and other countries above. To presume that meeting one criterion necessitates meeting another criterion would negate the regulatory requirement that an alien meet at least three of the regulatory criteria. At issue for this criterion is the official role the petitioner performed in establishing these schools.

asserts that the "followers" of the petitioner's movement have opened "about 600 schools across the world in more than 90 countries." ██████████ a professor of Islamic History at Georgetown University, asserts that the petitioner "provided inspiration for schools in many countries and these schools provide some of the most effective means for combating destructive religious extremism." Similarly, ██████████ a professor at Dartmouth College, asserts that the petitioner's commitment to education "has inspired a network of primary and secondary schools and at least one university that provide comprehensive and rigorous training equal in scope to the best of the liberal arts tradition in the United States." ██████████ Former Speaker of the Grand National Assembly of Turkey, asserts that "people who listened to the advices [sic] of [the petitioner] established hundreds of

schools through out [sic] the world.” [REDACTED] Former President of the Council of Higher Education of the Republic of Turkey, states:

Although these schools are referred [to] as [the petitioner’s movement] Schools, they do not have any organic relationships amongst each other. They are connected with one another in only one way, which is that the people who started these schools are touched by the same message uttered by the very person who is the topic of this letter. This is the only connection they have to each other and [the petitioner].

The record does not suggest that the petitioner designed specific curricula for these schools, as opposed to promoting the teaching of science in general, or created a specific educational philosophy such as, for example, the Montessori educational scheme. The record is absent evidence that the petitioner is otherwise performing a leading role in the establishment and management of these schools. Rather, his general teachings have inspired his followers to establish these schools independently. We reiterate that his inspiration was considered sufficient to meet the contributions criterion at 8 C.F.R. § 204.5(h)(3)(v), but we are not persuaded that the petitioner plays a sufficiently leading or critical role for these schools such that we can conclude that he meets this criterion.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

Neither counsel nor the petitioner has claimed to meet this criterion and the record contains no evidence relating to it.

Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

Neither counsel nor the petitioner has claimed to meet this criterion and the record contains no evidence relating to it.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished himself in the field of education to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of this field. The evidence indicates that the petitioner is a well-known religious figure, but is not persuasive that the petitioner’s achievements in education set him significantly above almost all others in that field. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

Prospective Employment in the United States

As stated above, section 204(b)(1)(A)(ii) requires that the petitioner seek to enter the United States to continue working in his area of expertise. The regulation at 8 C.F.R. § 204.5(h)(5) provides:

No offer of employment required. Neither an offer for employment in the United States nor a labor certification is required for this classification; however, the petition must be accompanied by clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States.

The petitioner did not initially submit such evidence. In response to the director's request for additional evidence, the petitioner submitted a personal affidavit. In his affidavit, the petitioner noted that while in the United States, he has been working toward interfaith dialogue through authoring articles and providing guidance to "fellow scholars." He notes that he is the honorary president of the Institute for Interfaith Dialog, the Niagara Foundation and the Rumi Forum. He expresses his intention "to continue performing scholarly research, advising other academics and consulting on conferences about my work." We note that the only evidence relating to the field of education found sufficient above is the founding of schools by the petitioner's followers. He does not assert that he will continue to promote education in this manner in the United States.

As discussed above, we do not find that the petitioner's written work constitutes scholarly work in the field of education. In light of the above, even if we found that the petitioner meets three criteria in the field of education, he does not purport to be coming to the United States to continue working in that field. As also discussed above, the petitioner indicated on the Form I-140 petition, filed on November 21, 2006, more than seven years after the petitioner entered the United States, that his occupation was that of a "clergyman." We note that the "about the author" section of one of the petitioner's books indicates that he retired from formal teaching duties in 1981. We reiterate that a petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to CIS requirements. *See Matter of Izummi*, 22 I&N Dec. at 175. In light of the above, the petitioner has not established that he intends to continue working in the field of education.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.