

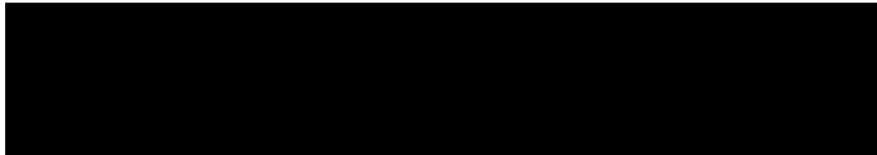
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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Services

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FILE: [Redacted]

Office: NEBRASKA SERVICE CENTER

Date:

SEP 13 2010

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Alien Worker as Outstanding Professor or Researcher Pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

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 \$585. 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, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is an institution of higher education. It seeks to classify the beneficiary as an outstanding professor pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B). The petitioner seeks to employ the beneficiary permanently in the United States as an assistant professor. The director determined that the petitioner had not established that the beneficiary had attained the outstanding level of achievement required for classification as an outstanding researcher.

On appeal, the petitioner submits a statement from the beneficiary and evidence, most of which is already part of the record of proceeding. For the reasons discussed below, we uphold the director's ultimate conclusion that the petitioner has not established the beneficiary's eligibility for the classification sought. We note that the beneficiary is also the beneficiary of an approved Form I-140 petition filed by the petitioner in 2007 classifying the beneficiary as a member of the professions holding an advanced degree pursuant to section 203(b)(2) of the Act. This decision is without prejudice to the approval of the previous petition.

As will be discussed below, when we simply "count" the evidence submitted, the petitioner has submitted qualifying evidence under two of the regulatory criteria as required, judging the work of others and scholarly articles pursuant to 8 C.F.R. §§ 204.5(i)(3)(i)(D) and (F). As explained in our final merits determination, however, much of the evidence that technically qualifies under these criteria reflects routine duties or accomplishments in the field that do not, as of the date of filing, set the beneficiary apart in the academic community through eminence and distinction based on international recognition, the ultimate purpose of the regulatory categories of evidence.¹ *Employment-Based Immigrants*, 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991) (enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)).

At the outset, we note that while the petitioner filed the appeal, an attorney claiming to be the attorney of record prepared the original petition. The petitioner, however, did not sign any of the Form G-28, Notices of Entry of Appearance as Attorney or Representative; rather the beneficiary signed all copies in the record of proceeding. The regulation at 8 C.F.R. § 292.4(a) (1994) provides:

An appearance shall be filed on the appropriate form by the attorney or representative appearing in each case. During Immigration Judge or Board proceedings, withdrawal and/or substitution of counsel is permitted only in accordance with Sec. 3.16 and 3.36 respectively. During proceedings before the Service, substitution may be permitted upon the written withdrawal of the attorney or representative of record, or upon notification of the new attorney or representative. When an appearance is made by a person acting in a

¹ The legal authority for this two-step analysis will be discussed at length below.

representative capacity, his or her personal appearance or signature shall constitute a representation that under the provisions of this chapter he or she is authorized and qualified to represent. Further proof of authority to act in a representative capacity may be required. *A notice of appearance entered in application or petition proceedings must be signed by the applicant or petitioner to authorize representation in order for the appearance to be recognized by the Service.*

(Emphasis added.) The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

As the record does not contain a Form G-28 signed by the affected party in this matter, the petitioner, the appeal will be adjudicated as self-represented and the decision will only be sent to the petitioner. As the petitioner signed and submitted the Form I-290B Notice of Appeal or Motion with no reference to any representation, we will not reject the appeal or request a Form G-28 signed by the attorney pursuant to 8 C.F.R. § 103.3(a)(2)(v)(2). That said, we will consider the cover letters prepared by the attorney for the initial submission and in response to the request for additional evidence.

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):

* * *

(B) Outstanding professors and researchers. -- An alien is described in this subparagraph if --

- (i) the alien is recognized internationally as outstanding in a specific academic area,
- (ii) the alien has at least 3 years of experience in teaching or research in the academic area, and
- (iii) the alien seeks to enter the United States --

(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

The regulation at 8 C.F.R. § 204.5(i)(3) states that a petition for an outstanding professor or researcher must be accompanied by:

(ii) Evidence that the alien has at least three years of experience in teaching and/or research in the academic field. Experience in teaching or research while working on an advanced degree will only be acceptable if the alien has acquired the degree, and if the teaching duties were such that he or she had full responsibility for the class taught or if the research conducted toward the degree has been recognized within the academic field as outstanding. Evidence of teaching and/or research experience shall be in the form of letter(s) from current or former employer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien.

This petition was filed on October 15, 2008 to classify the beneficiary as an outstanding researcher in the field of foreign language education. Therefore, the petitioner must establish that the beneficiary had at least three years of teaching and or research experience in the field as of that date, and that the beneficiary's work has been recognized internationally within the field as outstanding. At issue is whether the beneficiary's work has been recognized internationally within the field as outstanding.

The regulation at 8 C.F.R. § 204.5(i)(3)(i) states that a petition for an outstanding professor or researcher must be accompanied by "[e]vidence that the professor or researcher is recognized internationally as outstanding in the academic field specified in the petition." The regulation lists the following six criteria, of which the beneficiary must submit evidence qualifying under at least two.

(A) Documentation of the alien's receipt of major prizes or awards for outstanding achievement in the academic field;

(B) Documentation of the alien's membership in associations in the academic field which require outstanding achievements of their members;

(C) Published material in professional publications written by others about the alien's work in the academic field. Such material shall include the title, date, and author of the material, and any necessary translation;

(D) Evidence of the alien's participation, either individually or on a panel, as the judge of the work of others in the same or an allied academic field;

(E) Evidence of the alien's original scientific or scholarly research contributions to the academic field; or

(F) Evidence of the alien's authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field.

In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under a similar classification set forth at section 203(b)(1)(A) of the Act. *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. With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while U.S. Citizenship and Immigration Services (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.² 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).

² 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) (comparable to 8 C.F.R. § 204.5(i)(3)(i)(D)) and 8 C.F.R. § 204.5(h)(3)(vi) (comparable to 8 C.F.R. § 204.5(i)(3)(i)(F)).

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.³ While involving a different classification than the one at issue in this matter, the similarity of the two classifications makes the court's reasoning persuasive to the classification sought in this matter. 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 8 C.F.R. 103.3(a)(1)(iv); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003) (recognizing the AAO's *de novo* authority).

II. Analysis

A. Evidentiary Criteria⁴

Documentation of the alien's membership in associations in the academic field which require outstanding achievements of their members

Neither the attorney nor the petitioner has ever claimed that the petitioner was submitting evidence relating to 8 C.F.R. § 204.5(i)(3)(i)(B). That said, we acknowledge that the petitioner submitted evidence that the beneficiary is a member of the [REDACTED]. The record, however, does not contain the membership requirements for this association. Thus, the petitioner has not submitted the required initial evidence under 8 C.F.R. § 204.5(i)(3)(i)(B).

Evidence of the alien's participation, either individually or on a panel, as the judge of the work of others in the same or an allied academic field

The petitioner submitted a letter from [REDACTED] asserting that the beneficiary served as a reviewer for the [REDACTED]. The International Association for Research on Service-Learning and Community Engagement, a non-profit organization devoted to promoting research and discussion about service-learning and community engagement, organized the conference. In addition, [REDACTED], Director of the petitioner's [REDACTED], asserts that the beneficiary served as a reviewer for a similar conference in [REDACTED]. The beneficiary's academic field, however, is foreign language education. The

³ The classification at issue in *Kazarian*, section 203(b)(1)(A) of the Act, requires qualifying evidence under three criteria whereas the classification at issue in this matter, section 203(b)(1)(B) of the Act, requires qualifying evidence under only two criteria.

⁴ The petitioner does not claim to meet or submit evidence relating to the regulatory categories of evidence not discussed in this decision.

petitioner has not established that these reviewing duties involved judging the work of others in the same or allied academic field.

Nevertheless, the petitioner also submitted a letter from [REDACTED], Business Development/Product Manager for [REDACTED], confirming that the beneficiary served as a reviewer for [REDACTED]. This evidence qualifies under the plain language of the criterion set forth at 8 C.F.R. § 204.5(i)(3)(i)(D).

Evidence of the alien's original scientific or scholarly research contributions to the academic field.

The plain language of the regulation at 8 C.F.R. § 204.5(i)(3)(i)(E) does not require that the beneficiary's contributions themselves be internationally recognized as outstanding. That said, the plain language of the regulation does not simply require original research, but an original "research contribution." Had the regulation contemplated merely the submission of original research, it would have said so, and not have included the extra word "contribution." Moreover, the plain language of the regulation requires that the contribution be "to the academic field" rather than an individual institution. We simply note that the regulations include a separate criterion for scholarly articles at 8 C.F.R. § 204.5(i)(3)(i)(F). If the regulations are to be interpreted with any logic, it must be presumed that the regulation views contributions as a separate evidentiary requirement from scholarly articles.

The petitioner submitted evidence of the beneficiary's authorship of two articles. In addition, the beneficiary presented his work at five conferences. As noted by the director, the petitioner did not submit any evidence that the beneficiary's articles and presentations have been cited or otherwise acknowledged in the field. On appeal, the beneficiary asserts that his field is minimally cited and that his articles and presentations were recent. The beneficiary submits evidence that his articles and presentations are listed on *Google Scholar*, which the beneficiary asserts is indicative of international recognition. The record contains no evidence that foreign language education is a field that garners minimal citation.

Even assuming articles in this field are rarely cited, it is still the petitioner's burden to demonstrate that the beneficiary's articles and presentations constitute original contributions to the field as a whole. While publication in a prestigious peer-reviewed journal demonstrates that the editors and peer reviewers felt that the article warranted exposure in a journal, it does not, by itself, demonstrate that the article ultimately contributed to the field as a whole. While evidence other than citations might be able to demonstrate that the published work did contribute to the field as a whole, it is the petitioner's burden to submit such evidence. Mere inclusion on an Internet database such as *Google Scholar* that includes the vast majority of all published scholarly articles is insufficient.

On appeal, the petitioner submits evidence that the beneficiary participated in the Veterans History Project as an interviewer and member of the Volunteer Corps. While commendable, the petitioner has

not demonstrated how this volunteer work relates to the beneficiary's academic field of foreign language education.

Finally, we acknowledge that the petitioner submitted several reference letters supporting the petition. Dr. [REDACTED], a member of the beneficiary's Ph.D. dissertation committee at [REDACTED], discusses the beneficiary's work at [REDACTED]. Dr. [REDACTED] explains that, while previous research compared college-level native English speakers' writing with that of speakers of other language, there had been no investigations comparing primary and secondary school students writing in English and Chinese prior to the beneficiary's investigation. Dr. [REDACTED] further explains that in performing this comparison, the beneficiary "demonstrated that neither a deductive nor an inductive pattern – believed to be dominant in respective student groups' writing – clearly described placement of the thesis statement in their actual writing patterns." Dr. [REDACTED] concludes that the significance of this work is that there will now be attention on the placement of thesis statements in writing and instructional strategies for Chinese speaking students learning English. Dr. [REDACTED] does not provide examples of teaching guidelines that have been amended to reflect the beneficiary's results or other evidence of the impact of the beneficiary's work.

Dr. [REDACTED] further asserts that the beneficiary presented a study on rhetorical patterns in Chinese and American students' cross-cultural writing at a prestigious conference at [REDACTED]. Dr. [REDACTED] asserts that the presentation was favorably received and has the potential for the development of less commonly taught languages such as Chinese. Dr. [REDACTED] does not explain how this presentation has already influenced the field at a level consistent with a contribution to the field.

Dr. [REDACTED], an associate professor at [REDACTED], asserts that he has known the beneficiary since 2005 through the [REDACTED]. Dr. [REDACTED] explains that he is the director of the Chinese Program and the Language Leader. Dr. [REDACTED] asserts that the beneficiary was invited to join the project and became one of the main instructors in 2007. Dr. [REDACTED] discusses the beneficiary's involvement with the consortium but does not explain how it constitutes a contribution to the field.

Dr. [REDACTED] next asserts that the beneficiary's "highly significant contribution to the field of Chinese foreign language instruction is that he successful[ly] developed an academic curriculum for study abroad using the Strategic Language Initiative (SLI) program as a model curriculum." Dr. [REDACTED] does not explain how developing curriculum using the SLI program as a model is "original." Dr. [REDACTED] continues that the beneficiary "was the first to combine students' language oral and listening proficiency, and portfolio writing competencies with personal career choices related to Chinese and China." Dr. [REDACTED] suggests that this analysis resulted in improved scores on standardized tests in Chinese and Oral Proficiency Interviews and enhanced the students' career choices after their study abroad program in China. Dr. [REDACTED] states that the beneficiary presented his experiences with SLI to the consortium.

Dr. [REDACTED] concludes that the beneficiary's "successful foreign language curriculum development has become an instructional model sustained by the 14,773 enrollments at approximately total 700

colleges/universities in the U.S.” The director concluded that the record contained no evidence substantiating this claim. On appeal, the petitioner asserts that this information comes from the website [REDACTED] and an article by [REDACTED], posted at [REDACTED]. The first website makes no reference to enrollment figures. The article referenced by the petitioner on appeal indicates that there were 14,773 Chinese language course undergraduate enrollments on the Pacific coast in 2006, but does not support Dr. [REDACTED]’s implication that the beneficiary’s curriculum is the model used for these students.

Dr. [REDACTED], a professor of Japanese at the petitioning university, asserts that he coauthored an article with the beneficiary in 2007. Dr. [REDACTED] explains that the article studied the motivations of those who choose to study less commonly taught languages and asserts that the beneficiary “proposed new appropriate goals and objectives in the curriculums [sic], individualized for each program.” Specifically, Dr. [REDACTED] asserts that the beneficiary addressed “heritage learners” who speak the language at home but have little knowledge of the culture or writing proficiency. The beneficiary noted that traditional teaching approaches and materials cannot meet the needs of these heritage learners and proposed “community service learning” in which the beneficiary interviews senior Chinese speakers to heighten their sense of ethnic identity. Dr. [REDACTED] does not suggest that the beneficiary’s proposed goals and objectives have been adopted. Moreover, it is not clear how the beneficiary’s volunteer services with senior Chinese speakers are relevant to improving Chinese-language curricula in the education system.

Dr. [REDACTED], Chair of the Department of Modern Languages and Literatures at the petitioning university, asserts that the beneficiary was uniquely qualified for the position for which he was hired. The issue of whether similarly-trained workers are available in the United States is an issue under the jurisdiction of the Department of Labor. *New York State Dep’t of Transp.*, 22 I&N Dec. 215, 221 (Reg’l. Comm’r. 1998). In fact, the petitioner sought and received an alien employment certification from the Department of Labor and filed a visa petition in behalf of the beneficiary under section 203(b)(2) of the Act, LIN-07-243-50656, which the director approved. Dr. [REDACTED] then discusses the beneficiary’s presentations and articles, affirming their significance generally without providing examples of their influence in the field.

Dr. [REDACTED], a professor of Slavic languages at [REDACTED] and Editor of the [REDACTED] [REDACTED] notes that the beneficiary published an article in that journal, a peer-reviewed journal that has a 35 percent acceptance rate. We reiterate that the publication of scholarly articles is a separate evidentiary requirement under 8 C.F.R. § 204.5(i)(3)(i)(F). Peer review is routine for scholarly articles; not every peer reviewed article is a contribution to the field as a whole. Dr. [REDACTED] discusses the importance of increasing education of languages such as Chinese, but does not explain how the beneficiary’s article or other work has already contributed to this goal at a level consistent with a contribution to the field as a whole.

⁵ As the petitioner specifically referred the AAO to these websites, we accessed them on August 26, 2010 and incorporated them into the record of proceeding.

Dr. [REDACTED], a professor at [REDACTED], affirms having attended the beneficiary's presentations. Dr. [REDACTED] states:

[The beneficiary's] research focused on how computer-assisted learning technology facilitates Chinese learners' contact with the target culture. His work is important because it has a significant impact on the field.

The above reasoning is entirely circular and does not explain how the beneficiary's work has influenced the field. Dr. [REDACTED] continues:

There is very little discussion of the upper-division language teaching and learning associated with participation in a media technology way program, compared to [a] lower-level language media-literacy program. [The beneficiary's] research filled this void by investigating how much and what kind of advance Chinese learners make literacy practices of PowerPoint and Video. [The beneficiary's] research gave great new insights into how the videodisk made by students can bring the face-to-face interaction in [the] classroom.

Once again, however, Dr. [REDACTED] fails to provide specific examples of the application of this work in the field other than to affirm that the beneficiary received a positive response from the audience.

The opinions of experts in the field are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as we have done above, evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l. Comm'r. 1972)).

The letters considered above primarily contain bare assertions of widespread recognition and vague claims of contributions without specifically identifying contributions and providing specific examples of how those contributions have influenced the field. Merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof.⁶ The independent letters do

⁶ *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, 1997 WL 188942 at *5 (S.D.N.Y.). Similarly, USCIS need not accept

not suggest the authors have applied the beneficiary's work. The petitioner also failed to submit corroborating evidence in existence prior to the preparation of the petition, which could have bolstered the weight of the reference letters.⁷

In light of the above, the petitioner has not submitted qualifying evidence that meets the plain language requirements of the regulation at 8 C.F.R. § 204.5(i)(3)(i)(E).

Evidence of the alien's authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field.

As stated above, the petitioner submitted several articles authored by the beneficiary. Thus, the petitioner has submitted evidence that qualifies under 8 C.F.R. § 204.5(i)(3)(F).

In light of the above, the petitioner has submitted evidence that meets two of the criteria that must be satisfied to establish the minimum eligibility requirements for this classification. Specifically the petitioner submitted evidence to meet the criteria set forth at 8 C.F.R. §§ 204.5(i)(3)(i)(D) and (F). The next step, however, is a final merits determination that considers whether the evidence is consistent with the statutory standard in this matter, international recognition as outstanding. Section 203(b)(1)(B)(i) of the Act.

B. Final Merits Determination

It is important to note at the outset that the controlling purpose of the regulation is to establish international recognition, and any evidence submitted to meet these criteria must therefore be to some extent indicative of international recognition. More specifically, outstanding professors and researchers should stand apart in the academic community through eminence and distinction based on international recognition. The regulation at issue provides criteria to be used in evaluating whether a professor or researcher is deemed outstanding. *Employment-Based Immigrants*, 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991) (enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)).

The nature of the beneficiary's judging experience is a relevant consideration as to whether the evidence is indicative of the beneficiary's recognition beyond his own circle of collaborators. *See Kazarian*, 596 F. 3d at 1122. The petitioner has not established that a single instance of review for a Chinese textbook series of unknown distribution is indicative of or consistent with national or international acclaim.

primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

⁷ The introduction of corroborative testimonial and documentary evidence is not only encouraged but required, where available." *Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000). If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

Regarding the beneficiary's original research, as stated above, it does not appear to rise to the level of a contribution to the academic field as a whole. While the beneficiary's work may be original, demonstrating that the beneficiary's work was "original" in that it did not merely duplicate prior research is not useful in setting the beneficiary apart in the academic community through eminence and distinction based on international recognition. 56 Fed. Reg. at 30705. Research work that is unoriginal would be unlikely to secure the beneficiary a master's degree, let alone classification as an outstanding researcher. To argue that all original research is, by definition, "outstanding" is to weaken that adjective beyond any useful meaning, and to presume that most research is "unoriginal."

While the beneficiary has published articles, the Department of Labor's Occupational Outlook Handbook, 2008-2009 (accessed at www.bls.gov/oco on August 26, 2010 and incorporated into the record of proceedings), provides information about the nature of employment as a postsecondary teacher (professor) and the requirements for such a position. See www.bls.gov/oco/ocos066.htm. The handbook expressly states that faculty members are pressured to perform research and publish their work and that the professor's research record is a consideration for tenure. Moreover, the doctoral programs training students for faculty positions require a dissertation, or written report on original research. *Id.* This information reveals that original published research, whether arising from research at a university or private employer, does not set the researcher apart from faculty in that researcher's field.

Moreover, the beneficiary's citation history is a relevant consideration as to whether the evidence is indicative of the beneficiary's recognition beyond his own circle of collaborators. See *Kazarian*, 596 F. 3d at 1122. The record contains no evidence that the beneficiary's articles have been cited or other comparable evidence that demonstrates the beneficiary's publication record is consistent with international recognition.

In light of the above, our final merits determination reveals that the beneficiary's qualifying evidence, participating in a single text book review and publishing articles that have not garnered any citations or other response in the academic field, does not set the beneficiary apart in the academic community through eminence and distinction based on international recognition. 56 Fed. Reg. at 30705.

III. Conclusion

The petitioner has shown that the beneficiary is a talented and prolific researcher, who has won the respect of his collaborators, employers, and mentors, while securing some degree of international exposure for his work. The record, however, stops short of elevating the beneficiary to the level of an alien who is internationally recognized as an outstanding researcher or professor. Therefore, the petitioner has not established that the beneficiary is qualified for the benefit sought.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.