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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

B2

DATE: DEC 23 2011 Office: TEXAS SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas 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. The director determined that the petitioner had not established the requisite extraordinary ability through extensive documentation and sustained national or international acclaim.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien's "sustained national or international acclaim" and present "extensive documentation" of the alien's achievements. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i) through (x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

On appeal, the petitioner argues that she meets at least three of the ten regulatory categories of evidence at 8 C.F.R. § 204.5(h)(3). For the reasons discussed below, the AAO will uphold the director's decision.

I. Law

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* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.* and 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that an alien demonstrate his or her sustained acclaim and the recognition of his or her achievements in the field. Such acclaim and achievements must be established either through evidence of a one-time achievement (that is, a major, international recognized award) or through meeting at least three of the following ten categories of evidence:

> (i) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
>
> (ii) 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;
>
> (iii) 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;
>
> (iv) 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 specialization for which classification is sought;
>
> (v) Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field;
>
> (vi) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media;
>
> (vii) Evidence of the display of the alien's work in the field at artistic exhibitions or showcases;
>
> (viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation;
>
> (ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field; or

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

In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the AAO's decision to deny the petition, the court took issue with the AAO's evaluation of evidence submitted to meet a given evidentiary criterion.[1] With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Id.* at 1121-22.

The court stated that the AAO's evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Id.* at 1122 (citing to 8 C.F.R. § 204.5(h)(3)). The court also explained the "final merits determination" as the corollary to this procedure:

> If a petitioner has submitted the requisite evidence, USCIS determines whether the evidence demonstrates both a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2), and "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(3). Only aliens whose achievements have garnered "sustained national or international acclaim" are eligible for an "extraordinary ability" visa. 8 U.S.C. § 1153(b)(1)(A)(i).

Id. at 1119-20.

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. In reviewing Service Center decisions, the AAO will apply the test set forth in *Kazarian*. As the AAO maintains *de novo* review, the AAO will conduct a new analysis if the director reached his or her conclusion by using a one-step analysis rather than the two-step analysis dictated by the *Kazarian* court. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d at 1043, *aff'd*, 345 F.3d at 683; *see also Soltane v. DOJ*, 381 F.3d at 145 (noting that the AAO conducts appellate review on a *de novo* basis).

[1] Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and 8 C.F.R. § 204.5(h)(3)(vi).

II. Analysis

A. Evidentiary Criteria

This petition, filed on June 7, 2009, seeks to classify the petitioner as an alien with extraordinary ability "in computer networking and network security." The petitioner received her Master of Science degree in Computer Science from [redacted] in 1994. At the time of filing, the petitioner was employed as an "Information Systems Analyst 2" in the [redacted] The petitioner has submitted documentation pertaining to the following categories of evidence under 8 C.F.R. § 204.5(h)(3).[2]

> *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 two Certificates of Excellence stating that she "successfully completed the requirements" for certification as a "Microsoft Certified Systems Engineer on Microsoft® Windows® 2000" and as a "Microsoft Certified Systems Administrator on Microsoft® Windows® 2000." The preceding certificates are professional certifications earned by completing computer training courses rather than nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner submitted a July 2004 certificate presented to her by the [redacted] "in recognition of 10 years of service to the State of Illinois." The preceding certificate reflects institutional recognition by the petitioner's employer based on her length of service and does not constitute a nationally or internationally recognized prize or award for excellence in the field of endeavor.

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

---

[2] The petitioner does not claim to meet or submit evidence relating to the categories of evidence not discussed in this decision.

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 [redacted], an "Honor Society in the Computing Sciences," certifying that she was elected to membership by the [redacted] Chapter on May 20, 2004. On appeal, the petitioner submits a copy of [redacted] Constitution. "Article VIII. Membership" of the Constitution states:

> SECTION 2. The membership of [redacted] shall consist of: (1.) graduate students; (2.) undergraduate students, who were elected according to Article IX of this Constitution; (3.) individuals who are affiliated with institutions of learning where Chapters are located, in some capacity other than that of a registered student, and (4.) individuals of recognized ability in their respective branches of the Computing and Information Disciplines but who are not classified in any of the former categories. These elections should include only individuals who are making noteworthy contributions to the Computing and Information Disciplines and whose character, reputation and influence would be a distinct asset to [redacted]
>
> SECTION 3. Honorary members shall be individuals of recognized reputation and of high attainments.

The petitioner points out that she was elected to [redacted] pursuant to Article VIII, Section 2, item 4. The AAO notes that a "noteworthy" contribution is not necessarily an "outstanding" achievement. The [redacted] Constitution does not specifically define what constitutes "noteworthy contributions." Further, according to Article V, Section 3 of the Constitution, the "Honorary members" designation reflects a higher level of achievement requiring a "recognized reputation" and "high attainments."

"Article IX. Election of [redacted] Members" of the Constitution states:

> SECTION 3. Eligibility of [redacted] Member Candidates
>
> (a) The basis of eligibility shall be primarily the scholarship rating of the candidate, which shall be determined by averaging scholastic grades on a credit-hour basis and computed in terms of grade points as prescribed by Bylaw VII provided, however, that if a Chapter employs a method of computing the scholarship rating other than that prescribed in Bylaw VII, the rating shall be equivalent to at least 3.0/4.0 as herein provided.
>
> (b) Candidates for student membership in [redacted] shall be chosen from those who are pursuing degrees in the computing and information disciplines.
>
> (c) Undergraduate Students. To be eligible for election to membership, undergraduate students shall have attained a general scholarship rating, in all college work thus far completed, of not less than 3.0/4.0 grade-points provided (1.) that candidates in any particular academic level who satisfy the requirements of Article VIII, Section 2, (2.)

that the candidate shall have completed at least 45 (Forty Five) semester hours of college work including fifteen (15) semester hours or twenty-three (23) quarter hours in the basic courses in the Computing and Information Disciplines to be eligible under this Section. The Chapter shall have the right to set any limit above this minimum attainment as a basis for eligibility.

(d) Undergraduate transfer students. Undergraduate upper-division students transferring to the Chapter location from another institution shall have been in residence at least one year at the Chapter location at the time they are considered for election unless they transfer at the beginning of their senior year, in which case they may be considered for election after one semester (or two quarters) of residence. In such cases the scholarship rating shall be computed on the basis of only those courses of college grade, which shall include some basic courses in the Computing and Information Disciplines taken at the institution where the Chapter is located, and the minimum scholarship rating shall be 3.0/4.0 grade points provided, however, that the candidate shall have completed at least fifteen (15) semester hours or twenty-three (23) quarter hours in the basic courses in the Computing and Information Disciplines to be eligible under this section. The Chapter may set any limit above this minimum as a basis for eligibility. In case the undergraduate transfer came from an institution where there is a Chapter of [redacted] inquiry should be made of the Chapter as to the reason for his/her failure of election to membership at that institution. (See Bylaw VII, Section 5)

(e) Graduate Students. In order to be eligible for election such graduate students shall have been in graduate residence at the current institution at least one semester (or two quarters) and shall have completed at least one-half of the number of semester-hours of graduate work normally required for the master's degree, with a scholarship rating of at least 3.5/4.0. (The foregoing shall constitute the basis of computation, irrespective of the graduate degree sought by the candidate.) A student in the process of completing the above requirements may be elected to membership in the second semester or third quarter providing the Chapter Committee on Eligibility shall have reasonable assurance from the candidate's instructors and research director that his/her scholastic standing is above the minimum requirements of [redacted]. The Chapter shall have the right to set any limit above this minimum as a basis for determining eligibility. The scholarship record may be supplemented by information from the candidate's director of research as to the quality of his performance, if such research is already in progress. A student who was invited to join [redacted] as an undergraduate may be re-invited as a first semester graduate student if his undergraduate scholarship rating was at least 3.5/4.0.

* * *

SECTION 5. Alumni of an institution who graduated before a Chapter of [redacted] was established and who would have been eligible for membership under provisions of Article V, Section 2: Article VIII, Section 2 and Article IX, Section 3, of

this Constitution; had the Chapter existed prior to their graduation shall be eligible for election to membership, provided at the time of graduation their scholarship record meets the requirements of the above provisions and that at the time of their election they may be actively interested in and engaged in computer work.

(a) The election of any members nominated under this classification shall occur according to the procedure prescribed in Sections 3 and 4 of this Article. Such members shall pay the fees and be initiated according to the ritual as required of members elected while in residence.

(b) To limit the provisions of this Section, no candidate shall be eligible for election to membership if more than three years have elapsed since his/her graduation, except as provided in Article VIII, Section 2 of this Constitution.

SECTION 6. International Honorary Members.

(a) Honorary Members shall be nominated by a Committee on Honorary Membership appointed by the International President.

(b) The nominations of the Committee on Honorary Membership shall be submitted to the Executive Council for election. When a name is not unanimously approved by the Committee on Honorary Membership, a statement to this effect shall accompany the proceeding by which it is submitted to the Executive Council. A three-fourths majority of the Council shall be required for election of Honorary Membership.

As local chapter officials elected the petitioner, her membership in [redacted] was not judged by recognized national or international experts in her field. On appeal, the petitioner argues that "the organizational structure of the [redacted] program does not lend itself to selecting its members at the national or international level." The AAO notes, however, that in contrast to the petitioner's general membership status (which was approved by the [redacted] Chapter), "Honorary Membership" requires approval by the [redacted] Executive Council. Moreover, the AAO notes that general membership in UPE is based primarily upon student academic achievement. Academic success, while laudable, is not an outstanding achievement. Significantly, this office has held, in a precedent decision involving a lesser classification than the one sought in this matter, that academic performance, measured by such criteria as grade point average, is not a specific prior achievement that establishes the alien's ability to benefit the national interest. *Matter of New York State Dep't. of Transp.*, 22 I&N Dec. 215, 219, n.6 (Comm'r 1998). Thus, academic performance is certainly not comparable to the "outstanding achievements" set forth at 8 C.F.R. § 204.5(h)(3)(ii), designed to demonstrate an alien's eligibility for the more exclusive extraordinary ability classification. Accordingly, the petitioner has not established that her UPE membership required outstanding achievements, as judged by recognized national or international experts.

Furthermore, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires "membership in associations" in the plural. The use of the plural is consistent with the statutory

requirement for extensive evidence. Section 203(b)(1)(A)(i) of the Act. Significantly, not all of the criteria at 8 C.F.R. § 204.5(h)(3) are worded in the plural. Specifically, the regulations at 8 C.F.R. §§ 204.5(h)(3)(iv) and (ix) only require service on a single judging panel or a single high salary. When a regulatory criterion wishes to include the singular within the plural, it expressly does so as when it states at 8 C.F.R. § 204.5(k)(3)(ii)(B) that evidence of experience must be in the form of "letter(s)." Thus, the AAO can infer that the plural in the remaining regulatory criteria has meaning. In a different context, federal courts have upheld USCIS' ability to interpret significance from whether the singular or plural is used in a regulation. *See Maramjaya v. USCIS*, Civ. Act. No. 06-2158 (RCL) at *1, *12 (D.C. Cir. March 26, 2008); *Snapnames.com Inc. v. Chertoff*, 2006 WL 3491005 at *1, *10 (D. Or. Nov. 30, 2006) (upholding an interpretation that the regulatory requirement for "a" bachelor's degree or "a" foreign equivalent degree at 8 C.F.R. § 204.5(l)(2) requires a single degree rather than a combination of academic credentials). Therefore, even if the petitioner were to establish that her membership in UPE meets the elements of this regulatory criterion, which it does not, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires evidence of the petitioner's membership in more than one association requiring outstanding achievements of its members, as judged by recognized national or international experts.

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

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

The petitioner submitted letters of support from agency leaders indicating that she has performed in a critical role as an Information Systems Analyst for the State of Illinois, but there is no documentary evidence (such as favorable attention in professional media) showing that the Illinois [redacted] has earned a distinguished reputation. 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)). Further, the record does not include evidence documenting the petitioner's leading or critical role for any other organizations or establishments with a distinguished reputation. As previously discussed, section 203(b)(1)(A)(i) of the Act requires the submission of extensive evidence. Consistent with that statutory requirement, the regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires the submission of evidence that the alien has performed in a leading or critical role for "organizations or establishments" in the plural. Therefore, even if the petitioner were to submit supporting documentary evidence showing that the Illinois State Government's reputation in the information technology field meets the elements of this criterion, which she has not, the plain language of this regulatory criterion requires evidence of a leading or critical role for more than one distinguished organization or establishment.

In light of the above, the AAO withdraws the director's finding that the petitioner meets this regulatory criterion.

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

The petitioner initially submitted a May 18, 2009 letter from her employer stating that she earned a salary of $85,848 per year as an "Information Systems Analyst." On appeal, the petitioner submits a June 15, 2010 letter from her employer stating that she "is earning $93,360 annually." The petitioner's 2010 salary post-dates the petition's filing date. Eligibility must be demonstrated at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). Accordingly the AAO will not consider salary increases received by the petitioner after June 7, 2009 in this proceeding.

The petitioner's appellate submission includes 2009 occupational wage data from the Illinois Department of Employment Security for the Springfield Metropolitan Statistical Area. According to the submitted data for "Experienced Wage" earners, Computer Systems Analysts earned $90,192 annually, Network and Computer Systems Administrators earned $70,264 annually, and Network Systems and Data Communications Analysts earned $78,252 annually. The petitioner points only to the wage data for Network and Computer Systems Administrators, but her job title corresponds more closely to "Computer *Systems Analysts*" and "Network *Systems* and Data Communications *Analysts*" [emphasis added]. The AAO cannot ignore that the 2009 annual wage of $90,192 for experienced Computer Systems Analysts is higher than the petitioner's 2009 salary of $85,848.

Even if the AAO were to conclude that the "Network and Computer Systems Administrators" classification most closely corresponds to the petitioner's occupation, she must demonstrate a "high salary" in relation to others in the field rather than simply a salary that falls above the level received by experienced workers in her local area. The petitioner's reliance on local wage data limited to the Springfield Metropolitan Statistical Area is not an appropriate basis for comparison in demonstrating that her earnings constitute a "*high* salary or other *significantly high* remuneration for services, in relation to others in the field" [emphasis added].[3] The documentation submitted by the petitioner fails to establish that she has earned a *high* salary in relation to others in her field. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering professional golfer's earnings versus other PGA Tour golfers); *see also Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen).

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

[3] According to the U.S. Department of Labor's Occupational Outlook Handbook (OOH), 2010-11 Edition, the highest 10 percent of computer systems analysts earned more than $118,440 in 2008. *See* http://bls.gov/oco/ocos287.htm, accessed on December 1, 2011, copy incorporated into the record of proceeding.

Summary

The AAO concurs with the director's determination that the petitioner has failed to demonstrate her receipt of a major, internationally recognized award, or that she meets at least three of the ten categories of evidence that must be satisfied to establish the minimum eligibility requirements necessary to qualify as an alien of extraordinary ability. 8 C.F.R. § 204.5(h)(3).

B. Final Merits Determination

The AAO will next conduct a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2); and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." Section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(3). *See also Kazarian,* 596 F.3d at 1119-20. In the present matter, many of the deficiencies in the documentation submitted by the petitioner have already been addressed in our preceding discussion of the categories of evidence at 8 C.F.R. §§ 204.5(h)(3)(i), (ii), (viii), and (ix).

In regard to the documentation submitted for the category of evidence at 8 C.F.R. § 204.5(h)(3)(i), this decision has already addressed why the certificates submitted by the petitioner do not rise to the level of nationally or internationally recognized awards for excellence in the field. Completing Microsoft certification courses and being recognized by one's immediate employer for length of service is not indicative of or consistent with sustained national acclaim or a level of expertise indicating that the petitioner is one of that small percentage who have risen to the very top of her field.

With regard to the documentation submitted for the category of evidence at 8 C.F.R. § 204.5(h)(3)(ii), there is no evidence showing that the petitioner's general membership in [redacted] required outstanding achievements, as judged by recognized national or international experts in her field. Further, the AAO cannot ignore that [redacted] "Honorary members" designation reflects a higher level of achievement requiring a "recognized reputation" and "high attainments." The petitioner has not established that her membership in [redacted] is indicative of or consistent with sustained national or international acclaim, or a level of expertise indicating that she is one of that small percentage who have risen to the very top of her field.

Regarding the documentation submitted for the category of evidence at 8 C.F.R. § 204.5(h)(3)(viii), as previously discussed, the petitioner has not established that she has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. The letters of support submitted by the petitioner do not explain how her role for a state government is indicative of or consistent with sustained national or international acclaim.

In regard to the documentation submitted for the category of evidence at 8 C.F.R. § 204.5(h)(3)(ix), there is no evidence demonstrating that petitioner has commanded a high salary

or other significantly high remuneration in relation to others in her occupation, or that her 2009 earnings level places her among that small percentage who have risen to the very top of the field. The petitioner has not established that her level of salary is indicative of or consistent with sustained national acclaim.

In this matter, the petitioner has not established that her achievements at the time of filing were commensurate with sustained national or international acclaim as an Information Systems Analyst, or being among that small percentage at the very top of the field of endeavor. The submitted evidence is not indicative of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). The conclusion the AAO reaches by considering the evidence to meet each category of evidence at 8 C.F.R. § 204.5(h)(3) separately is consistent with a review of the evidence in the aggregate. Ultimately, the evidence in the aggregate 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).

IV. Conclusion

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 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 and 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.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d at 1043, *aff'd*, 345 F.3d at 683; *see also Soltane v. DOJ*, 381 F.3d at 145 (noting that the AAO conducts appellate review on a *de novo* basis).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.