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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals, MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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Services

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: **MAR 27 2009**  
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IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom  
Acting Chief, Administrative Appeals Office

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

The petitioner seeks classification as an “alien of extraordinary ability” in the arts, 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 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. Significantly, on May 23, 2007, the director issued a request for evidence (RFE). The request was sent to counsel at her current address and advised that a failure to respond would result in the petition being considered abandoned. The director received no response. Rather than deny the petition for abandonment pursuant to the regulation at 8 C.F.R. § 103.2(b)(13), which provides that the director “may” summarily deny a petition for abandonment due to a failure to respond to an RFE, the director denied the petition on its merits. As the decision was denied on its merits, an appeal is **permitted**.<sup>1</sup>

Nevertheless, we will not consider new evidence submitted on appeal insofar as it addresses concerns raised by the director in the RFE. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, she should have submitted the documents in response to the director’s request for evidence. *Id.* Under the circumstances, the AAO need not and does not consider the sufficiency of the evidence that should have been submitted in response to the RFE but is only now submitted on appeal. For the reasons discussed below, we uphold the director’s decision.

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,

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<sup>1</sup> A petition denied for abandonment may not be appealed. 8 C.F.R. § 103.2(b)(15).

(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.

U.S. Citizenship and Immigration Services (USCIS) 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 she has sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a pianist. On appeal, counsel asserts that the director implied that an accompanist can never qualify for the classification sought. We do not read the director's decision as suggesting this conclusion. In fact, the director only mentioned that the petitioner is an accompanist twice. The first mention of the petitioner's work as an accompanist was to note that the published material focused on the artists the petitioner accompanied. As the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires published material "about" the petitioner, the director's focus on the subject of the articles was not unfairly prejudicial. The second reference to the petitioner as an accompanist was where the director acknowledged that the petitioner is a talented artist who is sought by others as an accompanist. The director then noted that there is no blanket rule presuming athletes performing at the major league level must be eligible for this classification. *See* the commentary at 56 Fed. Reg. 60899 (Nov. 29, 1991). The director's point was that merely performing at the top professional level, while probative, is not sufficient. Nothing in this paragraph suggests that only soloist musicians can qualify for the classification sought. That said, the alien must still establish individual national or international acclaim; we do not infer acclaim from association alone. Such acclaim, however, can be earned even for a musician who does not perform alone.

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). 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. The petitioner has submitted evidence that, she claims, meets the following criteria.<sup>2</sup>

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

The petitioner submitted a 1993 two-paragraph article in the *New York Times* reporting that the petitioner had won the first prize at the Leschetizky Association's 14<sup>th</sup> New York Debut Competition and a lengthy press release from the Leschetizky Association also announcing the petitioner's win. The record contains no evidence that the press release was ever published in the media in full. The press release indicates that the competition is open to "pianists from age 18 to 30 who are prepared to make their New York debut." Thus, it would not appear that the most experienced and renowned pianists or those who have already performed in New York compete for this prize.

The petitioner also submitted her 1990 [REDACTED] prize at the Priscilla Morneault Piano Competition sponsored by the Portland Symphony Orchestra (PSO). A letter from [REDACTED] Director of Education at the PSO congratulates the petitioner on her award. A program for the competition indicates that first prize wins \$2,500 and a contract to perform with the PSO on a specific date, second prize wins \$750 and third prize wins \$500. The upcoming finals were reported in an unidentified newspaper and the results of the competition were reported in the *Portland, Maine Evening Express*. The petitioner also submitted a May 13, 1994 letter from [REDACTED] President of the Cleveland Institute of Music (CIM), congratulating the petitioner for winning the Rosa Lobe Memorial Award presented by the Cleveland Heights Alumni Chapter of Mu Phi Epsilon, an international professional music fraternity. Mr. [REDACTED] also congratulates the petitioner for winning the Arthur Loesser Prize from the music department at CIM. The petitioner received her Master of Music Degree from CIM on May 21, 1994.

In 1991, the petitioner competed at the [REDACTED] at the Augusta College in Georgia. The record contains no evidence as to how the petitioner placed at this competition. In the same year she received sixth prize at the Cleveland International Piano Competition. Internet materials about the competition, submitted by the petitioner, indicates that the competition is one of only four solo piano competitions in the United States recognized by the International Federation of World Music Competitions in Geneva, Switzerland. A sixth place finish, however, is not a prize or award. Finally, in 1998 through 2000, the petitioner received a scholarship to attend the New England Conservatory.

[REDACTED], an associate principal clarinetist for the Boston Symphony Orchestra, asserts that the petitioner is the recipient of "prestigious prizes" such as the ones discussed above. He provides no additional discussion of these prizes. Mr. [REDACTED], in a January 16, 2007 letter, discusses the petitioner's scholarship at CIM and states:

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<sup>2</sup> The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

While at CIM, [the petitioner] continued to be the recipient of numerous prestigious and highly competitive musical awards such as: CIM's Arthur Loesser Prize which recognizes extraordinary accomplishment as a solo pianist, and CIM's Rosa Lobe Memorial Award which recognizes extraordinary accomplishment by a collaborative pianist. She was [sic] also gained national and international recognition by winning First Prize at the Leschetizky Piano Competition and a prize at the Robert Casadesus International Piano Competition.

Head of the Piano Department at CIM, states:

[The petitioner] has distinguished herself by winning awards at several prestigious competitions such as:

- The Arthur Loesser Prize (which recognizes the highest level of artistic achievement in solo piano, awarded to the top 1.33% of applicants)
- Rosa Lobe Memorial Award (in recognition for the highest level of artistic achievement in collaborative piano, awarded to 5% of participants)
- Leschetizky Piano Competition (award to 2% of the participants)
- The Robert Casadesus International Piano Competition (awarded to 1% of the participants)
- Priscilla Morneault Piano Competition, (awarded to 2% of the participants).

does not provide any information about the pool of competitors for any of the above competitions. Thus, it is not clear that the percentages recited by compare the petitioner with the most experienced and renowned pianists. None of the other reference letters provide additional details regarding the petitioner's prizes and awards.

In the RFE, the director noted that scholarships are academic in nature and requested evidence as to the entrance requirements and standards for the competitions at which the petitioner won awards. As stated above, the petitioner did not respond. Thus, the director concluded that without evidence of the entrance requirements and standards, the petitioner could not establish that she meets this criterion.<sup>3</sup>

On appeal, counsel references letter and asserts that the prestige of the competitions is demonstrated by their coverage in the media. As stated above, letter does not explain who is eligible to compete for the prizes he discusses. Thus, the percentages he provides are meaningless. For example, finishing in the top 1.33 or 5 percent of students at CIM says nothing about the petitioner's position in the field generally. Winning an award or prize in a competition limited to a

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<sup>3</sup> The director, after discussing the deficiencies in the evidence, stated that the petitioner's "burden of proof to meet this criterion has been met." Given the director's full discussion, however, the absence of the word "not" in the sentence quoted appears to be a typographical error. Regardless, as explained in the text of this decision, we conclude that the petitioner has not submitted the necessary evidence to meet this criterion.

local pool of candidates or one that excludes experienced members of the field is not indicative of national or international acclaim or one's placement in the field overall.

Scholarships are limited to students at a particular school or, at most, students in general. As the most experienced and renowned members of the field do not compete for scholarships, they cannot be considered nationally or internationally recognized awards or prizes indicative of acclaim in the field overall.

The awards from CIM are also limited to students at that institute. Thus, they cannot serve as evidence of awards indicative of or consistent with national or international acclaim. As stated above, the Leschetizky Association's 14<sup>th</sup> New York Debut Competition is limited to pianists age 18 to 30 who are prepared to make their New York debut. Thus, while briefly covered in an unknown section of the *New York Times*,<sup>4</sup> the most experienced and renowned pianists and even simply those who have already debuted in New York are excluded from this competition. Despite a request for such evidence by the director, the record lacks evidence of the requirements to enter the Priscilla Morneault Piano Competition. While this competition did receive limited media coverage, the petitioner has not demonstrated that this competition receives any recognition outside of Portland, such as coverage in a newspaper outside of Portland. The petitioner has also not established how the cash prize amounts compare with prestigious competitions that are not limited by age or experience.

As stated above, the record does not establish how the petitioner finished at the William S. Boyd Piano Competition. While the petitioner did submit some evidence documenting the prestige of the Cleveland International Piano Competition, the petitioner only finished sixth at this competition. As stated above, a sixth place finish is not a prize or award.

Finally, the record contains no evidence of any prizes or awards other than student scholarships awarded after 1994. Thus, even if we considered the petitioner's first place finish at the 1993 Leschetizky Association's 14<sup>th</sup> New York Debut Competition to be a nationally recognized prize or award, this single award is not evidence of sustained national or international acclaim in 2007 when the petition was filed.

In light of the above, we concur with the director that the petitioner has not established that she meets this criterion.

*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.*

Initially, counsel asserted that the petitioner was submitting evidence of "recognition from international experts that the alien is a member of associations, which require outstanding achievements of their

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<sup>4</sup> While major media, we cannot ignore that at least some sections of the *New York Times* also cover events with only local interest. Thus, any article in this paper must be considered on a case-by-case basis.

members.” Counsel then referenced the letters as evidence that “the petitioner is recognized by experts in the field and by her peers as an extraordinary artist.” Counsel quotes the attestations regarding whom the petitioner has accompanied, festivals at which the petitioner has performed and general assertions of talent. None of the letters reference an association of which the petitioner is a member and the record includes no membership cards.

The director’s RFE noted that this criterion requires evidence of membership in an association and evidence of the requirements for that membership. As stated above, the petitioner did not respond. Thus, the director reiterated the comments in the RFE and concluded that the petitioner had not met her burden with respect to this criterion. On appeal, counsel no longer asserts that the petitioner meets this criterion and we concur with the director’s reasoning and conclusion that the petitioner has not, in fact, established that she meets this criterion or even submitted evidence relating to this criterion.

*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 petitioner submitted the above-mentioned articles in the *New York Times*, the unidentified newspaper and the *Portland, Maine Evening Express*. The petitioner also submitted an article from 2000 in the *Boston Globe* reviewing a concert at the New England Conservatory of Daniel Pinkham’s work. The three-column article includes a single sentence praising the petitioner’s ability on the piano. Another concert review in the *Boston Globe* is also a three-column review that mentions the petitioner in a single sentence. It is not clear that the petitioner performed during the entire concert as other accompanists are mentioned. Rather, the petitioner accompanied a soprano singing “The Twilight Stood.” The petitioner also submitted a 1993 concert review in *New York Concert Review* regarding the petitioner’s solo performance at the Weill Recital Hall at Carnegie Hall. In addition, the petitioner submitted a full page invitation to Pianofest. This invitation does not appear to be published in any media, major or otherwise. Finally, the record contains an “opinion” piece in an unidentified paper. The piece reviews a student recital and the three-column piece mentions the petitioner in only one paragraph.

In the RFE, the director noted that the materials submitted were not primarily about the petitioner and noted that evidence to meet this criterion must include data confirming the publication’s circulation. As stated above, the petitioner did not respond. As the petitioner did not respond, the director reiterated his concerns in the final decision.

On appeal, counsel asserts that the petitioner’s work as an accompanist does not diminish her ability and the reference to other musicians in the reviews does not diminish her acclaim. Counsel further asserts that there is no requirement as to the length of the discussion of the petitioner in the published materials.

Counsel is not persuasive. As stated above, the petitioner's work as an accompanist does not preclude eligibility. An article in major media that focused on the petitioner, addressing her work as an accompanist, would certainly be more likely to meet this criterion. Moreover, as stated above, the regulation at 8 C.F.R. § 204.5(h)(3)(iii) expressly requires published material "about the alien . . . relating to the alien's work." It cannot be logically asserted that the three-column articles that include a sentence or even a paragraph about the petitioner is published material about the petitioner. Moreover, the regulation does not require merely published material about the alien's work. *Compare* 8 C.F.R. § 204.5(i)(3)(i)(C) relating to outstanding professors or researchers pursuant to section 203(b)(1)(B) of the Act. Rather, the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires that the article be "about the alien." Thus, the published material cannot simply be about the petitioner's work, but must be about the alien although it cannot be unrelated to the alien's work. While the reviews praise the petitioner's piano ability, they cannot be considered to be primarily about her, relating to her work. Rather, they are primarily about the event at which she and many others played.

Finally, not all of the evidence submitted complies with the regulation at 8 C.F.R. § 204.5(h)(3)(iii). Specifically, some of the articles are not dated and the petitioner did not identify the publication for one article and the opinion piece.

Regarding the invitation and the 1993 article in *New York Concert Review*, we acknowledge that these materials focus on the petitioner. The invitation, however, bears no indicia of publication. The record also lacks evidence that *New York Concert Review* has a national circulation. Moreover, the article in that publication is dated 14 years before the petition was filed and, thus, cannot establish sustained acclaim as of the filing date in 2007.

In light of the above, the petitioner has not established that she meet 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.*

Initially, counsel asserted that the petitioner's teaching experience serves to meet this criterion. In the director's RFE and final decision, the director concluded that while a teacher "judges" her students, the duties inherent to every teacher cannot serve to set the alien apart from others in the field such that she meets this criterion. Counsel no longer asserts that the petitioner meets this criterion on appeal and we concur with the director's analysis and conclusion.

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

According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. Overall talent in a field alone cannot serve to meet

this criterion; the petitioner must submit evidence of specific contributions that are recognized in the field as having had a significant impact on the field.

Initially, counsel referenced letters from [REDACTED], a timpanist with the San Francisco Symphony, and [REDACTED], principal oboist with the Chicago Symphony Orchestra. In the RFE and final decision, the director concluded that solicited letters cannot serve to meet this criterion in the absence of unsolicited independent evidence.

On appeal, counsel asserts that this criterion is difficult for a musician to meet. We do not contest that the regulatory criteria are designed to demonstrate eligibility for this exclusive classification and, thus, cannot be easily met by every individual able to make a living in her field. Counsel then references [REDACTED]'s letter. Counsel asserts that the petitioner's occupation as a musician rather than a scientist makes it difficult to obtain letters from individuals who have not heard her play.

In addition, counsel acknowledges that reference letters need to be corroborated by documentary evidence in the record and explain in specific terms why the authors believe the alien is eligible for the classification sought. Counsel then asserts that the letters submitted are specific and, in and of themselves, document the petitioner's reputation "well beyond" her immediate circle of personal and professional acquaintances. Counsel concludes that the director gave no weight to the reference letters.

The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful claim of sustained national or international acclaim. USCIS 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'r. 1988). However, USCIS 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; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. USCIS 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. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190).

In evaluating the reference letters, we note that letters containing mere assertions of widespread acclaim and vague claims of contributions are less persuasive than letters that specifically identify contributions and provide specific examples of how those contributions have influenced the field. In addition, letters from independent references who were previously aware of the petitioner through her reputation warrant careful consideration depending on the content of such letters. Ultimately, evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. While we do not discount the value of reference letters in explaining the evidence, an individual with sustained national or international acclaim should be able to produce unsolicited materials reflecting that acclaim. Finally, the

petitioner's work in the field of music rather than science does not relieve her of providing evidence that she is recognized in her field beyond her immediate circle of collaborators and teachers.

We will now consider the letters in light of the principles expressed above. who collaborated with the petitioner at the Pacific Music Festival, states:

I would like to highlight one of [the petitioner's] performances, in – *please insert date* – at the Pacific Music Festival in Sapporo Japan where she was the first musician ever who devised a way to play on the piano the orchestral reduction of Robert Kraft's Timpani Concerto to achieving an unprecedented orchestral effect to a rave audience. That performance with her piano orchestral reduction is now used by other musicians worldwide as the new standard to interpret this musical piece.

(Emphasis in original.)

The phrase "please insert date" suggests that this letter was not originally authored by [redacted] but rather prepared for his signature. While [redacted] did sign the letter, affirming its contents, the words do not appear to be his own.

[redacted] who played with the petitioner in 2005 at the Pacific Music Festival in Japan, states:

In one of the concerts, [the petitioner] performed a very difficult timpani concerto with [redacted], a world renowned percussionist and the principal timpanist of [the] San Francisco Symphony Orchestra and she succeed[ed] in transferring in her piano playing many interesting colors of a full orchestra which was critical to making the performance a raving success. [The petitioner] had only had a week to learn the orchestra reduction score and she made her own musical additions from the orchestra score to the piano score to make the music sound like a full orchestra. That unprecedented performance has set up the standards on which the current performances of this timpani concert are judged now nationally and internationally. Such original contributions played a role in establishing [the petitioner's] artistic prominence and widespread acclaim.

Neither [redacted] nor [redacted] identify specific independent musical groups who have adopted the petitioner's orchestral reduction score. Moreover, 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. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190). The record does not contain letters from a sample of musicians worldwide who confirm using her orchestral reduction score, evidence that the petitioner published this score and that it has sold widely or requests from independent musicians requesting a copy of her score.

[redacted] asserts:

One of [the petitioner's] artistic original contributions of major significance to the music field in addition to her performances is her own adaptation and implementation in her teaching of Eurhythmics which is an approach to the education of music that was devised by [REDACTED] which utilizes the expression of physical movement and musical rhythms to reinforce the concepts which affect the student's performance which she creatively combined with Harmonic Analysis. [The petitioner's] original approach to structural analysis, which affords the musicians to look into the special harmonies within a phrase or sections of musical pieces has impacted how music and harmonies are taught and it is now widely applied.

Once again, [REDACTED] does not identify a single independent institution that utilizes the petitioner's methods. Moreover, the record contains no evidence that the petitioner has published an article or book on these approaches, evidence that the petitioner is frequently invited to lecture to music teachers about these approaches, letters from independent music professors utilizing these approaches or requests for information about these approaches from independent music professors nationwide.

Finally, [REDACTED] Senior Lecturer in Music at the Massachusetts Institute of Technology (MIT), asserts that due to the petitioner's "extraordinary musical qualities," her performances "are artistic contributions of major significance in the field of music. As stated above, however, mere talent in the field cannot serve to meet this criterion without evidence of the impact of the alien's work nationwide or worldwide.

We do not question the sincerity and expertise of the petitioner's collaborators, teachers and colleagues at MIT where she teaches who support the petition. Their general assertions, however, that the petitioner is talented and has made original contributions are insufficient. While some of the petitioner's references focus on a specific contribution and affirm its influence, the record does not corroborate these claims.

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

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

The petitioner submitted programs for numerous recitals and concerts as evidence to meet this criterion. In the RFE and final decision, the director concluded that this criterion applies to the visual arts, not the performing arts. Counsel no longer asserts that the petitioner meets this criterion on appeal. We concur with the director that this criterion applies to the visual arts. Counsel has not explained how the petitioner's performances are comparable, pursuant to 8 C.F.R. § 204.5(h)(4), to an exclusive artistic exhibition designed to showcase a visual artist's work. Thus, we concur with the director that the petitioner has not established that she meets this criterion.

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

At the outset, we note that the regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires evidence that the petitioner has played a leading or critical role for a distinguished organization or establishment. Playing in a critical role as an accompanist for a distinguished individual or for an event does not fit within the type of evidence required to meet this criterion.

Initially, counsel asserts that the petitioner meets this criterion through her role for the Pacific Music Festival in Japan and every venue at which she has performed. Finally, counsel asserted that the petitioner meets this criterion through her work as a teacher.

The director concluded that performances at the Pacific Music Festival, which is “educational,” cannot serve to meet this criterion and that simply performing at a venue is not a leading or critical role for that venue. On appeal, counsel asserts that the petitioner has performed at more than “educational” events and that the petitioner was critical to the success of every event where she performed.

An event is not an organization or establishment. The petitioner must establish her leading or critical role for an organization or establishment. We cannot conclude that every musician who performs at an event at a distinguished venue plays a leading or critical role for the organization or establishment that sponsors the event or owns the venue.

The letter from ██████████ Secretariat General of the Pacific Music Festival Organizing Committee, asserts that the festival “has welcomed more than 59 international pianists from 14 different countries; [the petitioner] was the only one who was invited back due to her extraordinary musical ability in understanding and interpreting the musical pieces in perfect harmony with the soloist or the ensemble.” The programs in the record, however, reveal that another pianist, Timothy Bozarth, played piano at more than one festival. Specifically, he is listed as a pianist in both 1995 and 1999. In addition, ██████████ asserts that the festival was founded by ██████████ and is one of the most prestigious international music festivals. The record does not include any promotional materials or media coverage of this festival.

The record does not include consistent, persuasive evidence that the petitioner performed a leading or critical role for a distinguished organization or establishment. Thus, she has not established that she meets this criterion. Even if we were to conclude that that the Pacific Music Festival enjoys a distinguished national or international reputation and that the petitioner’s role as a consistently invited pianist is critical for the festival’s sponsor, the petitioner would only meet one criterion. For the reasons discussed above, she falls far short of meeting any of the other criteria.

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 herself as a pianist to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence indicates that the petitioner shows talent as a pianist, but is not persuasive that the petitioner's achievements set her significantly above almost all others in her 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.

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.