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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: MAY 27 2009
LIN 07 235 53011

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:

SELF-REPRESENTED

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

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in education. The director determined that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. More specifically, the director found that the petitioner had failed to demonstrate receipt of a major, internationally recognized award, or that she meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

On appeal, the petitioner argues that she meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

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

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

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

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, 60898-99 (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, filed on July 17, 2007, seeks to classify the petitioner as an alien with extraordinary ability in education. The petitioner holds a Ph.D. from the University of Illinois at Urbana-Champaign (1996). At the time of filing, the petitioner was working as a tenured Associate Professor at Southwest Minnesota State University.

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, internationally 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. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "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 petitioner has submitted evidence pertaining to the following criteria.¹

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 correspondence from January 1986 indicating that she was the recipient of a Program for Decentralized Educational Development-International Bank for Reconstruction and Development fellowship grant to pursue a "Master in Education" degree at the University of Illinois at Urbana-Champaign. This fellowship grant represents financial support for the petitioner's graduate studies rather than a nationally or internationally recognized prize or award for excellence in the field of endeavor. University study is not a field of endeavor, but rather training for future employment in a field of endeavor. The petitioner's receipt of this educational development scholarship is not an indication that she "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). Receipt of such a fellowship offers no meaningful comparison between the petitioner and educators working in the field who had long since completed their graduate studies.

In response to the director's request for evidence, the petitioner submitted a certificate from the "Early Childhood Higher Education Faculty Initiative" acknowledging that she participated in "the Initiative Pilot Cohort, 2001-2002" training. There is no evidence showing that this certificate is a nationally or internationally recognized prize or award for excellence, rather than simply an acknowledgment of the petitioner's participation in a training program.

The petitioner's response to the director's request for evidence also included a "Certificate of Recognition" issued to her by the "Republic of the Philippines Department of Education, Culture and Sports Region 1; DIVISION OF ILOCOS NORTE Laoag City" (1998). The certificate honors

¹ The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

the petitioner “for his/her meritorious and outstanding services as a Special Education Teacher and in recognition of his/her active involvement in the implementation of the DECS [Department of Education, Culture and Sports] programs, projects and trusts.”² In addressing this certificate, the director’s decision stated that it did not constitute a nationally recognized prize or award and that there was “no indication that this [certificate] was awarded for anything more than a job well done.”

On appeal, the petitioner argues that the director’s latter statement “is thoroughly unfair and patronizing.” We concur with the director’s finding that the petitioner has not established that her recognition certificate is tantamount to a nationally or internationally recognized prize or award. We cannot ignore that the issuing entity was local rather than national or international. For example, the certificate bears the sub-heading “DIVISION OF ILOCOS NORTE Laoag City” and bears signatures from the “Assistant Schools Division Superintendent” and the “Schools Division Superintendent.” Local or regional recognition does not meet the plain language of this regulatory criterion. The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner’s awards be nationally or internationally *recognized* in the field of endeavor and it is her burden to establish every element of this criterion. In this case, there is no evidence showing that petitioner’s certificate had a significant level of recognition beyond the presenting entity.

In light of the above, 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.

In order to demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association’s overall reputation.

The petitioner submitted a certificate from Cambridge Who’s Who referring to her as an “HONORED MEMBER” and stating that she “QUALIFIED FOR INCLUSION IN THE 2006-2007 EDITION OF THE CAMBRIDGE WHO’S WHO REGISTRY OF EXECUTIVES AND PROFESSIONALS.” There is no evidence (such as membership bylaws) showing the admission requirements for becoming an “HONORED MEMBER” of Cambridge Who’s Who. We cannot conclude that the petitioner’s qualification for inclusion in this comprehensive professional directory

² The existence of the term “his/her” on this certificate suggests that this is a standardized certificate. The record does not include information from the presenting entity indicating the number of recipients in the petitioner’s school division who were similarly recognized.

is tantamount to her membership in an association in the field for which classification is sought. Qualifying for inclusion as one of thousands of other successful professionals in a frequently published registry does not meet the plain language of this regulatory criterion and is not evidence of national or international acclaim.³

The petitioner submitted a certificate stating that she was initiated into the University of Illinois Chapter of Phi Delta Kappa (PDK) in 1986. There is no evidence showing the petitioner's membership status in the last decade or the duration of her membership. On appeal, the petitioner submits general information about PDK from its internet site, but this information does not include its requirements for admission to membership.

The petitioner submitted a certificate stating that she was initiated into the Alpha Chapter of the Kappa Delta Pi (KDP) International Honor Society (1991). There is no evidence showing the petitioner's membership status in the last decade or the duration of her membership. On appeal, the petitioner submits information printed from the Association of College Honor Societies internet site indicating that KDP has 46,078 members. This internet site lists KDP's eligibility requirements as follows: "Undergraduate students with no less than final-term sophomore standing, graduate students, all preparing to be certified to teach, with grade point indices in the upper fifth of the institution."

The petitioner also submits information printed from KDP's internet site stating:

Membership in an active institutional chapter of Kappa Delta Pi depends on the following criteria:

- Intent to continue in the field of education.
- Leadership attributes.
- Undergraduates must have first-term sophomore standing (30 semester hours), a GPA of 3.0 out of 4.0 (or its equivalent), and at least 12 semester hours (or its equivalent) in educational courses programmed, in progress, or completed.
- Graduate students must have regular admission status in an accredited institution, six or more semester hours (or its equivalent) in that institution, at least 12 semester hours (or its equivalent) of education courses, and a graduate-level GPA of at least 3.25 out of 4.0.

Some chapters have established a more stringent GPA requirement. Please check with the local chapter to see if you qualify.

We cannot conclude that student achievement, such as having a GPA in the upper fifth of one's educational institution or having a graduate-level GPA of at least 3.25, equates to outstanding achievements in the petitioner's field. Academic success in pursuit of an educational degree is not an indication that an individual "is one of that small percentage who have risen to the very top of the

³ The record does not include a copy of the petitioner's actual entry in the 2006-2007 edition.

field of endeavor.” 8 C.F.R. § 204.5(h)(2). The petitioner seeks a highly restrictive visa classification, intended for established individuals already at the top of their respective fields, rather than for promising students progressing toward the top of the field at some unspecified future time.

In response to the director’s request for evidence, the petitioner submitted general information about the National Council of Teachers of Mathematics (NCTM) and the National Association of Early Childhood Teacher Educators (NAECTE). The record, however, does not include the petitioner’s membership credentials for these organizations. 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). A petition must be filed with any initial evidence required by the regulation. 8 C.F.R. § 103.2(b)(1). The nonexistence or other unavailability of primary evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). In this instance, there is no evidence showing that the petitioner actually holds membership in the NCTM or the NAECTE. Further, there is no evidence showing the admission requirements for these organizations.

In this case, there is no evidence demonstrating that the petitioner holds membership in an organization requiring outstanding achievements its members, as judged by recognized national or international experts in her field or an allied one. Accordingly, the petitioner has not established that she meets 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.

In addressing the petitioner’s evidence for this criterion, the director’s decision stated:

The petitioner submitted several articles about her work that were published in the *Marshall Independent*, which bills itself as “Southwest Minnesota’s Daily Newspaper.” No evidence was submitted that would indicate that this newspaper, which caters to a rural section of Minnesota, can be considered a major trade publication or major media which is national in scope.

On appeal, the petitioner argues that this regulatory criterion “is not limited to national media.” The petitioner’s appellate submission includes information printed from the City of Marshall’s internet site stating that the city has a “population of 13,000 residents.” The issue here is not the population or community profile of Marshall, Minnesota, but rather whether the *Marshall Independent* newspaper constitutes a form of major media in the United States. The plain language of this regulatory criterion specifically requires that the articles about the petitioner appear “in professional or major trade publications or other major media.” [Emphasis added.] There is no evidence (such as circulation statistics) showing that the *Marshall Independent* qualifies as a form of “major” media in this country. An alien cannot earn acclaim at the national level from a local or regional publication. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as

major media because of significant national distribution, unlike small local community papers such as the *Marshall Independent*.⁴

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

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The regulation at 8 C.F.R. § 204.5(h)(3) provides that “[a] petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise.” Evidence of the petitioner’s participation as a judge must be evaluated in terms of these requirements. The weight given to evidence submitted to fulfill the criterion at 8 C.F.R. § 204.5(h)(3)(iv), therefore, depends on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien’s field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of “extraordinary ability” as “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). For example, evaluating the work of accomplished professors is of far greater probative value than evaluating the work of graduate or undergraduate students.

The petitioner submitted approval pages bearing her signature for five graduate students’ research papers at Southwest Minnesota State University. In addressing this evidence, the director’s decision stated:

The petitioner submitted evidence that she served as a member of a committee which approved the research papers of graduate students at Southwest Minnesota State University, where she teaches. However, graduate students cannot be considered to be at the same level as professors, and so are not in the same area of specialization as the petitioner. Further, this is simply a duty which a professor would be expected to perform in the normal course of her duties.

On appeal, the petitioner states: “The petitioner and graduate students are both specialists in their own fields. . . . Not any professor can serve in a committee to judge the research papers of graduate students. The petitioner sat on a special committee created to judge the work of others.” The plain language of this regulatory criterion requires “[e]vidence of the alien’s participation . . . as a judge of the work of others in the same or an allied field of specification.” We cannot conclude that evaluating the work of students at one’s university, who are preparing for a future career in the field, meets this requirement. Further, while a professor does evaluate the work of students, this evaluation process is inherent in the process of teaching at a university. The petitioner’s status on the committee demonstrates her

⁴ Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, for instance, cannot serve to spread an individual’s reputation outside of that county.

knowledge and competency as an educator, but she has not established that her position meets the plain language of this regulatory criterion or that it is indicative of sustained national or international acclaim at the very top of her field. Accordingly, the petitioner has not established that she meets this criterion.

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

In addressing the petitioner's evidence for this criterion, the director's decision stated:

The petitioner submitted letters from various conference organizers thanking her for giving presentations at the conferences. In response to the Service's request for additional evidence, the petitioner submitted evidence that she helped to develop a graduate program in Early Childhood Education at SMSU, and that she submitted a proposal for teacher training that resulted in at least one workshop. However, in order for a contribution to be considered significant, it should be both original and have a demonstrable influence on the field. Again, these are the type of contributions that are expected of professors, and there is no indication that they constitute a breakthrough in the field of education.

We concur with the director's findings.

On appeal, the petitioner submits an April 7, 2009 letter from _____ System Director for Faculty Development, Minnesota State Colleges and Universities, stating:

This letter is to summarize for you several recent presentations by [the petitioner] at systemwide faculty conferences in the Minnesota State Colleges and Universities.

* * *

Particularly in her role as a professor of education, [the petitioner's] presentations helped to further the system's strategic goals to improve the number and quality of teachers that we educate. Her projects related to the use of eFolio Minnesota modeled for educators at every level how to use new technologies for learning and assessment. Finally, by sharing a service-learning project that involved preservice teachers with middle- and high-school students, she demonstrated how faculty can cross bridges to collaborate with and serve our schools – and learn a great deal in the process.

Our records show that [the petitioner] contributed to her colleagues' professional development in the following sessions:

Realizing Student Potential: ITeach Conference, February 27-28, 2009, Minneapolis, MN (attended by 1,260 faculty from Minnesota's 32 public colleges and universities).

Realizing Student Potential: ITeach Conference, February 28-March 1, 2008, Minneapolis, MN (attended by 1,100 faculty).

* * *

Realizing Student Potential: ITeach Conference, February 24, 2006, Minneapolis, MN (attended by 1,008 faculty from Minnesota's 32 public colleges and universities).

* * *

○ *Affirming Diversity Through a Community Service Project*

Karen Sterner, [the petitioner] and Ruth Saad-Eldein • Southwest Minnesota State University

The session focused on how faculty can help prospective teachers gain an understanding of and empathy for the life challenges and concerns of adolescents from diverse groups. It presented lessons learned from a service-learning project that reached out to diverse middle school and high school students.

The petitioner has not established that her presentations had a significant impact beyond the Minnesota State Colleges and Universities system. Further, with regard to the petitioner's presentations at the 2008 and 2009 *Realizing Student Potential: I Teach Conferences*, we note that these presentations post-date the filing of the petition. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider the petitioner's 2008 and 2009 conference presentations in this proceeding.

With regard to the petitioner's other conference presentations, in the field of education, acclaim is generally not established by the mere act of presenting one's work at a conference along with dozens of other participants. Nothing in the record indicates that the presentation of one's work is unusual in the petitioner's field or that invitation to present at the sessions where she spoke was a privilege extended to only a few top educators. Many professional fields regularly hold conferences to present new work, discuss new findings, and network with other professionals. These conferences are promoted and sponsored by professional associations, businesses, educational institutions, and government agencies. Participation in such events, however, does not establish that the petitioner has made original contributions of major significance in her 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. While the petitioner has presented her work at various conferences, helped to develop a graduate program in Early Childhood Education at her university, and submitted a proposal for teacher training that resulted in at least one workshop, the evidence of record does not establish that this work is tantamount to original scholarly contributions of major significance in her field. For example, the petitioner's supporting evidence does not

establish that her work has had a substantial national or international impact, nor does it show that her field has significantly changed as a result of her work. Without evidence showing that the petitioner's work has been unusually influential, highly acclaimed throughout her field, or has otherwise risen to the level of original contributions of major significance, we cannot conclude that she meets this criterion.

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

The petitioner submitted an editorial she wrote for *The Normalite Bulletin*, the "Official School Organ" of the "Northern Luzon Teachers College Laoag City." The petitioner also submitted evidence that her article, entitled "Caught in a Web: A book review of *Gagamb*," appeared in the Spring 2007 issue of the *California Association for Asian Pacific American Education Newsletter*. There is no evidence showing that the preceding school bulletin and newsletter qualify as major publications or some other form of major media.

In response to the director's request for evidence, the petitioner submitted a search results printout from Google Scholar reflecting that her 1996 doctoral dissertation at the University of Illinois at Urbana-Champaign, entitled "Paradigm Development Among Practicing School Mathematics Teachers," had four citations.⁵ The record, however, does not include evidence showing that the petitioner's doctoral dissertation was ever published, or that it appeared in a professional or major trade publication or some other form of major media. With regard to the Google Scholar citation history submitted by the petitioner, numerous independent cites to the petitioner's scholarly work would provide solid evidence that other educators have been influenced by her work and are familiar with it. On the other hand, few or no citations of an article authored by the petitioner may indicate that her work has gone largely unnoticed by her field. In this case, the petitioner submitted evidence showing that her work has been cited an aggregate of four times by the same two authors [REDACTED] and [REDACTED]. While these citations demonstrate a small degree of interest in her scholarly work, they are not sufficient to demonstrate that her articles have attracted a level of interest in her field consistent with sustained national or international acclaim.

As discussed, the petitioner also submitted evidence showing that her work has been presented at educational conferences. The petitioner's response to the director's request for evidence included documentation regarding her November 7, 2007 presentation at the Fall 2007 National Association of Early Childhood Teacher Educators Conference and her April 11, 2008 presentation at the National Council of Teachers of Mathematics 2008 convention. We note that these presentations post-date the filing of the petition. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the AAO will not consider this evidence in this proceeding.

⁵ The Google Scholar printout lists five cites, but one of them (from an opinion editorial in *Journal of Curriculum Studies*) was a duplicate.

The petitioner's March 19, 2008 letter submitted in response to the director's request for evidence requests that her conference presentations be considered as comparable evidence for this regulatory criterion. The petitioner's conference presentations have already been addressed under the preceding regulatory criterion at 8 C.F.R. § 204.5(h)(3)(v). Further, there is no evidence showing that the conference presentations for which the petitioner requests re-evaluation of as comparable evidence constitute achievements and recognition consistent with sustained national or international acclaim at the very top of her field. Nevertheless, the regulation at 8 C.F.R. § 204.5(h)(4) allows for the submission of "comparable evidence" only if the ten criteria "do not readily apply to the beneficiary's occupation." The regulatory language precludes the consideration of comparable evidence in this case, as there is no indication that eligibility for visa preference in the petitioner's occupation cannot be established by the ten criteria specified by the regulation at 8 C.F.R. § 204.5(h)(3). In fact, the petitioner has argued that she meets nine of the ten criteria at 8 C.F.R. § 204.5(h)(3). Where an alien is simply unable to meet three of the regulatory criteria, the plain language of the regulation at 8 C.F.R. § 204.5(h)(4) does not allow for the submission of comparable evidence.

In addressing the petitioner's evidence for this criterion, the director's decision stated:

The petitioner submitted evidence that her dissertation has been cited five times by other professors and researchers in the field of education, as well as evidence that she continues to present her research at professional conferences. However, the evidence does not indicate that the petitioner's articles and/or presentations have received national or international acclaim. The *Occupational Outlook Handbook*, published by the U.S. Department of Labor, states the following in the section concerning Postsecondary Teachers:

Faculty keep abreast of developments in their field by reading current literature, talking with colleagues, and participating [i]n professional conferences. They also do their own research to expand knowledge in their field. . . . From this process, they arrive at conclusions, and publish their findings in scholarly journals, books, and electronic media.

The submitted evidence does not indicate that the petitioner's publications have gone beyond what is expected of all university faculty members.

We concur with the director's findings. Accordingly, 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 issue for this criterion are the position the petitioner was selected to fill and the reputation of the entity that selected her. In other words, the position must be of such significance that the alien's selection to fill the position, in and of itself, is indicative of or consistent with national or international acclaim.

The petitioner submitted a July 16, 2007 letter from [REDACTED] Regional Educator, Leadership & Civic Engagement, University of Minnesota Extension Regional Center, Marshall, stating:

This letter is intended to show evidence of [the petitioner's] critical roles in the Marshall Early Childhood Coalition, and the Emerging Leadership Investment Program in the Community of Marshall, Minnesota.

* * *

[The petitioner] has been an active coalition member since its inception in Marshall in 2003. [The petitioner] is a very valuable coalition member and takes her civic engagement responsibilities very seriously. [The petitioner] has actively participated in the coalition events including; monthly meetings, regional and state early childhood conferences, Children's Defense Fund "Kid's Count Coffee," Early Childhood Caucus, Coalition Speak Out, Childcare Provider Recognition and other events. [The petitioner] has been instrumental in bringing about collaboration with Southwest Minnesota State University and the Marshall Early Childhood Coalition to co-sponsor the annual "Week of the Young Child Carnival" in Marshall. Through [the petitioner's] leadership her students participated in surveying parents around school readiness, assisted on the Coats for Kids service project and attended the Voices for Children Advocacy Day for the past four years.

* * *

[The petitioner] has been an invaluable assist [sic] and role model to persons of color in the community as she assisted and attended the Emerging Leadership Investment Program. The program provides participants with the opportunities to: increase their knowledge and skills as community leaders; expand their community leadership networks; and expand their leadership engagement in community issues and organizations. [The petitioner's] presence and engagement speaks volumes of her commitment to public service and to the local community.

In response to the director's request for evidence, the petitioner submitted a March 17, 2008 letter from [REDACTED] Program Officer, Southwest Initiative Foundation, "A Rural Minnesota Community Foundation," stating:

[The petitioner] has been involved in the Early Childhood Initiative, a proactive program of the Southwest Initiative Foundation. The Southwest Initiative Foundation is a rural, regional community foundation that has been in operation in the eighteen counties of southwest Minnesota for nearly 22 years. . . . During the nearly four years since the creation of the Marshall Area Early Childhood coalition, [the petitioner] has participated as a community coalition member and has offered key professional insight to the plans and projects developed by the community team. In addition, [the petitioner] has actively sought opportunities to mobilize the student engagement and manpower of her students in projects,

advocacy efforts and research activities of the coalition. This partnership with SMSU has proven to not only be mutually beneficial, but also an excellent training and networking opportunity for students and community members alike. It exemplifies visionary leadership and commitment to those she works with and trains to serve our youngest citizens in Minnesota and across the nation. Many activities and efforts of the Marshall Area coalition would not have come to fruition or have been as successful as they were had [the petitioner] not been involved with expert guidance, linkages to the youth assets and been instrumental in the implementation of the actual activities to better equip future educators and parents. She has been an enormous asset to our efforts!

[The petitioner] has worked hard to build bridges between the community and the college while working to deliver the most cutting edge academic programming to students. She has kept close contact with the field workforce to stay abreast of challenges and opportunities, matching her students and their studies to meet them head on. In my estimation, she is a well qualified leader and partner to our endeavors, not only based on academic credentials, but on her commitment to the community as a whole and helping everyone, from the local to national levels, see the University as the resource it can be to create communities that thrive.

In addressing the petitioner's evidence for this criterion, the director's decision stated:

The petitioner submitted evidence in the form of letters which describe her participation in community outreach and education programs in the Marshall, Minnesota area. Although these programs may have distinguished reputations in the Marshall area, no evidence was submitted to suggest that these are nationally prominent organizations.

We concur with the director's finding. While the petitioner has performed admirably for various local projects of the Southwest Initiative Foundation, the Marshall Early Childhood Coalition, and the Emerging Leadership Investment Program, there is no evidence showing that these organizations had a distinguished national reputation. With regard to the petitioner's position as Associate Professor at Southwest Minnesota State University, there is no evidence from her superiors (such as the President, Provost, or Dean) demonstrating that her role was leading or critical for the university. Further, the record lacks evidence showing that the university has a distinguished reputation. The documentation submitted by the petitioner does not establish that she was responsible for the preceding organizations' success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim.

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

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

In response to the director's request for evidence, the petitioner submitted copies of her Forms W-2, Wage and Tax Statements, reflecting earnings of \$56,523.66 in 2004, \$59,650.20 in 2005, \$68,156.84 in 2006, and \$61,807.64 in 2007. The petitioner also submitted evidence showing that she earned

consultancy fees of \$4,776.72 in 2006 and \$400.00 in 2007. The plain language of this regulatory criterion requires the petitioner to submit evidence of a high salary “in relation to others in the field.” The petitioner offers no basis for comparison showing that her compensation was significantly high in relation to others in her field. Accordingly, the petitioner has not established that she meets this criterion.

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

In response to the director’s request for evidence, the petitioner submitted evidence that she earned consultancy fees of \$4,776.72 in 2006 and \$400.00 in 2007. The petitioner’s field, however, is not in “the performing arts.” The petitioner’s March 19, 2008 letter submitted in response to the director’s request for evidence requests that her consultancy earnings be considered as comparable evidence for this regulatory criterion. The petitioner’s consultancy earnings have already been addressed under the preceding regulatory criterion at 8 C.F.R. § 204.5(h)(3)(ix). As discussed, the regulation at 8 C.F.R. § 204.5(h)(4) allows for the submission of “comparable evidence” only if the ten criteria “do not readily apply to the beneficiary’s occupation.” The regulatory language precludes the consideration of comparable evidence in this case, as there is no indication that eligibility for visa preference in the petitioner’s occupation cannot be established by the ten criteria specified by the regulation at 8 C.F.R. § 204.5(h)(3). Accordingly, the petitioner has not established that she meets this criterion.

In this case, we concur with the director’s finding that the petitioner has failed to demonstrate her receipt of a major internationally recognized award, or that she meets at least three of the criteria that must be satisfied to establish the national or international acclaim necessary to qualify as an alien of extraordinary ability. 8 C.F.R. § 204.5(h)(3). The conclusion we reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

Review of the record does not establish that the petitioner has distinguished herself 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 is not persuasive that the petitioner’s achievements set her significantly above almost all others in her field at a national or international level. 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.