U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

[redacted]

DATE: MAR 2 4 2014 OFFICE: TEXAS SERVICE CENTER [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the AAO on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment in the field of elementary special education. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a brief from counsel, two witness letters, and a manuscript article.

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

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –
>
> > (A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
> >
> > (B) Waiver of Job Offer –
> >
> > > (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990, Pub.L. 101-649, 104 Stat. 4978 (Nov. 29, 1990), published at 56 Fed. Reg. 60897, 60900 (Nov. 29, 1991), states:

> The Service [now U.S. Citizenship and Immigration Services (USCIS)] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

In re New York State Dep't of Transportation, 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm'r 1998) (*NYSDOT*), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must establish that the alien seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must establish that the proposed benefit will be national in scope. *Id.* Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. *Id.* at 217-18.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien's past record justifies projections of future benefit to the national interest. *Id.* at 219. The petitioner's assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The term "prospective" is included here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative. *Id.*

The USCIS regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on December 20, 2012. In an accompanying introductory statement, counsel cited the petitioner's advanced degrees, experience, licensure, compensation, and awards. All of these factors can contribute toward a finding of exceptional ability under the various subsections of the USCIS regulations at 8 C.F.R. § 204.5(k)(3)(ii). By statute, aliens of exceptional ability remain subject to the job offer requirement. *See* section 203(b)(2)(A) of the Act. Therefore, evidence of exceptional ability does not establish eligibility for the national interest waiver.

Counsel stated:

> [redacted] [the petitioner] has shown her unique attribute[s] as an educator in her efforts to apply different strategies taught in various

> classes. This was mainly because [the petitioner] has good management skills. Her good management skills were evident when she recommended to the principal of the combining of her class with classes of teachers out of school for extended period[s] of time because of illness and maternity leave, and students need[ed] to review and take the SOL [Standard of Learning] tests. With keen management and with support of substitute teachers, the strategy of combining these classes in due time led to a great achievement of 3rd Grade students at Elementary School recording the highest passing scores on the State's SOL test since its inception.
>
> . . . [The petitioner was] involved with Saturday Institute for five years. . . . The program targets students who are at risk for failing the SOL exams in specific content areas. For the academic year 2008-2009, the 2nd and 3rd Grade levels under these programs made tremendous progress regardless of their race, disabilities or subgroups. On the State's SOL test, the students recorded 100% pass rate in Math, 91% in Social Studies, 83% in Science and 81% in Reading. The following academic year (2009-2010), the 2nd and 3rd grade levels under these programs recorded a pass rate of 100% in Math, Social Studies and Science and 77% in Reading.

The petitioner submitted documentation of SOL test scores over four academic years, from 2007-08 to 2010-11. The organization of the data varies from table to table. Some tables show high performance by the petitioner's students, while others show a decline. The "Preliminary 2010-11 SOL Writing Scores" table shows that the petitioner's students had an 82% pass rate in 2008-09, dropping to 77% in 2009-10, and 64% in 2010-11.

The petitioner's Exhibit I-1 includes tables of "Student Achievement Data" at In an exhibit list, counsel called Exhibit I-1 an "Award for National Model of Professional Learning Community School." The exhibit, however, is not an award. Instead, Exhibit I-1 is a printout from the All Things PLC web site, providing test scores, demographic data, and other information regarding The information was provided by itself, as is evident from the use of first-person pronouns, *e.g.*: "This year we had a significant increase in our transiency levels." The last section of the printout, "Awards and Recognition Received by School and Principal," does not list an "Award for National Model of Professional Learning Community School."

The "Student Achievement Data" does not cite SOL scores specifically or identify an alternate source for the figures provided. The figures in the tables do not match those provided by counsel. The "Grade 3" table, for instance, shows the following data:

	Reading	Math	History	Science
2005-06	80	93	93	91
2006-07	69	87	78	83
2007-08	77	85	89	84
2008-09	90	94	96	88
2009-10	74	88	94	91

The table supports counsel's general claim of "tremendous progress" in 2008-2009 compared to the preceding year, but most subjects show a decline the following year. The table indicates that in 2007-2008, the petitioner's first year at [redacted], 3rd grade students scored lower in all four subjects than they had in 2005-2006 before the petitioner's arrival. The 2009-2010 figures show a one-point improvement in History, with the other subject scores equal or lower than the 2005-2006 figures.

The information in Exhibit I-1, furnished by [redacted], also indicated: "Special Education performance was erratic due to some serious personnel issues but students were 29% above the state average in writing. Only 2% of our population is designated for special education services (excluding speech and language)."

Furthermore, improvement of test scores at one school is an inherently local accomplishment. The petitioner cannot meet the "national scope" prong of the *NYSDOT* national interest test by improving performance at the local level. *See NYSDOT* at 217 n.3. Seeking to broaden the scope of the petitioner's impact, counsel claimed:

> [redacted] is a national model and is nationally recognized for closing the achievement gap between minority and majority students. [The petitioner] knew the national impact of what she is doing as an educator and a professional teacher not only in the local area [where] she is teaching but as replicated in other public schools and even in charter schools.

Counsel cited no evidence to support the claim that the petitioner's work is "replicated in other public schools." Counsel asserted that the petitioner "creates models for our public school system that can be adopted in the national scale," but this claim amounts to conjecture. As counsel noted, the petitioner taught in the United States for five years before she filed the petition, and there is no evidence of national adoption of any innovation by the petitioner. There is some evidence that the petitioner has participated in presentations made to other schools, but the record does not show that these presentations focused on the petitioner's own innovations.

The "national scope" prong relates more to the occupation than to the petitioner as an individual, but the record does not indicate that the work of individual teachers regularly spawns "national models" implemented throughout the public education system. Speculation about the eventual future adoption of the petitioner's work is not evidence that the petitioner has, in fact, created a "national model," and counsel's assertion that the petitioner's work "can be adopted on a national scale" does not show that it actually will be adopted in that way. The unsupported assertions of counsel do not constitute evidence. *See 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).

In the Exhibit I-1 printout, [redacted] credited its adoption of the "Professional Learning Community (PLC)" process for the overall improvement shown in the test scores, and indicated that the "Principal trained all administrators in [redacted] as it considers district-wide implementation of PLC." This could support a claim that [redacted] is a "model" at the county level, specifically with respect to implementation of PLC, but there is no evidence that the petitioner created,

developed, or substantially improved the PLC process. The printout indicates that the school received several "accolades [as] a result of the ten-year PLC journey at ' indicating that the school began implementing PLC in 2002 or earlier, several years before the petitioner arrived there in 2007.

Counsel stated:

> A lot of the proposed benefits from the Petitioner's . . . work are dependent on her proven record of achievement and her unique and innovative set of skills, knowledge and background, more than mere minimum qualifications are required for the success of his [*sic*] proposed endeavors. Because [the] labor certification process is a standardized one that only related to minimum requirements of education and experience, such a process will not take into account these critical factors. In other words, many of the essential qualities that [the petitioner] has, which are so important to serving the national interest, will not be articulated in a labor certification process. Moreover, failure to consider these factors could result in a denial of a labor certification, because a U.S. worker with minimum qualifications might be found.

The petitioner submitted letters from teachers and administrators, as well as from students and parents. These witnesses praised the petitioner's role within the school, but did not show that the petitioner's efforts have had a broader impact on the field of elementary special education as a whole. A Teacher Evaluation Report dated March 4, 2010 includes an annotation that the petitioner "will make an impact on the national scene. It is just a matter of time." This expectation, however sincere, remains the opinion of an administrator at rather than evidence of the petitioner's existing influence on the field as a whole.

The petitioner submitted a proposal entitled "An Approach Towards Closing the Achievement Gap Between Students with Disabilities and Other Subgroups." There is no evidence that any school system has implemented the proposal. The date on the proposal is November 1, 2012, several months after her paid employment at had ended. The record does not show that school systems have enacted the petitioner's prior proposals (if any exist), or that those implemented proposals have had influence beyond individual schools or districts. The submission of a proposal, with no evidence of the petitioner's track record concerning prior proposals, does not establish past or prospective national benefit.

The director issued a request for evidence on February 27, 2013, stating: "The petitioner must establish that the beneficiary has a past record of specific prior achievement with some degree of influence on the field as a whole." This language derives from *NYSDOT* at 219 n.6. The director added that, if the petitioner received awards, the petitioner must submit evidence to establish the significance of those awards.

In response, counsel stated: "The role that [the petitioner] will perform is definitely one that is superior in degree than any US worker, who would have the same minimum qualifications that she has. . . . Petitioner/Beneficiary possesses skills and leadership qualities that are indeed unique and meritorious." By statute, the standard for the waiver is not whether the petitioner is more highly qualified than a

minimally qualified U.S. worker. The standard is the national interest. In the absence of statutory or regulatory guidance on this point, the *NYSDOT* precedent decision is the controlling authority relating to that standard. There is no blanket waiver for teachers, and being well-qualified for a teaching job is not sufficient grounds for granting the waiver.

NYSDOT cited elementary school teachers as an example of a profession that lacks national scope at the level of individual teachers, despite the collective national importance of education. *See Id.* at 217 n.3. To establish that the benefit from the petitioner's work will produce benefits that are national in scope, the petitioner must do more than establish her skill at the classroom level. To that end, counsel stated:

> The Petitioner/Beneficiary's contributions to the field of education are so valuable and its [*sic*] impact is national in scope and character.
>
> Her study titled "An Approach Towards Closing the Gap between Students with Disabilities and Other Subgroups" in 2012 has been applied and proven effective at the Elementary School in raising the learning abilities of the students. This approach could be replicated in all schools in the US. In fact, the other neighboring schools have heard and used the approach developed by [the petitioner].

The record indicates that the petitioner's employment at ended in June 2012, more than four months before the November 1, 2012 date shown on her proposal. The petitioner submitted no documentary evidence to show that , or any other school, has implemented the petitioner's proposal. The petitioner herself, in an accompanying statement, mentioned the proposal but made no claims regarding implementation. Rather, she stated: "This proposal is national in scope and therefore, if adopted it will be of future benefit to the nation."

Beyond her proposal discussed above, the petitioner stated: "I am willing to take on a project that will meet the needs of students [with] disabilities by forming [a] Non-Governmental Organization. I intend to apply for grants through various organizations to fund this project."

An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request. 8 C.F.R. § 103.2(b)(1). USCIS cannot properly approve the petition at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). The petitioner must establish that her past record justifies projections of future benefit to the national interest. *NYSDOT* at 219. At the time the petitioner filed the petition, there was no indication that any schools had implemented her proposal or that the petitioner had actually established a non-governmental organization to benefit disabled students. The petitioner's future plans along these lines do not establish that she was eligible for the benefit sought at the time she petitioned for that benefit.

Counsel repeated the claim that the petitioner "made significant impact on the school to become a national model for closing the achievement gap between minority and majority." The petitioner stated:

> is a national and internationally recognized school for closing the achievement gap between minority and majority students and also a Model Professional Learning Community School. Base[d] on this status, administrators along with their leadership teams from various school divisions in Virginia, Washington and North Carolina visited that site.

The petitioner submitted further witness letters. and later a representative on the stated:

> [The petitioner] was selected by me to be the chairperson of my school leadership team. . . . Her selection was based on evidence of her ability to garner high student performance of students in her classroom and grade-level. The school had achieved national recognition for closing the gap (School , the We achieved the status of becoming a national model school with the help of [the petitioner].
>
> . . . Our school became a model because it received accolades and national recognition and celebration of performance. . . .
>
> one of four teachers asked to assist in our conference presentation. It was then I noticed that she had the ability to influence teachers' response to under-achieving students.
>
> I formed an education consulting company . . . following my retirement. [The petitioner] assisted in presentations for teachers and teacher leaders on creating a high performing school at the local level so it was my honor to ask her to assist me when I was asked to consult with a newly re-districted school, North Carolina. . . . Many called it "a segregated-high poverty school" . . . or "a high demand and high poverty school." The staff was very pleased with our workshops on how to become a high performing school and high expectation. In fact [t]he school was lauded for making a 7 percent point gain, moving them from a low performing school (less than 50% of students at grade level) to a School of Progress (60 to 80% of the students at grade level) at the end of the first year.

The petitioner submitted copies of several awards that she received from . These awards do not establish recognition or impact beyond her own employer. The petitioner did not submit documentation from other schools or school districts to establish the extent to which her achievements influenced the subsequent actions of those institutions.

The recognition that received for "closing the achievement gap" went to the school as a whole. The testing data indicates that the petitioner had 25 or fewer students tested each year. The available

information does not indicate that the petitioner was disproportionately responsible for narrowing the gap.

, praised the petitioner's abilities and listed her responsibilities, crediting the petitioner with a significant role in the school's "accreditation and adequate yearly progress," but did not indicate that the petitioner's work had an impact beyond the school.

Letters and certificates in the record establish that has received some degree of outside recognition, but do not establish the extent to which the petitioner was responsible for that recognition. The only individual consistently named in these materials is

The petitioner submitted documentation from the and a letter from that organization's chancellor, the who stated:

> In January 2013, [the petitioner] completed the Chaplaincy and Leadership course offered by our institution and received a Diploma. In addition to receiving a Diploma in Chaplaincy and Leadership, she received her Minister's License from

The petitioner's activity within her church and affiliated religious organizations is separate from her work in public education, which formed the original basis for the waiver claim. The petitioner seeks an employment-based immigrant classification, and her eligibility must arise from her employment rather from volunteer activities she performs outside of that employment.

> The Educational Leadership Award is open to all educators . . . who have served for three or more years in The educator selected for the Educational Leadership Award must demonstrate outstanding leadership contribution in the field of education.
>
> In She was nominated and selected based on the significant impact she made at E Elementary School and her exemplary leadership qualities.

The award described above is a local one. Favorable attention from a local church does not demonstrate or imply that the petitioner's contributions have influenced the field of elementary special education as a whole.

The director denied the petition on July 12, 2013, stating that the petitioner had only met the first (intrinsic merit) prong of the three-pronged *NYSDOT* national interest test. The director acknowledged

that the petitioner is "an effective contributor in the field of education," but concluded: "The evidence does not show that the beneficiary's contributions are national in scope." The director quoted from several witness letters and listed a number of the petitioner's professional qualifications, but found that the petitioner had shown only that she "plays an important role for her employer."

On appeal, counsel makes several assertions regarding the intrinsic merit of the petitioner's occupation. The director, in the denial notice, acknowledged that the intrinsic merit of the petitioner's work "is apparent." The issue requires no further discussion.

Counsel states that the petitioner and "other teachers have been documented in national videos used for training other teachers and administrators nation-wide." Three statements submitted on appeal discuss the videos. The petitioner herself states:

> In December 2011, I was asked by the Author of various books including 40 Reading Intervention Strategies for K-6 Students and Seven Strategies for Highly Effective Reader [*sic*], to be videotaped teaching various strategies outlined in her book. This tape is being used in universities, at conferences, workshops and other educational institutions that offer the course Elementary Reading Strategies, Grades K-6 throughout the United States. . . . This is national in scope since this tape is being used in various states throughout the country.

stated:

> I first met [the petitioner] when she was selected to work with me in the development of an online seminar based on a book I had written: *40 Reading Intervention Strategies for K-6 Students* (Solution Tree Press, 2011). [The petitioner] was part of a small cadre of teachers that spent three days with me during the filming of the seminar as "participants" in a workshop. We later selected her to be one of the classroom teachers to be filmed using one of my strategies with her students. Her work with students in the video was outstanding and the online course is making a difference and having an impact on educators around the United States.

in a new letter, asserts that the petitioner's "leadership . . . was part of achieving a national status, and that the petitioner "and other members of] staff are documented in national videos used for training other teachers and administrators nation-wide." stated: "I see her as a future teacher leader, school administrator or curriculum specialist," although the petitioner herself, on appeal, does not claim these goals.

The record does not establish the distribution of these videos. Furthermore, by the petitioner's own description, the video training materials depict "various strategies outlined in book" rather than methods that the petitioner personally developed. If the petitioner had documented the impact of these video training materials, they would have reflected s influence on her field, not that of the petitioner.

Counsel states that the petitioner's "research is significant to the national interest of the United States of America, as it creates mechanisms and concrete ways of closing the achievement gap between students with disabilities and those who are functioning . . . normally in a regular education setting."

The petitioner submits a copy of " " a paper that the petitioner wrote in 2013. The petitioner calls this paper an "unpublished article;" counsel calls it a "research paper." Referring to this paper and to the November 2012 proposal submitted previously, counsel states that the petitioner's "current research papers . . . not only benefits [*sic*] the national interest, but will also encourage and promote the creation of high skill levels of employment in our country." The record contains no evidence that the petitioner's research work has benefited the United States in this way, and therefore the petitioner has shown no prior history of influence that would justify the prediction of future influence. Counsel claims that the petitioner's "approach could be replicated in all schools in the US. In fact, the other neighboring schools have heard and used the approach developed by [the petitioner]." The appeal includes no verifiable documentary evidence to support this claim. 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 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

The record does not show that the petitioner's work had produced benefits that are national in scope at the time she filed the petition. Speculation that such benefit may eventually result from proposals that the petitioner wrote after her employment as a teacher ended in mid-2012 cannot suffice to meet the "national scope" prong of the *NYSDOT* national interest test.

Turning to the third *NYSDOT* prong, counsel contends that "obtaining a labor certification on behalf of [the petitioner] would be an exercise in futility" and that the labor certification "process will not take into account these crucial and substantive factors of her capabilities and experiences." Counsel then states that the petitioner wishes "to sponsor herself. . . . A self-employed applicant is not able to sponsor herself" for labor certification.

With respect to self-employment, the inapplicability or unavailability of a labor certification cannot be viewed as sufficient cause for a national interest waiver; the petitioner still must demonstrate that the self-employed alien will serve the national interest to a substantially greater degree than do others in the same field. *NYSDOT* at 218 n.5.

The petitioner states:

> My goal is not to remain in the classroom as an ordinary elementary teacher but to seek leadership positions where I will be able to have a greater impact in the field of education. I will continue to write articles and publish them in professional journals. . . . I inten[d] to continue making presentations and eventually become a consultant.
>
> If the above is taken into consideration, I believe that this would be national in scope.

The initial filing of the petition did not refer to self-employment as a consultant. Rather, counsel called the petitioner a "professional educator" who "is licensed to practice her profession" and "authorized to teach or hold positions in Virginia Schools." The claim that the petitioner seeks to start her own organization first surfaced in response to the request for evidence. 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 USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1998).

Counsel asserts that the petitioner's "non-participation [in] her current work would deprive the nation of her exceptional and crucial contribution to the national interest." The record offers little information about "her current work" except that she volunteers at an elementary school and has prepared two unpublished papers since her paid employment ended in June 2012. All of the petitioner's documented achievements have been as a public elementary school teacher, rather than as the self-employed head of a "Non-Governmental Organization." The petitioner has not shown that, at the time of filing, she had ever led an organization of this kind, or had any of her work published. The assertion that the petitioner hopes to "eventually become a consultant" indicates no prior track record as a consultant. The petitioner's local work as a public school teacher does not establish a past history of national-scale achievement or influence as a researcher or consultant, or in unspecified "leadership positions." The waiver claim, as articulated on appeal, essentially amounts to speculation that, because the petitioner did well as a teacher, she will likely have national influence through research and consulting work once she begins those activities.

The petitioner has not established a past record of achievement in her intended future occupation at a level that would justify a waiver of the job offer requirement. The petitioner need not demonstrate notoriety on the scale of national acclaim, but the national interest waiver contemplates that her influence be national in scope. *NYSDOT* at 217, n.3. More specifically, the petitioner "must clearly present a significant benefit to the field of endeavor." *Id.* at 218. *See also id.* at 219, n.6 (the alien must have "a past history of demonstrable achievement with some degree of influence on the field as a whole.").

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The AAO will dismiss the appeal for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.