



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **MAR 19 2014** Office: NEBRASKA SERVICE CENTER

IN RE: Petitioner:  
Beneficiary:

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)

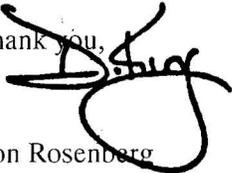
ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

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

The petitioner is a department, division, or institute of a nonprofit employer.<sup>1</sup> It seeks to classify the beneficiary as an outstanding researcher 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 a Clinical Research Associate. The director determined that the petitioner has not established that the beneficiary has attained the level of achievement required for classification as an outstanding researcher.

On appeal, the petitioner asserts that the director failed to consider the evidence on the record in its totality and that the petitioner has provided sufficient evidence for a favorable decision. The petitioner submits a brief in support of the appeal. For the reasons discussed below, the AAO concurs with the director that the petitioner has failed to establish the beneficiary's eligibility for classification as an outstanding researcher.

Specifically, when the AAO simply "counts" 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 will be explained in the 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 the petition, set the beneficiary apart in the academic community through eminence and distinction based on international recognition, the purpose of the regulatory criteria.<sup>2</sup> *Employment-Based Immigrants*, 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991) (enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)).

**I. The 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

<sup>1</sup> The petitioner is affiliated with the [redacted]

<sup>2</sup> The legal authority for this two-step analysis will be discussed at length below.

(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:

(i) Evidence that the professor or researcher is recognized internationally as outstanding in the academic field specified in the petition. Such evidence shall consist of at least two of the following:

(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 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 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.<sup>3</sup> 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," 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." *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.<sup>4</sup> 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*.

## II. Discussion

The sole issue to be addressed is whether the petitioner has demonstrated that the beneficiary's work has been recognized internationally within the field as outstanding.

### A. Evidentiary Criteria

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<sup>3</sup> 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)).

<sup>4</sup> 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.

The petitioner has asserted that the beneficiary qualifies under all six criteria. The director determined that the petitioner submitted qualifying evidence under two of the criteria, 8 C.F.R. §§ 204.5(i)(3)(i)(D) and (F). For the reasons discussed below, the AAO concurs with the director that the petitioner has established that the evidence qualifies under the plain language of the criteria set forth at 8 C.F.R. §§ 204.5(i)(3)(i)(D) and (F).

*Documentation of the alien's receipt of major prizes or awards for outstanding achievement in the academic field*

The director issued a Notice of Intent to Deny (NOID), advising the petitioner that the submitted evidence, including the beneficiary's receipt of a federal grant, his [REDACTED] was insufficient to establish the beneficiary's eligibility for the criterion at 8 C.F.R. § 204.5(i)(3)(i)(A).

In response to the NOID, the petitioner acknowledged the director's finding and stated: "We have no further evidence on this point." The petitioner has abandoned its claim of eligibility under 8 C.F.R. § 204.5(i)(3)(i)(A).

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

As evidence under the criterion at 8 C.F.R. § 204.5(i)(3)(i)(B), the petitioner submitted evidence that the beneficiary is a member of various associations, including the [REDACTED]. The petitioner also submitted evidence that the beneficiary serves on the review board for [REDACTED], and is an associate editor for [REDACTED]. In the denial, the director concluded that the petitioner failed to establish that the associations of which the beneficiary is a member require outstanding achievements of their members. With respect to the beneficiary's service as a reviewer and associate editor for journals, the director concluded that "these are positions/appointments and not memberships in associations in the academic field which require outstanding achievements of their members."

On appeal, the petitioner contests the director's conclusion that being on the review board and being an associate editor of academic journals are not "memberships in associations in the academic field which require outstanding achievements of their members." The petitioner asserts that the director's conclusion is "without authority or justification," but does provide any further explanation. The petitioner submits no additional evidence to establish the beneficiary's eligibility under the criterion at 8 C.F.R. § 204.5(i)(3)(i)(B). Accordingly, the petitioner has abandoned its claim that the beneficiary's memberships in the [REDACTED]

Epidemiologic Research and other associations meet the criterion at 8 C.F.R. § 204.5(i)(3)(i)(B). See *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at \*1, \*9 (E.D.N.Y. Sept. 30, 2011). The only issue the petitioner raises on appeal is whether the beneficiary's inclusion on the review board and board of associate editors of various journals constitutes "memberships in associations in the academic field which require outstanding achievements of their members."

Upon review, the AAO finds that beneficiary's membership on the review board and the board of associate editors for academic journals qualifies as "memberships in associations" under the plain meaning of that term. The AAO will withdraw the director's finding that "these are positions/appointments and not memberships."

Nevertheless, the AAO finds that the petitioner failed to establish that the beneficiary's membership on the boards of [REDACTED] requires outstanding achievements of its members. The petitioner provided a copy of the beneficiary's invitation to become a founding member of the board of associate editors of [REDACTED] which states in pertinent part: "Because you have been an exemplary reviewer for the [REDACTED]; and because of your work as a researcher in the area of health behavior or health policy, I would like to invite you to become a [REDACTED]." This letter states only that the beneficiary was invited to be a founding member of the board of associate editors of [REDACTED] based upon his service as a reviewer for [REDACTED] and because he is "a researcher in the area of health behavior or health policy." This letter falls short of establishing that the beneficiary was invited for membership on the board of associate editors based upon his outstanding achievements. Furthermore, this letter fails to provide any information as to the membership requirements for reviewers for [REDACTED]. The petitioner provided no other evidence relating to the beneficiary's membership in the above boards.

Based on the above, the petitioner has failed to establish eligibility under the criterion at 8 C.F.R. § 204.5(i)(3)(i)(B).

*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*

As evidence under the criterion at 8 C.F.R. § 204.5(i)(3)(i)(C), the petitioner submitted several articles that cite the beneficiary's work as one of numerous footnoted references.

However, articles which merely cite the beneficiary's work as one of numerous footnoted references are primarily "about" the author's own work, and are not primarily "about" the beneficiary's work. As such, they cannot be considered published material "about" the beneficiary's work. The petitioner's evidence fails to establish eligibility under 8 C.F.R. § 204.5(i)(3)(i)(C).

*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 evidence that the beneficiary has participated as a peer reviewer and associate editor for the work of others submitted for publication. The AAO concurs with the director that 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.*

As evidence under this criterion, the petitioner submitted reference letters, copies of the beneficiary's scholarly articles, and copies of articles that cited the beneficiary's work. In the denial, the director determined that the reference letters, alone, were insufficient to establish the beneficiary's eligibility under the criterion at 8 C.F.R. § 204.5(i)(3)(i)(E). The director also determined that the number of citations to the beneficiary's publications in Google Scholar "is not indicative of a demonstrable influence on the field as a whole."

On appeal, the petitioner asserts that the number of citations in [REDACTED] "is not always a fair measure of the contributions in a field." For example, the petitioner points out that the beneficiary's work in the impact of coping styles among pregnant women exposed to Hurricane Katrina, which was included in the National Emergency Management Agency (NEMA) citation library and the [REDACTED], would not be included in [REDACTED]. The petitioner also claims that the director failed to consider the fact that the beneficiary's publications have been cited in six articles authored by independent researchers in different parts of the world, published in scientific journals with international circulation and strong impact factors. Furthermore, the petitioner claims that the director failed to consider the reference letters in their entirety.

Upon review of the record, the AAO concurs with the director that the petitioner failed to establish the beneficiary's eligibility under the criterion at 8 C.F.R. § 204.5(i)(3)(i)(E).

With regard to the beneficiary's scholarly articles, 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 treats contributions as a separate evidentiary requirement from scholarly articles.

In discussing the citations to the beneficiary's work, the petitioner claims that simply counting the number of citations found in [REDACTED] "is not a valid means of evaluating academic research." While the AAO acknowledges that the number of citations is not the sole means of evaluating academic research, it may, however, serve as an objective, reliable indicator of whether the beneficiary's original research constitutes "contributions" to the field, particularly in the absence of other reliable evidence under this criterion. The plain language of the regulation does not simply require original research, but original "research contributions." Had the regulation contemplated merely the submission of original research, it would have said so, and not have included the extra word "contributions." Thus, the petitioner must show that the beneficiary's research has contributed to the field, beyond adding onto the general pool of knowledge and understanding that is expected from *original* research work.

The record does not establish that the beneficiary's citation record is consistent with a contribution to the field as a whole. The petitioner points out that six other researchers have cited the beneficiary's work. However, the petitioner fails to explain how the fact that the beneficiary's work has been cited by six independent researchers establishes that the beneficiary has made a contribution to the academic field as a whole.

The petitioner asserts that [REDACTED] would not include all citations to the beneficiary's research on the impact of coping styles among pregnant women exposed to Hurricane Katrina, which was included in the National Emergency Management Agency (NEMA) citation library and the [REDACTED] publication. The petitioner explains that the NEMA citation library "is meant to 'facilitate and support student and faculty research and supplement classroom lectures and course materials' <http://www.lrc.fema.gov/about.html>." The petitioner further explains that [REDACTED] is "a weekly publication of the World Health Organization in collaboration with San Diego University (<http://www.scripps.edu/wholibrary/>)." However, the petitioner's assertions are unpersuasive and unsupported by objective evidence.<sup>5</sup> The petitioner failed to explain and document whether the beneficiary's work is actually being used in the field based upon its inclusion in NEMA's citation library and the [REDACTED]. The mere inclusion of the beneficiary's work as a potential reference source does not establish that the beneficiary's work has actually been used in the field.<sup>6</sup>

The petitioner submitted reference letters attesting to the beneficiary's research contributions. The AAO will address these letters in depth.

The petitioner submitted a letter from [REDACTED]. [REDACTED] asserts that the beneficiary has made "outstanding contributions to the field of medicine through his remarkable medical research," particularly in Hepatocellular Carcinoma (HCC) research. [REDACTED] discusses how the beneficiary has made two "major findings" from analyzing the 10-year national health records of 240,000 veterans with hepatitis C. The first finding was that "achieving sustained virologic response among patients treated for chronic hepatitis C will reduce incidence of diabetes, which in turn means a reduction in progression to terminal liver problems." [REDACTED] states: "As a result of its novelty, this finding made it to the learning portal of the American Association for the Study of Liver Diseases . . . [and] was also published in *Hepatology*, the most prestigious journal of liver diseases in the world with impact factor of 11.665." The second finding was that "adjunctive use of statins (a class of drugs that help reduce cholesterol production in human liver) as prescribed medication with hepatitis C antiviral therapy improves sustained virologic response among veteran patients." [REDACTED] states that this finding "positively shifts the paradigm in the care of individuals with chronic hepatitis C to save resources in form of money and time expended on the current 48-

<sup>5</sup> The AAO observes that <http://www.lrc.fema.gov/about.html> is not a working website.

<sup>6</sup> Notably, the [REDACTED] website states, in pertinent part:

The purpose of [REDACTED] is to provide its users with information to allow them to identify and find material (of both good and poor quality) that has been published about injury prevention and safety promotion topics. Even when [REDACTED] staff believe that there are methodological errors that affect the research findings or when we disagree with the authors' conclusions and statements of implications, an attempt is made to provide an objective summary of the authors' intent. Material in the 'comments' section of each report's summary is provided by the author(s) of the report -- not by [REDACTED].

[REDACTED] (last visited March 10, 2014).

week regimen. This is currently being utilized, and the benefits being observed among patients treated for chronic hepatitis C here at the [REDACTED] further states that the second finding is “extremely significant, because it will improve our country’s healthcare and save the nation’s financial resources. Other nations will also benefit from this research, because liver diseases are an international threat . . . The results of his findings bear tremendous scientific value, because they ultimately help the humanity [sic].”

While the letter from [REDACTED] indicates that the beneficiary has made two scientific findings, the letter does not explain with specificity how these findings have made contributions to the academic field as a whole. With respect to the first finding, [REDACTED] indicates that it “made it to the learning portal of the American Association for the Study of Liver Diseases . . . [and] was also published in *Hepatology*” based on its “novelty.” The fact that a finding is novel and has been included as a potential reference source in a learning portal, alone, does not establish that the finding constitutes a contribution to the field. With respect to the second finding, Dr. [REDACTED] indicates that it is currently being utilized in the [REDACTED] with observable benefits. However, the letter does not explain whether the beneficiary’s research is being utilized beyond the [REDACTED]. The plain language of the regulation requires that the contributions be “to the academic field” rather than an individual institution or research center. This letter falls short of establishing that the beneficiary’s research findings is being utilized beyond the [REDACTED] to an extent that it can be said to have contributed to the field as a whole. Vague and general assertions that the beneficiary’s research findings will “improve our country’s healthcare” and “ultimately help the humanity” are insufficient to explain and establish how the beneficiary’s research has contributed to the field as a whole.

The petitioner submitted a letter from [REDACTED] [REDACTED] previously collaborated with the beneficiary on a 2004 study conducted among pregnant women in Nigeria to determine factors associated with reproductive health outcomes. In this letter, [REDACTED] indicates that the beneficiary has made “significant contributions to scientific and scholarly field [sic]” through their joint 2004 study. Specifically, [REDACTED] asserts that the beneficiary’s work has contributed to the field because it was published in two peer-reviewed journals and presented at the 3<sup>rd</sup> North American Congress of Epidemiologists. [REDACTED] further asserts that “the Millennium Development Goals, and the U.S. HealthyPeople 2020 goals focus on improving the health and well-being of women, infants, children and families. The realization of this goal, requires researchers such as [the beneficiary], whose passion is so directed.”

[REDACTED] letter does not explain with any specificity how the beneficiary’s research has contributed to the academic field as a whole. The fact that the beneficiary’s research has been published, alone, does not establish that it constitutes a contribution to the field. [REDACTED] vague and general assertion that the beneficiary is helping to realize larger goals focusing on improving the health and well-being of women, infants, children and families is insufficient to explain and establish how the beneficiary’s research has contributed to the field.

The petitioner submitted a letter from [REDACTED] [REDACTED] was the Chair of the committee for the beneficiary’s master’s thesis. [REDACTED] gives a brief introduction to [REDACTED] strong tradition of training public

health leaders, and his own research studies of depression and [redacted] rates among women with high hurricane exposure compared to women without high hurricane exposure. [redacted] then states that he finds “[the beneficiary’s] contribution to our work of immense benefit and national relevance.” In particular, [redacted] explains the beneficiary’s master’s thesis research, for which the beneficiary identified and proposed a model of coping styles that could potentially impact the development of depression and PTSD among pregnant women exposed to stress due to hurricane Katrina. [redacted] explains that, “[a]s a result of the significance of these findings, our leading epidemiologist, [redacted] requested [the beneficiary] to attend one of our meetings so we could discuss his work.” Furthermore, [redacted] states that the beneficiary’s study “provides useful information for psychiatrists, psychologists, other medical and behavioral science professionals [which] will definitely improve the healthcare of United States [sic].” [redacted] states his belief that “the economic burden on the nation will be lower via adoption of these coping styles by those exposed to hurricanes and other natural disasters.” Finally, [redacted] expresses his excitement for the beneficiary’s broader goal of using similar epidemiological study designs and expertise to help veterans suffering from depression and PTSD.

[redacted] letter does not explain with any specificity how the beneficiary’s research has contributed to the field as a whole. [redacted] indicates that he has found the beneficiary’s research to be of “immense benefit” to his own research, but as discussed above, the plain language of the regulation requires that the contributions be “to the academic field” rather than an individual institution or research center. Furthermore, [redacted] letter indicates that the beneficiary’s research has “national relevance” and “provides useful information for psychiatrists, psychologists, other medical and behavioral science professionals [sic].” However, [redacted] letter does not explain with any specificity how medical professionals are currently utilizing the beneficiary’s research. Vague and general assertions that the beneficiary’s research provides “useful information,” will “improve the healthcare of United States [sic],” or will “help” veterans, are insufficient to explain and establish exactly how the beneficiary’s research has contributed to the field as a whole.

Finally, the petitioner provided a letter from [redacted] [redacted] describes her involvement with the beneficiary in three contexts: when she interviewed him and he discussed his prior master’s thesis research performed in Nigeria; when he worked as a research coordinator for the [redacted] from November 2008 to July 2009; and when she collaborated with the beneficiary on a manuscript examining coping styles and their relationship with mental health after disaster in pregnant women. [redacted] positively describes the beneficiary’s work and performance with respect to the three research projects mentioned above, but does not explain how the beneficiary’s research has contributed to the field as a whole.

The Board of Immigration Appeals (the Board) has held that testimony should not be disregarded simply because it is “self-serving.” See, e.g., *Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The Board also held, however: “We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available.” *Id.* 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).

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").

The letters considered above primarily contain vague and general claims of contributions, without specifically identifying the beneficiary's 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.<sup>7</sup> Considering the letters and the paucity of other evidence under this criterion, the petitioner has failed to establish that the beneficiary's research, while original, can be considered a contribution to the field as a whole.

In light of the above, the petitioner has not submitted evidence that meets the plain language requirements of the criterion 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.*

The petitioner submitted evidence of the beneficiary's authorship of scholarly articles and a scholarly book in the academic field. Thus, the petitioner has submitted evidence that qualifies under the plain language of 8 C.F.R. § 204.5(i)(3)(i)(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 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

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<sup>7</sup> *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 primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

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 international recognition as outstanding. *See Kazarian*, 596 F.3d at 1122. On appeal, the petitioner contests the director's conclusion that the beneficiary's active participation as a reviewer is "expected of a professional in his academic field and alone do not recognize the alien internationally as outstanding in the academic field." The petitioner asserts: "However, this is far from being the truth. Researchers are not judges or reviewers . . . Being a judge or reviewer is an additional honor, awarded to the researchers who are recognized in their academic fields for their achievements."

While it may be generally true that researchers are not judges or reviewers, the AAO cannot overlook the fact that most scientific and scholarly journals are peer reviewed and rely on many individuals to review submitted articles. In fact, the petitioner submitted evidence that the beneficiary is one among 351 reviewers for *A [REDACTED]*. This large number of reviewers is not consistent with a finding that serving as a reviewer is indicative of international recognition as outstanding. Rather, this large number supports the conclusion that peer review is somewhat routine in the field, and not every peer reviewer enjoys international recognition. Without evidence that sets the beneficiary apart from others in his field, such as evidence that he has reviewed manuscripts for a journal that credits a small, elite group of referees, received independent requests from a substantial number of journals, or served in an editorial position for a distinguished journal, the petitioner cannot establish that the beneficiary's judging experience is indicative of or consistent with international recognition. Here, the AAO again observes that the beneficiary was invited to be an associate editor for *[REDACTED]* based on his participation as a reviewer for a sister journal and his "work as a researcher in the area of health behavior or health policy." The petitioner submitted no evidence that the beneficiary was invited to be an associate editor because he has been recognized internationally as outstanding in the field.

On appeal, the petitioner also contests the director's conclusion that the beneficiary's publication record does not reflect "a high degree of production in the field." The petitioner asserts that "[w]hile researchers are expected to publish their scientific findings, not all of them are capable or honored to publish scholarly books or articles in scholarly journals with international reputation." However, the petitioner's assertions are unpersuasive. As the petitioner essentially concedes, researchers are "expected to publish their scientific findings." Thus, the fact that some researchers may fail to meet their employers' expectations or requirements to publish does not establish that all researchers who publish are internationally recognized as outstanding.

The AAO cannot conclude that the beneficiary's publication record of less than ten total articles and books is indicative of international recognition as outstanding in the field. Comparatively, the individuals who wrote reference letters on behalf of the beneficiary are, themselves, demonstrably more accomplished than the

beneficiary in terms of their number of publications. For example, [REDACTED] has authored or co-authored approximately 79 refereed papers and 10 books or book chapters; [REDACTED] has authored or co-authored approximately 55 refereed papers and made presentations at approximately 88 scientific/professional meetings. Thus, it cannot credibly be argued that the beneficiary's publication record is indicative of international recognition as outstanding. The AAO observes that the beneficiary's job duties specifically include: "Writing research papers and preparation of manuscripts for publication" and "Communicate research findings in peer-reviewed literature, scientific meetings and conferences, and educational institutions."

The beneficiary's citation history is another relevant consideration as to whether the evidence is indicative of the beneficiary's international recognition. *See Id.* On appeal, the petitioner emphasizes that six independent articles by researchers in different parts of the world have cited the beneficiary's work, and that these articles were published in scientific journals with international circulation and strong impact factor. The AAO cannot conclude that six total citations are indicative of international recognition as outstanding. Moreover, the petitioner has not established that the nature of the citations to the beneficiary's work is substantial. A review of the citing articles reflects that the beneficiary's work is briefly cited as one among numerous other research findings or studies in the related topic; none of these articles substantively discuss or rely on the beneficiary's work. Overall, the record contains no evidence that the beneficiary's articles have been cited at a level and manner consistent with international recognition as outstanding in the field.

In light of the above, our final merits determination reveals that the beneficiary's qualifying evidence, participating in the widespread peer review process and publishing articles that have not garnered significant 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, the purpose of the regulatory criteria. 56 Fed. Reg. at 30705. The independent references do not indicate that they learned of the beneficiary's work through his international reputation. Indeed, the record lacks evidence that a significant number of members of the academic field outside of the beneficiary's immediate circle of colleagues are even aware of his work. The record contains only letters from the beneficiary's current or prior employers, mentors, or collaborators.

### III. Conclusion

The petitioner has shown that the beneficiary is a promising researcher who has won the respect of his employers, mentors, and collaborators. The record, however, stops short of elevating the beneficiary to the level of an alien who is internationally recognized as an outstanding researcher. Therefore, the petitioner has not established that the beneficiary is qualified for the benefit sought.

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.