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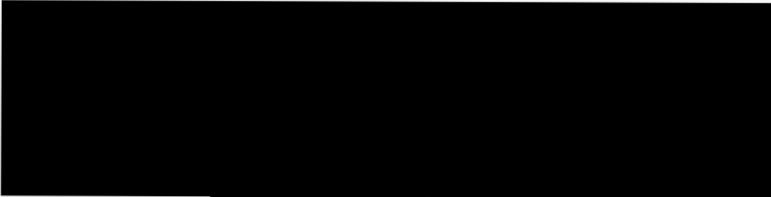
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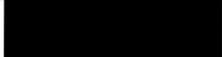
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Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: SEP 22 2006

WAC 05 049 52199

IN RE:

Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as Outstanding Professor or Researcher Pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

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.

2 Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California 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 lists its type of business as “higher education.” It seeks to classify the beneficiary as an outstanding researcher pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B). The petitioner seeks to employ the beneficiary permanently in the United States as a research analyst. The director determined that the petitioner had not established that it is a qualifying employer or that the beneficiary is recognized internationally as outstanding in an academic field, as required for classification as an outstanding researcher.

On appeal, counsel asserts that the director erred procedurally by issuing a “vague” request for additional evidence that failed to identify any deficiencies in the record. Counsel asserts that the petitioner was only advised of deficiencies in the denial, at which point “the record was closed.” *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988) only precludes the submission of new evidence on appeal when the petitioner was on notice that the evidence was required and failed to submit the evidence previously. If it is counsel’s contention that the petitioner was not on notice of the deficiencies until the issuance of the denial, then that case does not preclude the submission of new evidence on appeal, provided it relates to the beneficiary’s eligibility as of the date of filing. *See* 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*; 14 I&N Dec. 45, 49 (Comm. 1971). The most appropriate remedy for any failure of the director to request specific evidence previously would be for this office to consider any evidence that might have been submitted in response to such a request on appeal. The new evidence submitted on appeal and counsel’s specific assertions regarding the director’s legal and factual conclusions will be considered below.

For the reasons discussed below, while we withdraw the director’s findings that the beneficiary does not work in an academic field and that the petitioner is not a qualifying employer, we concur with the director’s finding that the beneficiary meets only one of the regulatory criteria, of which an alien must meet at least two.¹

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):

* * *

¹ As will be discussed below, we concur with the director’s analysis of the evidence but find that the beneficiary meets a different criterion than the director found due to the director’s discussion of the beneficiary’s publication record under the contributions criterion, 8 C.F.R. § 204.5(i)(3)(D), instead of under the scholarly articles criterion, 8 C.F.R. § 204.5(i)(3)(i)(E), and his discussion of the lack of general recognition of the beneficiary’s work at the end of the decision rather than under the contributions criterion.

(B) Outstanding Professors and Researchers. -- An alien is described in this subparagraph 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 --

(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

(II) for a comparable position with *a university or institution of higher education* to conduct research in the area, or

(III) for a comparable position to conduct research in the area with a department, division, or institute of a *private employer*, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

The petitioner submitted Internet materials explaining that it is a district “made up of three community college campuses” and “six Centers for Education and Technology.” The beneficiary works at the petitioner’s Office of Institutional Research and Planning (IRP). IRP is located in the petitioner’s “administrative headquarters” and “supports the District’s strategic planning efforts through data and enrollment analysis as well as identifying trends, tracking legislation and preparing research items for the Board of Trustees.”

The director concluded that while the petitioner “operates institutions of higher learning, it is not itself an institute of higher learning. It is the administrative unit or umbrella organization for the district and it employs the beneficiary.” On appeal, counsel asserts that the petitioner “is, in fact, defined by the U.S. Department of Education National Center for Education Statistics [(NCES)] as an Institute of Higher Learning.” In support of this assertion, counsel submits the results from a search for colleges on NCES’ website by zip code. The results list six colleges, one of which is the petitioner’s “District Off.”

The search results provided on appeal specify that the petitioner is an office. The record is absent any evidence that the petitioner itself admits students, issues degrees or offers any courses of study. Nevertheless, the petitioner appears to provide the type of administrative services that are typically part of an institution of higher learning for the institutions in its districts. Thus, while the director’s

concerns were rational, we are satisfied that the petitioner technically qualifies as an institution of higher learning.

The regulation at 8 C.F.R. § 204.5(i)(3) states that a petition for an outstanding professor or researcher must be accompanied by:

(ii) Evidence that the alien has at least three years of experience in teaching and/or research in the academic field. Experience in teaching or research while working on an advanced degree will only be acceptable if the alien has acquired the degree, and if the teaching duties were such that he or she had full responsibility for the class taught or if the research conducted toward the degree has been recognized within the academic field as outstanding. Evidence of teaching and/or research experience shall be in the form of letter(s) from former or current employer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien.

This petition was filed on December 8, 2004 to classify the beneficiary as an outstanding researcher in the field of “educational research.” Therefore, the petitioner must establish that the beneficiary had at least three years of research experience in this field as of that date, and that the beneficiary’s work has been recognized internationally within the field of “educational research” as outstanding.

The director concluded that the beneficiary “is not working in an academic field.” The director reaches this conclusion because the beneficiary’s Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status, lists the beneficiary’s major as “agricultural education” and the beneficiary is currently researching student retention at the colleges within the petitioner’s district. Counsel does not address this concern on appeal.

The regulation at 8 C.F.R. § 204.5(i)(2) defines “academic field” as “a body of specialized knowledge offered for study at an accredited United States university or institution of higher learning.” The beneficiary’s thesis at the Ohio State University, an accredited university, focused on identifying factors relating to transfer students’ academic performance and retention. As such, we are persuaded that the beneficiary’s field is offered for study at an accredited United States university and, thus, is an academic field.

The regulation at 8 C.F.R. § 204.5(i)(3)(i) states that a petition for an outstanding professor or researcher must be accompanied by “[e]vidence that the professor or researcher is recognized internationally as outstanding in the academic field specified in the petition.” The regulation lists six criteria, of which the petitioner must satisfy at least two. It is important to note here that the controlling purpose of the regulation is to establish international recognition, and any evidence submitted to meet these criteria must therefore be to some extent indicative of international recognition. More specifically, outstanding professors and researchers should stand apart in the academic community through eminence and distinction based on international recognition. The regulation at issue provides

criteria to be used in evaluating whether a professor or researcher is deemed outstanding. 56 Fed. Reg. 30703, 30705 (July 5, 1991). The criteria follow.

Documentation of the alien's receipt of major prizes or awards for outstanding achievement in the academic field.

The petitioner submitted evidence that the Association for Institutional Research (AIR) recognized the beneficiary's presentation as "Best Paper" in 2004. The Ohio State University also recognized the beneficiary as a volunteer in 2000 and for outstanding *academic* achievement. The director only considered the beneficiary's Best Paper award and concluded that the record lacked evidence that it was a major prize or award. On appeal, counsel notes that the director misstated the regulation and asserts that the petitioner submitted evidence documenting the significance of AIR. Counsel concludes that being "judged best paper for presentation at this organization's annual conference connotes a major award."

It is significant that the *proposed* regulation relating to this classification would have required evidence of a major *international* award. The final rule removed the requirement that the award be "international," but left the word "major." The commentary states: "The word "international" has been removed in order to accommodate the *possibility* that an alien might be recognized internationally as outstanding for having received a major award that is not international." (Emphasis added.) 56 Fed. Reg. 60897-01, 60899 (November 29, 1991.) Thus, the standard for this criterion is very high. The rule recognizes only the "possibility" that a *major* award that is not international would qualify. Significantly, even lesser international awards cannot serve to meet this criterion given the continued use of the word "major" in the final rule. *Cf.* 8 C.F.R. § 204.5(h)(3)(i) (allowing for "lesser" nationally or internationally recognized awards for a separate classification than the one sought in this matter).

The petitioner did submit materials from AIR's own website indicating that it is a "professional association of more than 3,100 institutional researchers, planners and decision-makers from higher education institutions around the world." This information does not establish that the Best Paper award issued by this association is significant. For example, there is no evidence that the general or trade media cover the selections for Best Paper award. That said, we do not find that the award has no evidentiary value. Rather, we will consider the award as evidence of the significance of the beneficiary's published work below.

Regarding the beneficiary's academic award, while the regulation at 8 C.F.R. § 204.5(i)(3)(A) references outstanding achievements in one's academic field, 8 C.F.R. § 204.5(i)(2) defines "academic field" as "a body of specialized knowledge offered for study." The definition does not include typical bases for academic achievement awards, such as grade point average and class standing. It remains, academic study is not a field of endeavor, academic or otherwise. Rather, academic study is training for a future career in an academic field. As such, awards in recognition of academic achievement, such as grade point average, are insufficient. In addition, while The Ohio State University may be a respected university, it remains that the beneficiary only competed against other students at the

university at that time for the academic achievement award. The beneficiary's student award is simply not evidence of international recognition in the field. Rather, it represents high academic achievements in comparison with her fellow students.

Finally, the beneficiary's recognition as a volunteer cannot be considered a major prize or field for outstanding achievement in her academic field.

In light of the above, the petitioner has not established that the beneficiary meets this criterion.

Documentation of the alien's membership in associations in the academic field which require outstanding achievements of their members.

The petitioner submitted evidence of the beneficiary's membership in The Ohio State University Chapter of Phi Kappa Phi. The petitioner also submitted evidence that membership is by invitation only and that those elected include the upper 7.5 percent of last-term juniors and the upper 10 percent of seniors along with "outstanding graduate students, faculty, professional staff, and alumni." Additional materials submitted by the petitioner reveal that graduate students "must rank in the top 10 percent of their class." Individual chapters may have more selective standards, suggesting that membership is judged by the local chapter.

The director concluded that the petitioner's membership in Phi Kappa Phi was recognition of her accomplishments as a student, not in her academic field. On appeal, counsel asserts that the director should have visited Phi Kappa Phi's website and failed to consider that faculty and alumni are eligible for membership. The petitioner submits additional membership information regarding Phi Kappa Phi, indicating that "faculty, professional staff and alumni who have achieved scholarly distinction" are eligible for membership. The materials further indicate that Phi Kappa Phi is "an all-discipline honor society."

It is the petitioner's burden to demonstrate the beneficiary's eligibility. While Citizenship and Immigration Services is not precluded from verifying information submitted or claims made via the Internet, the director was not obligated to attempt to prove the beneficiary's eligibility through Internet research.

The plain language of the regulation at 8 C.F.R. § 204.5(i)(3)(i)(B) mandates that the association "require" outstanding achievements of their members. As discussed above, class rank is not an outstanding achievement in one's field. Thus, whether or not faculty, staff and alumni are eligible based on non-academic achievements, it remains that Phi Kappa Phi does not *require* such achievements for membership. Significantly, the beneficiary was elected while a student. Finally, as an "all-discipline" honor society, Phi Kappa Phi is not an association "in the academic field" as also required under the regulation at 8 C.F.R. § 204.5(i)(3)(i)(B).

In light of the above, the petitioner has not established that the beneficiary meets this criterion.

Published material in professional publications written by others about the alien's work in the academic field. Such material shall include the title, date, and author of the material, and any necessary translation.

The director concluded that while the beneficiary had received inquiries about her work and “may have been cited in some publications,” no articles had been published “about” the beneficiary’s work. On appeal, counsel asserts that while this criterion was not originally claimed, “there was evidentiary support for the fact that numerous academics in [the beneficiary’s] field personally contacted her for permission to cite to her work in their own articles for publication.”

Evidence that others have expressed an interest in citing the beneficiary’s work is not evidence that the beneficiary’s work has, in fact, been cited. Regardless, articles which cite the beneficiary’s work are primarily about the author’s own work, not the beneficiary. As such, they cannot be considered published material about the beneficiary.

In light of the above, the petitioner has not established that the beneficiary meets this criterion.

Evidence of the alien's participation, either individually or on a panel, as the judge of the work of others in the same or an allied academic field.

The record reflects that the beneficiary was one of 16 members of peer review teams set up by the Research and Planning (RP) Group for California Community Colleges “to assist in the review of the methodology being proposed by the Chancellor’s Office for the Board of Governors-directed evaluation of the [Partnership for Excellence (PFE)] goals.” The beneficiary was not one of the team leaders. Her team reviewed “the methodology the Chancellor’s Office [has] developed for calculating the course completion rate.”

In response to the director’s request for additional evidence, the petitioner submitted evidence that the petitioner had reviewed conference proposals and manuscripts after the date the petition was filed. The director considered only the evidence submitted in response to the director’s request for additional evidence and concluded it was insufficient. On appeal, counsel correctly notes that the director failed to consider the beneficiary’s work on the RP Group, submitted initially. We will consider that evidence below.

The regulation at issue provides criteria to be used in evaluating whether a professor or researcher is deemed outstanding. 56 Fed. Reg. 30703, 30705 (July 5, 1991). Thus, the evidence submitted to meet a given criterion must be indicative of or consistent with international recognition if that statutory standard is to have any meaning. The beneficiary was already working as a research analyst for the petitioner, an administrative agency overseeing a California district of community colleges, when she worked on the RP Group peer review team. The RP Group peer review team was a California group assembled to review proposals for California. The record lacks evidence that the review teams

included international or even national experts. Thus, the evidence is not indicative of or consistent with international recognition. Rather, the responsibilities appear consistent with her job duties. We cannot consider the beneficiary's review responsibilities after the date of filing as evidence of her eligibility as of that date. See 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971). Thus, the petitioner has not established that the beneficiary meets this criterion.

Evidence of the alien's original scientific or scholarly research contributions to the academic field.

Under this criterion, the director stated only: "In the five years since the beneficiary was awarded her Ph.D. at [The] Ohio State [University] in Agricultural Science, she has been very productive and has written by herself and with others over a dozen articles and a children's book." The director does not provide any additional analysis or conclusion. Understandably, counsel presumes that this criterion is met. The only discussion, however, relates to the beneficiary's published work. Such evidence, while relevant to this criterion, is far more directly related to the scholarly articles criterion set forth in the regulation at 8 C.F.R. § 204.5(i)(3)(E). In the director's concluding paragraph, he concludes that the reference letters submitted "do not show that the [beneficiary's] work has gained significant notice in the field among individuals who have not worked directly with the [beneficiary]." This conclusion seems far more relevant to this criterion, 8 C.F.R. § 204.5(i)(3)(D), than the discussion actually provided under this criterion. On appeal, counsel does respond to this stated concern, noting that the petitioner submitted several letters from independent references. Thus, our review of the evidence relating to this criterion does not raise new concerns of which the petitioner was unaware.

Obviously, the petitioner cannot satisfy this criterion simply by listing the beneficiary's past projects, and demonstrating that the beneficiary's work was "original" in that it did not merely duplicate prior research. Research work that is unoriginal would be unlikely to secure the beneficiary a master's degree, let alone classification as an outstanding researcher. Because the goal of the regulatory criteria is to demonstrate that the beneficiary has won international recognition as an outstanding researcher, it stands to reason that the beneficiary's research contributions have won comparable recognition. To argue that all original research is, by definition, "outstanding" is to weaken that adjective beyond any useful meaning, and to presume that most research is "unoriginal."

Dr. [REDACTED], an associate professor at The Ohio State University, served on the beneficiary's doctoral committee. Dr. [REDACTED] discusses the beneficiary's research while a student there. Specifically, the beneficiary used a questionnaire survey and interview techniques to ascertain that study-abroad programs contribute to the students' development of global perspective, intercultural sensitivity and self-confidence. Dr. [REDACTED] Senior Associate Dean and Director of Academic Affairs at The Ohio State University and chair of the beneficiary's graduate committee, asserts that this work "has been used to enhance the international programs in our college. Separate research by the beneficiary revealed that academic performance at a previous institution was an important predictor of success after transfer to a new institution. According to Dr. [REDACTED] the beneficiary proposed a systemic academic performance monitoring system for these students. Dr. [REDACTED] asserts that research on

withdrawing students is difficult due to low response rates, but the beneficiary's efforts made it possible to get direct input from these students. In addition, the beneficiary created databases to track GPA and retention rates.

██████████, the petitioner's Chancellor, asserts that the beneficiary's research "on community college student retention, student satisfaction, quality of student services and recommendations to provide working adults more flexible class scheduling "is very important for helping underrepresented students succeed in higher education." Chancellor Gallego concludes that the beneficiary's publication record "convince[s] me that [the beneficiary] has contributed and will continue to contribute tremendously to our understanding important issues in community colleges and in higher education." Publication of scholarly work, however, is a separate criterion. We will not presume that meeting the scholarly articles criterion always serves to meet this criterion as well. Such a presumption would render meaningless the requirement that an alien meet at least two criteria.

As noted by counsel, the petitioner does submit letters from independent references. We will consider these letters below. In analyzing these letters, we consider the following. The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful claim of international recognition. 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 (Comm. 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 795-796. 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 also Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

In evaluating the reference letters, we note that letters containing mere assertions of international recognition and vague claims of contributions are less persuasive than letters that specifically identify contributions and provide specific examples of how those contributions have already influenced the field. In addition, letters from independent references who were previously aware of the petitioner through her reputation and who have applied her work are far more persuasive than letters from independent references who were not previously aware of the petitioner and are merely responding to a solicitation to review the petitioner's curriculum vitae and work and provide an opinion based solely on this review. 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 international recognition should be able to produce unsolicited materials reflecting that recognition.

As noted by counsel, the petitioner submitted two congressional letters. The Honorable Susan Davis, a U.S. Representative from California, indicates that she is relying on the representations of the petitioner as to the beneficiary's accomplishments, with no prior knowledge of the beneficiary's work. Similarly,

the Honorable Bob Filner, also a U.S. Representative, indicates that his letter is based on a request from the petitioner, and not first hand knowledge of the beneficiary's accomplishments in the field. We acknowledge the Congressional interest in this case and, as with every case before us, will give due consideration to all of the evidence of record.

Dr. [REDACTED], a principal research in the Student Affairs Information and Research Office at the University of California, Los Angeles (UCLA), asserts that the beneficiary's retention research "provided very insightful information for the top administrators in higher education." Dr. [REDACTED] asserts that the beneficiary's research has been recognized as important through "publications and presentations." As stated above, however, the mere fact that the beneficiary has been published and has presented her work is insufficient to meet the contributions criterion. International exposure is not necessarily indicative of international recognition. Finally, Dr. [REDACTED] asserts that based on the beneficiary's research, she recommended that study abroad programs "be included in general education curriculum and be available to every college student." Dr. [REDACTED] does not assert, however, that most study abroad programs have previously been limited and that universities world-wide have expanded their study abroad programs based on the beneficiary's work. In fact, Dr. [REDACTED] does not suggest that UCLA previously limited study abroad to a small segment of its student body and is broadening the program based on the beneficiary's results.

Dr. [REDACTED] Chief Planning, Research and Knowledge Officer at Cabrillo College in California and past President of the RP Group, asserts that his opinion is based on the beneficiary's resume, publications and "contacts with her at various trade conferences." Dr. [REDACTED] asserts that the beneficiary's research on retention "would certainly lead to a promising solution to this national issue." Dr. [REDACTED] does not, however, suggest that the beneficiary's work has already led to programs designed to improve retention internationally or even nationwide. Similarly, Dr. [REDACTED] asserts that the beneficiary suggested means of enhancing study abroad programs without providing examples of higher education institutions actually implementing those suggestions. Finally, Dr. [REDACTED] speculates that the beneficiary's work on community college satisfaction "will lay groundwork for bridging this research gap in community colleges." Speculation that the beneficiary's work will be recognized internationally as a contribution is insufficient, regardless of how well founded or sincere. The beneficiary must be already recognized internationally to be eligible for the classification sought.

Dr. [REDACTED], Director of Institutional Effectiveness at Bethel College in Tennessee, opines that the beneficiary's research "could very well impact every sector of higher education, including students, faculty, staff and constituencies." Far more persuasive of international recognition of the beneficiary's contributions would be examples where the beneficiary's work has already impacted these sectors. Dr. [REDACTED] further asserts that the beneficiary's "novel and profound research results are clearly applicable to any institution of higher education nationwide." Dr. [REDACTED] however, provides no examples of nationwide reliance on the beneficiary's studies. Dr. [REDACTED] does not even assert that Bethel College is increasing retention and study abroad programs based on the beneficiary's work.

Finally, in response to the director's request for additional evidence, the petitioner submitted a letter from Dr. [REDACTED] Assistant Dean for Research and Planning at Columbia University. Dr. [REDACTED] asserts that he knows the beneficiary "through her contributions to the discussions of research projects and higher education policy issues in the OCAIR listserv." He further asserts that he has read a number of the beneficiary's research papers. Dr. [REDACTED] opines that the beneficiary's work "will provide the tools to greatly enhance the development of strategies for retaining more and successful students in higher education." Dr. [REDACTED] provides no examples of such tools developed by institutions of higher learning based on the beneficiary's work. Dr. [REDACTED] asserts that the beneficiary's student satisfaction survey instrument "has important uses by community colleges for the accountability measures and student learning outcome assessment." We will evaluate the evidence of the impact of the beneficiary's surveys below.

The petitioner submitted e-mail messages from Arizona, Louisiana, Rhode Island and California requesting additional information about the beneficiary's published work, including her surveys. Many of these messages appear to be from students wishing to perform similar studies for their own dissertations. The petitioner has not demonstrated that it is remarkable for a published researcher to receive at least a small number of inquiries into her work. Without citation evidence, the petitioner has not established that these individuals did, in fact, rely on the beneficiary's surveys. We will not presume that every expression of interest results in citation or other reliance by the inquirer.

On December 18, 2001, [REDACTED] of UCLA advised that she would like to acquire the beneficiary's presentation for the Educational Resources Information Center (ERIC), a searchable database of education-related research. The record is absent information regarding how exclusive ERIC is. Without evidence that ERIC is limited to the most notable contributions in the field, as opposed to providing a clearinghouse of a broad range of materials in the field, we cannot conclude that this inquiry is significant. While the inclusion would make the beneficiary's work more widely available, as stated above, international exposure is not always equivalent to international recognition.

We acknowledge that the beneficiary's proposal was recognized as a "Best Paper" by AIR. While we will consider this award below as evidence relating to the significance of the beneficiary's published work, it is not indicative that the beneficiary's results have already impacted the field. The beneficiary's work was selected for this award prior to being presented and disseminated. As such, its impact was unknown at the time of selection.

While the beneficiary's research is no doubt of value, it can be argued that any research must be shown to be original and present some benefit if it is to receive funding and attention from the scientific community. Any Ph.D. thesis or postdoctoral research, in order to be accepted for graduation, publication or funding, must offer new and useful information to the pool of knowledge. The record does not establish that the beneficiary's contributions have garnered her international recognition. As such, the petitioner has not established that the beneficiary meets this criterion.

Evidence of the alien's authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field.

The petitioner submitted evidence that the beneficiary has authored published articles and has presented her work at conferences. The director concluded that the record lacked evidence that the publications had an international circulation. On appeal, counsel notes that the petitioner submitted evidence that the petitioner provided information about the *Journal of International Agricultural Education*, reflecting domestic and foreign subscription rates. Counsel further notes that the beneficiary had been published in the *Journal of International Agricultural and Extension Education*, whose very title implies an international circulation. We concur with counsel and withdraw the director's finding on this issue.

The Association of American Universities' Committee on Postdoctoral Education, on page 5 of its *Report and Recommendations*, March 31, 1998, set forth its recommended definition of a postdoctoral appointment. Among the factors included in this definition are the acknowledgement that "the appointment is viewed as preparatory for a full-time academic and/or research career," and that "the appointee has the freedom, and is expected, to publish the results of his or her research or scholarship during the period of the appointment." Thus, this national organization considers publication of one's work to be "expected," even among researchers who have not yet begun "a full-time academic and/or research career." This report reinforces our position that publication of scholarly articles is not automatically evidence of international recognition; we must consider the research community's reaction to those articles.

The record lacks evidence that the beneficiary has been cited by independent research teams or, in fact, at all. As stated above, we will not presume that inquiries expressing interest in the beneficiary's work will lead to citation or reliance on the work. Nevertheless, we acknowledge that the beneficiary's conference presentation proposal was recognized as a "Best Paper" by the conference organizer. The beneficiary's published work was also solicited for ERIC. Thus, we find that the beneficiary minimally meets this criterion.

The petitioner has shown that the beneficiary is a talented and prolific researcher, who has won the respect of her collaborators, employers, and mentors, while securing some degree of international exposure for her work. The record, however, stops short of elevating the beneficiary to an international reputation as an outstanding researcher or professor. Therefore, the petitioner has not established that the beneficiary is qualified for the benefit sought.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.