

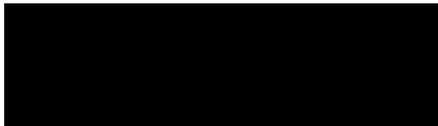
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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DATE: **MAY 01 2012**

Office: NEBRASKA SERVICE CENTER

FILE: 

IN RE:

Petitioner:
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:



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 Director, Nebraska Service Center (the director), initially granted the employment-based immigrant visa petition on October 9, 2001. On September 10, 2010, the director issued a notice of intent to revoke the approval of the Immigrant Petition for Alien Worker (Form I-140) (NOIR). In a Notice of Revocation (NOR), dated October 19, 2010, the director ultimately revoked the approval of the petition. The matter 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 athletics, specifically, in the sport of field hockey, as both a player and a coach, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). In revoking the approval of the petition, the director determined that the petitioner has not provided clear evidence of her intent to continue work in the area of expertise in the United States. See 8 C.F.R. § 204.5(h)(5). The director pointed out in the NOIR that counsel has submitted no evidence regarding the petitioner’s continued work in the United States as a field hockey player or coach, other than providing the following statement (grammar as it appears in the original), which is in counsel’s brief filed in support of the petition:

[The petitioner] is an excellent candidate for the U.S. Olympic of the Women Hockey field team as a coach also in the track and field which she coached before if her petition is granted, she will be of great support of the athletic field in the United States.

The director further noted in the NOIR that during a September 1, 2005 interview, the petitioner admitted to a U.S. Citizenship and Immigration Services (USCIS) officer that since her arrival to the United States in May 1999, she had not taught field hockey in a structured environment. Instead, she had been working as a seamstress. The NOIR also notes that although the petitioner submitted a letter from the Hockey Sports Club, suggesting that it had hired the petitioner as a field hockey coach in 2006, the petitioner disclosed during a June 25, 2010 telephone conversation with a USCIS officer that she had begun working at the Hockey Sports Club in December 2009, not 2006. On October 1, 2010, counsel submitted documents in response to the NOIR. Ultimately, on October 19, 2010, the director revoked the approval of the petition, finding that “the petitioner has not established that she intended to or has, since her arrival in the U.S. more than eleven years ago, continued to work in her field of expertise as a field hockey coach.”

On appeal, counsel submits a two-page brief and (1) documents relating to the California Cup, an international field hockey tournament, held in May 2011, (2) photographs of the petitioner coaching the young players of [REDACTED] (3) the petitioner’s USA Field Hockey basic coach membership card, valid from July 2010 through July 2011, and (4) the petitioner’s invitation from the USA Field Hockey to the 41st FIH Statutory Congress, held in November 2008.

As presented in his brief filed in support of the instant appeal, counsel’s entire analysis and argument are as follows (grammar as it appears in the original):

Petitioner submitted her I-140 petition accompanied by sufficient documentary evidence showing her national and international achievement in the field of Hockey and based on such evidence the [USCIS] approved her petition, since no job offer is required for such classification or a labor certification all that was required is for the petitioner to show her commitment to coach in the field of Hockey the law does not require any specific number of hours or how many teams she is required to coach, she showed that she coached at the Hockey sports club, she submitted team practice schedule and prove that she was paid through a W-2, and as the law requires she submitted a letter of intent to have the petitioner participate in a tournament

For the reasons discussed below, the AAO upholds the director's revocation of the approval of the petition on the basis that the petitioner has not presented "clear evidence that the alien is coming to the United States to continue work in the area of expertise," as required under the regulation at 8 C.F.R. § 204.5(h)(5). Moreover, the AAO finds that the petitioner has not established her eligibility for the exclusive classification sought because she meets none of the ten criteria under the regulation at 8 C.F.R. § 204.5(h)(3). As such, the AAO finds that the petitioner has not demonstrated that she is one of the small percentage who are at the very top of the sport of field hockey and she has not shown sustained national or international acclaim. See 8 C.F.R. §§ 204.5(h)(2), (3). Accordingly, the AAO must dismiss the petitioner's appeal.

I. LAW

Section 205 of the Act, 8 U.S.C. § 1155, states, in pertinent part, that the Secretary of Homeland Security "may, at any time, for what he [or she] deems to be good and sufficient cause, revoke the approval of any petition approved by him [or her] under section 204" of the Act.

Regarding the revocation on notice of an immigrant petition under section 205 of the Act, the Board of Immigration Appeals has stated:

In *Matter of Estime*, . . . this Board stated that a notice of intention to revoke a visa petition is properly issued for "good and sufficient cause" where the evidence of record at the time the notice is issued, if unexplained and un rebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The decision to revoke will be sustained where the evidence of record at the time the decision is rendered, including any evidence or explanation submitted by the petitioner in rebuttal to the notice of intention to revoke, would warrant such denial.

Matter of Ho, 19 I&N Dec. 582, 590 (BIA 1988) (citing *Matter of Estime*, 19 I&N Dec. 450 (BIA 1987)).

By itself, the director's realization that a petition was incorrectly approved is good and sufficient cause for the revocation of the approval of an immigrant petition. *Matter of Ho*, 19 I&N Dec. at 590. The approval of a visa petition vests no rights in the beneficiary of the petition, as approval of a

visa petition is but a preliminary step in the visa application process. *Id.* at 589. The beneficiary is not, by mere approval of the petition, entitled to an immigrant visa. *Id.*

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.

The regulation at 8 C.F.R. § 204.5(h)(5) provides:

No offer of employment required. Neither an offer for employment in the United States nor a labor certification is required for this classification; however, the petition must be accompanied by clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States.

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); *see also* section § 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(3). 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. 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien’s sustained acclaim and the recognition of his or his achievements in the field. Such acclaim must be established either through evidence of a one-time achievement (that is, a major, internationally recognized award) or through the submission of qualifying evidence under at least three of the ten categories of evidence listed under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In 2010, the U.S. Court of Appeals for the 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 the 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." *Kazarian*, 596 F.3d 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)." *Kazarian*, 596 F.3d at 1122 (citing to 8 C.F.R. § 204.5(h)(3)).

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 this case, the AAO will review the evidence under the plain language requirements of each relevant criterion. As the petitioner did not submit qualifying evidence of at least three of the ten criteria, the proper conclusion is that the petitioner has failed to satisfy the regulatory requirement of presenting three types of evidence. *Kazarian*, 596 F.3d at 1122.

II. ANALYSIS

A. Intent to Continue Work in the Area of Expertise

While counsel is correct that the classification sought does not require a job offer, it is an employment-based classification that requires that the alien seek to enter the United States to continue working in her area of expertise. Section 203(b)(1)(A)(ii) of the Act. It is "by virtue of such work" that aliens under this classification will substantially benefit prospectively the United States as envisioned under section 203(b)(1)(A)(iii) of the Act. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). Congress did not intend for aliens of extraordinary ability to immigrate to the United States and remain idle. 56 Fed. Reg. 30703, 30704 (July 5, 1991). The regulation at 8 C.F.R. § 204.5(h)(5) sets forth the evidence required to show that the alien seeks to enter the United States to continue working in her area of expertise. While neither the statute nor the regulations specify that the employment must be full-time, minimal hours of employment as a hobby or incidental to the alien's primary source of income does not substantially benefit prospectively the United States.

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 (vi).

When counsel initially filed the visa petition, he contended that the petitioner “is an excellent candidate for the U.S. Olympic of the Women Hockey field team as a coach also in the track and field which she coached before if her petition is granted.” On appeal, counsel asserts that the petitioner “has the intent to coach and participate in tournaments.” In support of his assertion, counsel has submitted: (1) documents showing that [REDACTED] a team that the petitioner has coached, entered the California Cup, an international field hockey tournament, held in May 2011; (2) pictures relating to the petitioner coaching the East Wild Cats, another Hockey Sports Club’s team; (3) a copy of the petitioner’s USA Field Hockey basic coach membership card, valid until July 2011; (4) a September 15, 2010 letter from [REDACTED] stating that the petitioner has been hired as a coach since 2006 and works with the team Wild Cats; (5) a Wide Cats’ weekly practice schedule for an unspecified period; (6) an Internal Revenue Service (IRS) Miscellaneous Income, Form 1099-MISC, showing that the Hockey Sports Club paid the petitioner \$7,216.00 in 2009; and (7) documents relating to the petitioner’s educational and coaching experience in the former Soviet Union.

Based on the evidence in the record, the AAO finds that the petitioner has not shown her intent to continue working as a player in the sport of field hockey. See section 203(b)(1)(A)(ii) of the Act. Indeed, the record shows that the petitioner has not competed as an athlete since the early 1990s, before her arrival in the United States in 1999.

Similarly, based on the evidence in the record, the AAO finds that the petitioner has not shown her intent to continue working as a coach in the sport of field hockey. The AAO concurs with the director’s finding that there is no evidence in the record showing that when the petitioner filed her visa petition in 2001, she had any intention to work as a coach. Indeed, there is no evidence showing that the petitioner either worked or intended to work as a coach in the United States before 2006, five years after she filed the petition and over a year after she filed an Application to Register Permanent Resident or Adjust Status (Form I-485). Moreover, as the director pointed out in the September 10, 2010 NOIR, in September 2005, the petitioner signed a Memorandum Record of Interview, admitting that she had not worked as a field hockey coach since her arrival to the United States in 1999 and stating that she was working as a seamstress. On appeal, the petitioner has submitted no evidence that contradicts this admission.

Furthermore, the director noted in the October 19, 2010 NOR that the petitioner has provided inconsistent evidence as to her employment. Specifically, she submitted a September 15, 2010 letter from Hockey Sports Club’s [REDACTED] stating that she had begun working as a field hockey coach at the Hockey Sports Club in 2006; yet, the petitioner claimed during a June 25, 2010 telephone conversation with a USCIS officer that she had begun working at the Hockey Club in 2009, not 2006. The petitioner has provided inconsistent evidence and “it is incumbent upon the petitioner to resolve the inconsistencies by independent objective evidence. Attempts to explain or reconcile the conflicting accounts [or evidence], absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice.” *Matter of Ho*, 19 I&N Dec. at 591-92. Although the petitioner has filed a 2009 IRS Miscellaneous Income Form and documents relating to her part-time

involvement with the Hockey Sports Club, the petitioner has provided no evidence explaining or reconciling the inconsistent evidence on her employment.

Accordingly, based on the evidence in the record, the AAO affirms the director's revocation of the approval of the petition on the ground that the petitioner has not shown her intent to continue working as a field hockey player or coach in the United States beyond a few hours incidental to her main source of income. *See* subsections (ii) and (iii) of section 203(b)(1)(A) of the Act.

B. Evidentiary Criteria²

Even if the AAO found that the petitioner intended to work as a field hockey coach, a field hockey player and a coach, while certainly sharing knowledge of field hockey, rely on very different sets of basic skills. Thus, competitive athletics and coaching are not the same area of expertise. This interpretation has been upheld in Federal Court. In *Lee v. I.N.S.*, 237 F. Supp. 2d 914 (N.D. Ill. 2002), the court stated:

It is reasonable to interpret continuing to work in one's "area of extraordinary ability" as working in the same profession in which one has extraordinary ability, not necessarily in any profession in that field. For example, [the petitioner's] extraordinary ability as a baseball player does not imply that he also has extraordinary ability in all positions or professions in the baseball industry such as a manager, umpire or coach.

Id. at 918. The court noted a consistent history in this area. The AAO will, in limited cases, consider whether coaching is within an athlete's area of expertise where the alien has recent acclaim as an athlete. The petitioner in this matter, however, did not have recent acclaim as an athlete, even in 2001 when she filed the petition. Thus, she must demonstrate that she satisfies the regulatory requirements through achievements as a coach.

As discussed below, the evidence in the record does not establish that the petitioner meets at least three of the ten criteria under the regulation at 8 C.F.R. § 204.5(h)(3) as a coach or even as an athlete. As such, the AAO finds that the petitioner has not demonstrated that she is one of the small percentage who are at the very top of the sport of field hockey and she has not shown sustained national or international acclaim. *See* 8 C.F.R. §§ 204.5(h)(2), (3). Thus, had the AAO withdrawn the director's basis for revocation, the AAO would have had to remand the matter for a new NOIR based on the following issues.

² The petitioner does not claim or submit evidence showing that the petitioner meets the regulatory categories of evidence not discussed in this decision.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

The record contains no evidence of awards issued to the petitioner for her coaching ability. When counsel initially filed the visa petition on April 13, 2001, he asserted that the petitioner meets the prizes or awards for excellence criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(i), because she won a number of tournaments and awards from 1979 to the early 1990s. He submitted evidence showing that (1) the Secretary of Tashkent's Regional Committee's "LKSM" of Uzbekistan presented to the petitioner a Honorary Deed in 1979, recognizing her as the "best protector on the Soviet Grass Hockey Tournament [redacted]"; (2) the President [redacted] presented to the petitioner a Deed Reward in 1983, stating that she had won the second place in the "Armenian Society's DSO [redacted] for trade-union-Komsomol Spring track and field athletic"; (3) the Armenian SSR State Committee for Physical Culture and Sports presented to the petitioner a Reward in 1987, stating that she had won the first place in the "Armenian Grass Hockey Championship among women teams"; (4) [redacted] of [redacted] presented a Reward in 1988 to the petitioner as "the best player and for active Sport's [sic] propaganda among young people of Zellin region"; and (5) the Armenian SSR Committee for Physical Culture and Sports presented to the petitioner a Reward in 1989, stating that she had won the second place in the "Armenian 12-th Spartakiada of DSO Grass Hockey among women teams." Counsel also provided an April 3, 2001 letter from [redacted] Executive Secretary of Hockey Federation of Armenia, stating that the petitioner "participated in Female champions of Republic of Armenia, Female Champions of Cup Tournaments from 1984 to 1999." He also stated that the petitioner had "headed the Female Champions of the First League of USSR from 1986 to 1991 and the meetings of Champions of Cup Tournaments from 1986 to 1991."

Notwithstanding the petitioner's evidence, the AAO finds that she has not met this criterion because there is no evidence in the record indicating that any of the awards constitute lesser nationally or internationally recognized prizes or awards for excellence in the sport of field hockey. Specifically, the petitioner has provided no evidence on the eligibility, nomination or selection process for any of the rewards. The petitioner has also provided no evidence on the reputation or prestige of the entities that presented the petitioner with the awards. Moreover, the certifications of awards have not been properly translated as required under the regulation at 8 C.F.R. § 103.2(b)(3), which provides that "[a]ny document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English." In short, based on the evidence in the record, the AAO cannot find that the petitioner has presented documentation of her receipt of lesser nationally or internationally recognized prizes or awards for excellence in the sport of field hockey. The petitioner has not met this criterion as a coach or even as an athlete. See 8 C.F.R. § 204.5(h)(3)(i).

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. 8 C.F.R. § 204.5(h)(3)(ii).

On appeal, counsel presents the petitioner's USA Field Hockey basic coach membership card, valid from July 2010 to July 2011. This membership postdates the filing of the petition by nine years. Although counsel has not specifically claimed that the petitioner is or was a member in associations that require outstanding achievements as an athlete under the regulation at 8 C.F.R. § 204.5(h)(3)(ii) in his brief filed in support of the visa petition or the instant appeal, the AAO will discuss this criterion based on the evidence in the record, which shows that the petitioner was a player in a number of field hockey teams. Specifically, according to [REDACTED]

[REDACTED] the petitioner was a player "in some top-notch teams of Armenia," including [REDACTED]. The letter further states that "[t]hese teams have taken part in the first and high league competitions of the Soviet Union." Neither the letter nor any other evidence in the record, however, explains the meaning of "first and high league competitions." The letter also states that the petitioner "was a player of the National team of Armenia . . . , in some games she was even the best player," and that the petitioner participated in international competitions.

Notwithstanding the petitioner's evidence, the AAO finds that she has not met this criterion because there is no evidence in the record about the selection process for any of the teams to which the petitioner was a member, the membership requirements for someone to join the USA Field Hockey as a "basic coach" or the reputation or prestige of any of the teams or organizations to which the petitioner was or is a member. The petitioner or counsel's assertions that are not supported by documentary evidence are not sufficient for the purposes of meeting the petitioner's burden of proof. *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)). In short, the AAO has insufficient evidence to find that the petitioner has presented documentation of her 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 the sport of field hockey. The petitioner has not met this criterion as a coach or even as an athlete. *See* 8 C.F.R. § 204.5(h)(3)(ii).

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. 8 C.F.R. § 204.5(h)(3)(iii).

Although counsel has not specifically asserted that the petitioner meets the published material about the alien criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(iii) in his brief filed in support of the visa petition or the instant appeal, the AAO will discuss this criterion based on the evidence in the record. Specifically, the petitioner has provided a number of foreign language articles, published in *Hayastani Physculturnic*, between 1979 and 1986, and their English extracts, ranging in length of one to three sentences.

The AAO finds that based on the evidence in the record, the petitioner has not shown that she meets this criterion. First, the articles are not translated according to the requirements stated in the regulation at 8 C.F.R. § 103.2(b)(3). Specifically, the one to three-sentence extracts are not full English translations and none of the extracts were accompanied by the required certification of translation.

Second, as the AAO has not been provided with the full translation of any of the articles, it cannot conclude that any of the articles are about the petitioner. There are six extracts that contain three English sentences, the lengthiest of any other extracts. These six extracts are of (1) a 1985 article, entitled "Protection of Position of Champion," (2) a 1985 article, entitled "Four Marks as Well," (3) a 1985 article, entitled "Strengthening the Positions," (4) a 1986 article, entitled "Hockey on the Grass," (5) a 1980 article that does not have a title in English, and (6) a 1979 article, entitled "Good Premise." One of the extracts of these articles, the extract of the 1979 article, does not mention the petitioner's name. The other five extracts mention the petitioner's name only once. The extracts are therefore insufficient to show that the articles are about the petitioner, relating to her work in the sport of field hockey.

Third, the articles were published in [REDACTED] a foreign language publication, and the petitioner has not shown through her evidence that it is a professional or a major trade publication or it constitutes other major media. There is no evidence in the record showing what type of publication [REDACTED] was when the articles were published, or the readership of the publication during the same period.

Fourth, as required under the regulation at 8 C.F.R. § 204.5(h)(3)(iii), the petitioner must include the author of each article. The petitioner has included the author for none of the articles.

Finally, as suggested by the use of the plural in the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii), the petitioner must show that more than one professional or major trade publication or other major media published material about her relating to her work in the sport of field hockey. The use of the plural is consistent with the statutory requirement for extensive documentation. *See* section 203(b)(1)(A)(i) of the Act. As such, even if the AAO were to conclude that the extracts of articles published in [REDACTED] constitute published material about the petitioner in one professional or major trade publication or other major media, the AAO cannot find that the petitioner had presented published material in another professional or major trade publication or other major media.

In short, the AAO has insufficient evidence to find that the petitioner has presented published material about her in professional or major trade publications or other major media, relating to her work in the sport of field hockey as a coach or even as an athlete. The petitioner has not met this criterion as a coach or even as an athlete. *See* 8 C.F.R. § 204.5(h)(3)(iii).

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. 8 C.F.R. § 204.5(h)(3)(iv).

When counsel initially filed the visa petition, he contended that the petitioner meets the participation as a judge criterion under the regulation at 8 C.F.R. §204.5(h)(3)(iv), because the petitioner participated as a referee for two events in 1998. To corroborate this assertion, the petitioner filed a March 13, 2011 certificate from the Armenian Athletic Federation, certifying that the petitioner "participated as a referee in 'Garnik Ghukasyan Memorial' (16.05.1998) and National Outdoor Championships (26-27.09.1998) on behalf of the Armenian Athletic Federation."

Notwithstanding this evidence, the AAO finds that the petitioner has not met this criterion, because there is no evidence in the record on either the "Garnik Ghukasyan Memorial" or the "National Outdoor Champions." Specifically, based on the evidence the petitioner has submitted, the AAO cannot conclude that either of the two events was a field hockey event. Moreover, as the petitioner has not provided evidence relating to her role as a referee, the AAO cannot conclude that the role of a referee in either events is the same or substantially similar to that of a judge.

In short, the AAO has insufficient evidence to find that the petitioner has presented evidence of her 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 petitioner has not met this criterion. See 8 C.F.R. § 204.5(h)(3)(iv).

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

Although counsel has not specifically claimed that the petitioner meets the leading or critical role criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(viii) in his brief filed in support of the visa petition or the instant appeal, the AAO will discuss this criterion based on the evidence in the record. Specifically, the petitioner has provided an undated letter from [REDACTED] stating that the petitioner was a member of the Armenian national team, who participated in international competitions and who had been named the best player in some games. [REDACTED]

[REDACTED] certifies that the petitioner worked at the school as "a coach" from September 1, 1998 through March 31, 1999. Counsel has also submitted documents relating to the petitioner's participation and results in competitions, and filed evidence that the petitioner has been employed as a coach for the Hockey Sports Club in California since 2006, well after the petitioner filed the instant petition.

Notwithstanding the evidence provided, the AAO finds that the petitioner has not met this criterion, because there is no evidence in the record showing that a national team player who had been named the best player in some competitions constitutes someone who had performed a leading or critical role for the team. The record also lacks evidence showing that the Armenian field hockey national

team is an organization or establishment that has a distinguished reputation. Specifically, the petitioner has not provided any information on the selection process or the reputation or prestige of the national team, such that it could be considered as having a distinguished reputation. The AAO will not infer such a reputation from the inclusion of the word “national” in the name of the team; it is the petitioner’s burden to meet each of the evidentiary requirements within a criterion. Finally, her role on these teams was as an athlete, not a coach, the area in which she claimed she would work.

The record also contains no evidence as to how the petitioner’s role as a coach at the Youth and Junior Athletics Sport School fit within the overall hierarchy of the school such that it could be considered a leading role or how she contributed to the overall success of the school such that she could be said to have played a critical role for the school as a whole. The record also lacks evidence establishing the reputation of the school. Once again, the AAO will not infer the reputation of the school from the inclusion of “Olympic Reserve” in the name of the school.

In addition, although the petitioner has been a coach for the Hockey Sports Club in California since 2006, the petitioner must establish her eligibility as of the date of filing in 2001. *See* 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg’l Comm’r 1971). The evidence does not establish the number of coaches the Hockey Sports Club has hired or the hierarchy of the organization. As such, the AAO lacks sufficient evidence to conclude that the petitioner has performed either a leading or critical role in the organization. Moreover, the record does not establish that the Hockey Sports Club is an organization or establishment with a distinguished reputation.

Finally, as suggested by the use of the plural in the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii), the petitioner must show that she has performed a leading or critical role for more than one organization or establishment that has a distinguished reputation. The use of the plural is consistent with the statutory requirement for extensive documentation. Section 203(b)(1)(A)(i) of the Act. The petitioner has not made such a showing.

In short, the AAO has insufficient evidence to find that the petitioner has performed in a leading or critical role as a coach or even as an athlete for organizations or establishments that have a distinguished reputation. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(viii).

C. Summary

First, the petitioner has failed to establish through clear evidence her intent to continue to work as a field hockey player or coach in the United States, as required under the regulation at 8 C.F.R. § 204.5(h)(5). Second, the petitioner has failed to satisfy the antecedent regulatory requirement of three types of evidence either as a coach or even as an athlete, as required under the regulation at 8 C.F.R. § 204.5(h)(3).

III. CONCLUSION

The AAO affirms the director's revocation of the approval of the petition on the ground that the petitioner has not shown her intent to continue to work in the area of expertise in the United States. Moreover, the AAO concludes that the documentation the petitioner has submitted in support of a claim of extraordinary ability does not clearly demonstrate that she has achieved sustained national or international acclaim and is one of the small percentage who have risen to the very top of the field of endeavor. While the AAO concludes that the evidence of the petitioner's achievements, much of which predates the filing of the petition by several years, is not indicative of a level of expertise consistent with the small percentage at the very top of the field or sustained national or international acclaim in 2001, the AAO need not explain that conclusion in a final merits determination.³ Rather, the proper conclusion is that the petitioner has failed to satisfy the antecedent regulatory requirement of presenting three types of evidence. *Kazarian*, 596 F.3d at 1122.

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.

³ The AAO maintains *de novo* review of all questions of fact and law. *See Soltane v. Dep't of Justice*, 381 F.3d 143, 145 (3d Cir. 2004). In any future proceeding, the AAO maintains the jurisdiction to conduct a final merits determination as the office that made the last decision in this matter. 8 C.F.R. § 103.5(a)(1)(ii); *see also* INA §§ 103(a)(1), 204(b); DHS Delegation Number 0150.1 (effective March 1, 2003); 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (2003); *Matter of Aurelio*, 19 I&N Dec. 458, 460 (BIA 1987) (holding that legacy INS, now USCIS, is the sole authority with the jurisdiction to decide visa petitions).