



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **MAR 21 2014** Office: TEXAS SERVICE CENTER

IN RE: Petitioner:
Beneficiary:

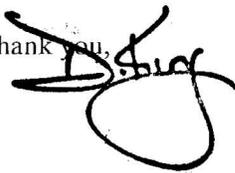
PETITION: Immigrant Petition for Alien Worker as Outstanding Professor or Researcher Pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

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.

Thank you.


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Texas Service Center Director denied the employment-based immigrant visa petition and certified his decision to the Administrative Appeals Office (“AAO”) pursuant to 8 C.F.R. § 103.4(a)(5). The AAO will withdraw the director’s decision and grant the petition.

The petitioner is a non-profit research institute. 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 in the United States permanently, on a part-time basis, as a Research Scientist.

The director determined that the petitioner established that the beneficiary had attained the outstanding level of achievement required for classification as an outstanding researcher, with which the AAO concurs. However, the director determined that the beneficiary is not eligible for classification sought because the petitioner has not presented the beneficiary with a permanent, full-time job offer. The director certified his decision to the AAO.

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 states the following:

(i) *Outstanding professors and researchers.*

(1) Any United States employer desiring and intending to employ a professor or researcher who is outstanding in an academic field under section 203(b)(1)(B) of the Act may file an I-140 visa petition for such classification.

(2) *Definitions.* As used in this section:

* * *

Permanent, in reference to a research position, means either tenured, tenure-track, or for a term of indefinite or unlimited duration, and in which the employee will ordinarily have an expectation of continued employment unless there is good cause for termination.

(3) *Initial evidence.* A petition for an outstanding professor or researcher must be accompanied by:

* * *

(iii) An offer of employment from a prospective United States employer. A labor certification is not required for this classification. The offer of employment shall be in the form of a letter from:

(A) A United States university or institution of higher learning offering the alien a tenured or tenure-track teaching position in the alien's academic field;

(B) A United States university or institution of higher learning offering the alien a permanent research position in the alien's academic field; or

(B) A department, division, or institute of a private employer offering the alien a permanent research position in the alien's academic field. The department, division, or institute must demonstrate that it employs at least three persons full-time in research positions, and that it has achieved documented accomplishments in an academic field.

II. Facts and Procedural History

The petitioner filed Form I-140, Immigrant Petition for Alien Worker, seeking to classify the beneficiary as an outstanding researcher. On Form I-140, the petitioner indicated that the beneficiary will be employed as a Research Scientist on a permanent, part-time basis for 20 hours per week.

With the initial petition, the petitioner submitted a letter from [REDACTED] confirming that the beneficiary has been employed by the petitioner as a Research Scientist from January 26, 2002 through the present time on a part-time basis (20 hours per week). The letter further confirmed the petitioner's intent "to continue [the beneficiary's] employment on a permanent basis on these terms."

In the same letter, the petitioner described itself as a private, not-for-profit membership corporation organized for the purpose of assisting and enhancing the research and training objectives of the [REDACTED] and its component agencies. Specifically, through an agreement with New York State, the petitioner has been designated as the organization responsible for administering and directing the conduct of all sponsored research programs carried out by scientists at [REDACTED]. The petitioner asserted that it employs 485 persons in full-time researcher positions, and has a documented record of accomplishments.

Also in support of the initial petition, the petitioner submitted a letter, written on the petitioner's letterhead, from [REDACTED], Director, Laboratory of Neuropathology, New York State Psychiatric Institute, Columbia University, and I. John Mann, M.D., Director, Laboratory of Neuropathology, Columbia University. This letter states that the beneficiary "is employed in the position of Research Scientist at [the petitioner] and as an Associate Professor of [REDACTED] for the purpose of advancing [the petitioner] and [REDACTED] research." This letter further states that the petitioner is submitting the instant petition so that it may offer the beneficiary "a full time permanent position."

The letter provided a detailed explanation of the position being offered to the beneficiary. It states, in pertinent part:

[The beneficiary] is employed in the position of Research Scientist at [the petitioner] and as an Associate Professor of [REDACTED] for the purpose of advancing [the petitioner] and [REDACTED] research into physical abnormalities in the brains of individuals with schizophrenia and other

¹ Research publications submitted as part of the record reflects that [REDACTED] holds positions with both [REDACTED] and [REDACTED] signed with the title "Director, Laboratory of Neuropathology."

psychiatric diseases. The Departments of Psychiatry, Pathology, and Neurology have committed very substantial resources to this program, which also receives extensive outside funding from the National Institutes of Health and several private foundations. This work is currently employing a collection of several thousand brains collected over 60 years from autopsies of psychiatric patients. This collection belongs to the [REDACTED] New York State. It is based in the [REDACTED] under the direction of [REDACTED]. The clinical and classical neuropathologic features of these cases have been studied in detail; the current effort is to correlate these features with the results of modern immunohistochemical and biochemical assays. [REDACTED] continue to enlarge the collection and to improve clinical assessments and preservation of structural and biochemical properties of the specimens. Collaborations with institutions in the [REDACTED], to accomplish these ends and to train new researchers in the field, have been supported by the National Institutes of Health for more than ten years. The collection procedures have become more and more sophisticated and complex, as more research projects, funded by the [REDACTED] have come to rely on the collection for post mortem specimens. Enlargement of the collection, known as the [REDACTED] Collection, is currently supported by [REDACTED]

The petitioner submitted documentation reflecting past and current grants awarded to the petitioner and [REDACTED], including a current grant with an end date of June 30, 2017.

The director issued a request for evidence (RFE), advising the petitioner that, in order to establish eligibility for the classification as an outstanding researcher pursuant to Section 203(b)(1)(B), "the petitioner must show that the beneficiary will be working in the position full-time." Noting that a labor certification is not required for this classification, the director then cited to the Department of Labor's regulations at 20 C.F.R. § 656.3, which defines "employment" as "Permanent, full-time work by an employee for an employer other than oneself." The director found that the petitioner's offered position to the beneficiary was not a full-time position, and therefore did not constitute a qualifying offer of employment.

In response to the RFE, the petitioner asserted that the text of Section 203(b)(1)(B), establishing the classification of outstanding professor or researcher, "makes no mention as to whether the permanent position offered to the beneficiary must be either a full or part time position." In addition, the petitioner asserted that the text of 8 C.F.R. § 204.5(i), setting forth the regulations applicable to this classification, "again makes absolutely no reference to whether the permanent position to be offered to the beneficiary be full or part time." The petitioner provided a copy of 20 C.F.R. § 656, entitled "Labor Certification Process for Permanent Employment of Aliens in the United States," and 20 C.F.R. § 656.3, which the petitioner emphasized provides definitions "for purposes of this part, of terms used in this part." The petitioner stated:

The officer who prepared the Request for Evidence in this matter adopted the definition of Employment for this matter from this part [20 C.F.R. § 656.3]. It is well established that in order to qualify for a permanent employment certification (labor certification) employment must be full time employment, and this section so defines employment. But this definition is limited by its own terms to definitions used in this part relating to Permanent Employment Certification. It has no relationship whatsoever to permanent employment as an outstanding researcher. Moreover, the analogy is particularly inapposite because a permanent employment certification is specifically NOT required for classification as an outstanding researcher.

The petitioner also provided a copy of the Interoffice Memorandum, from Michael Aytes, Acting Director for Domestic Operations, USCIS (June 6, 2006), "Guidance on the Requirement of a 'Permanent Offer of Employment' for Outstanding Professors or Researchers" (hereinafter "Aytes memorandum"). The petitioner highlighted that the Aytes memorandum "makes not a single reference to a requirement that permanent employment for this classification be full time employment anywhere in this detailed memorandum."

In addition, the petitioner submitted a copy of its letter, dated September 6, 2013, addressed to the beneficiary, stating: "We are offering you employment on a permanent, part-time basis of 20 hours per week, in which you will continue your research focused upon morphometric studies of the nervous system, at your present annual salary of \$37,218.35, in addition to a standard benefits package."

Finally, the petitioner submitted a letter from [redacted] Medical Center letterhead. This letter affirmed that the petitioner "has been paying [the beneficiary] since 2002, on a basis of 20 hours per week, and that [the beneficiary] also has positions at [redacted]." The letter further states that the beneficiary's employment at the petitioner and [redacted] are "one position, with salary shared by two sources." The letter elaborates:

[The beneficiary] is a faculty member of the [redacted]. Like most faculty in the [redacted] Medical Center [redacted], [the beneficiary] conducts his research at the [redacted]. [redacted] have been engaged in a formal affiliation agreement since 1924. [redacted] The administrative offices of the Department of Psychology [redacted] and NYSPH all reside in the same facility. Research at [redacted] is sponsored both by grants administered by [redacted] and by grants administered by [the petitioner]. [The petitioner] manages federal grants for the [redacted]. Through an agreement with New York State, [the petitioner] has been designated as the organization responsible for administering and directing the conduct of sponsored research programs carried out by scientists by [redacted] can receive

² The AAO notes that [redacted] is the petitioner's address listed on Form I-140.

salary through [the petitioner], [REDACTED]. The salaries of most faculty, including [the beneficiary], are derived from two of these sources or from all three. These are considered a single base salary, regardless of the sources, and *both [the petitioner] and [REDACTED] must agree to any changes*. [The beneficiary's] full-time job is to perform psychiatric research. According to [REDACTED] and [the petitioner], and as stated in all grant proposals supporting [the beneficiary's] salary, he has a base salary that is shared between [the petitioner] and [REDACTED]. While the relative contributions from the two sources may fluctuate, they combine to make a single, full-time position.

We hope the above explanation establishes that [the beneficiary] is a full-time employee and hence meets the permanent full time requirement which has been requested in the RFE.

In submitting the above letter, the petitioner clarified that the letter from [REDACTED] was intended to supplement, but not supplant, the petitioner's response to the RFE. Specifically, the petitioner explained:

[The letter] dated April 22, 2013 signed by [REDACTED] of [REDACTED] explaining the basis on which the beneficiary is in fact fully employed, although his remuneration, as a result of the various grants which fund research at this extremely high level, derives both from [the petitioner], and [REDACTED] University, as well as from the [REDACTED]. This explanation, which I feel is helpful in explaining the way in which the beneficiary arranges his full time employment in consonance with the grants that fund his salary, should not be interpreted as an abandonment of the petitioner's [] position that for the purposes of the classification of outstanding researcher there exists neither in the law, nor in the applicable regulations, [any] requirement that the beneficiary be a full time employee; merely that the beneficiary's employment be permanent as that term has been interpreted by the regulations and by the memoranda of USCIS.

The director denied the petition, concluding that "[e]ven though the petitioner may be able to present the beneficiary with a permanent job offer, the petitioner has failed to show that it present [sic] the beneficiary with a full-time job offer." In denying the petition, the director emphasized that Section 203(b)(1)(B)(iii)(III) requires "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 director also emphasized that 8 C.F.R. § 204.5(i)(3)(iii) specifically requires "An offer of employment from a prospective United States employer," and refers to the requirement that "The offer of employment . . . shall be in the form of a letter." In emphasizing the statute and regulation's use of the singular form, the director concluded:

USCIS finds that while the regulations do not specify that a full-time position is required for eligibility, they do state that "an offer of employment from a prospective United States employer" (singular) be made to the beneficiary. Thus, the regulations do not support the

idea that the beneficiary can receive multiple offers from multiple employers and still account it as a single offer of employment.

The director then analyzed the claim that the beneficiary's positions at the petitioning employer and [REDACTED] "combine to make a single, full-time position." The director concluded that the two positions cannot constitute a single offer of employment, as the petitioning entity and [REDACTED] are "separate and distinct entities." In coming to this conclusion, the director relied heavily upon a 2008 audit report ([REDACTED]) from the State of New York, ([REDACTED]) Response to Office of the State Comptroller Draft Report [REDACTED] Control over State Resources, parts of which the director incorporated into the record. Both documents confirm that the petitioner and [REDACTED] while sharing professional and administrative staff, facilities and equipment, and participating in joint training, research and clinical trial endeavors, are nonetheless "separate business entities." The director also pointed out claimed discrepancies between the letter from [REDACTED] and the [REDACTED] response, with regards to sources of funding, although the director did not specify the significance of the claimed discrepancies. Based on the above, the director concluded that the beneficiary does not have a job offer for "a single full-time position" and therefore is ineligible for the classification sought. The director certified the decision for review to the AAO.³

III. Discussion

The sole issue to be addressed is whether the petitioner's offer of employment for a permanent, part-time research position at an institute of a private employer entitles the beneficiary to classification as an outstanding researcher pursuant to section 203(b)(1)(B) of the Act.

The AAO concludes that the petitioner's offer of permanent, part-time employment to the beneficiary is sufficient to satisfy the requirements under the pertinent statute and regulations. The AAO will address two closely related but separate questions raised by the director's decision: (1) whether a part-time research position can qualify as a "comparable position to conduct research" pursuant to section 203(b)(1)(B)(iii)(III) and a "permanent research position" pursuant to 8 C.F.R. § 204.5(i)(3)(iii); and (2) whether a beneficiary classifiable as an outstanding researcher pursuant to section 203(b)(1)(B) of the Act may have multiple employment offers with different employers, including a qualifying offer of employment from the petitioner.

A. Permanent, part-time research position

The AAO concludes that the beneficiary's permanent, part-time position as a Research Scientist constitutes a "comparable position to conduct research" pursuant to section 203(b)(1)(B)(iii)(III) and a "permanent research position" pursuant to 8 C.F.R. § 204.5(i)(3)(iii). The AAO agrees with the petitioner that the statute and regulations pertaining to the E12 classification do not require the prospective position to be full-time.

³ The director afforded the petitioner thirty days to submit a brief or other written statement for consideration by the AAO. To date, the petitioner has not submitted additional documents.

Statutory interpretation begins with the language of the statute itself. *Pennsylvania Department of Public Welfare v. Davenport*, 495 U.S. 552 (1990); *Barnhart v. Sigmon Coal Co. Inc.*, 534 U.S. 438, 450 (2002). Statutory language must be given conclusive weight unless the legislature expresses an intention to the contrary. *Int'l. Brotherhood of Electrical Workers, Local Union No. 474, AFL-CIO v. NLRB*, 814 F.2d 697 (D.C. Cir. 1987).

Section 203(b)(1)(B)(iii)(III) defines employment for an outstanding researcher by a private employer as follows: “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” (emphasis added). The term “comparable position” refers to the term “tenured position (or tenure-track position)” found at Section 203(b)(1)(B)(iii)(I). The statute states only that the research position must be “comparable” to a “tenured” or “tenure-track” research position. The statute itself does not contain any requirement that the prospective position be full-time.

Significantly, however, Section 203(b)(1)(B)(iii)(III) does specify that the department, division, or institute of the private employer petitioner must employ “at least 3 persons *full-time* in research activities” (emphasis added). The AAO finds that the statute’s inclusion of the phrase “full-time” when describing the positions of the researchers employed by the petitioner, and its omission of the phrase “full-time” when describing the beneficiary’s prospective position, to be revealing of legislative intent. It is a general principle of statutory construction that when Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion. *Barnhart v. Sigmon Coal Co., Inc.*, 534 U.S. at 452 (2002) (citing *Russello v. United States*, 464 U.S. 16, 23 (1983); *United States v. Wong Kim Bo*, 472 F.2d 720, 722 (C.A.5 1972)). Thus, the AAO presumes that the omission of the phrase “full-time” from the description of the beneficiary’s prospective employment was intentional and purposeful, and that through the omission, Congress did not intend that the beneficiary’s prospective employment need to be full-time.

Looking to the regulations, 8 C.F.R. § 204.5(i)(3)(iii) requires “[a]n offer of employment” in the form of a letter from the petitioner offering the beneficiary “a *permanent* research position,” as well as evidence that the petitioner employs “at least three persons *full-time* in research positions” (emphasis added). 8 C.F.R. § 204.5(i)(3)(iii) mirrors Section 203(b)(1)(B)(iii)(III) in requiring evidence that the petitioner employs at least three persons in *full-time* research positions. Exactly like the statute, 8 C.F.R. § 204.5(i)(3)(iii) includes the phrase “full-time” when describing the positions of the researchers employed by the petitioner, but omits the phrase “full-time” when describing the beneficiary’s prospective position. Like the statute, 8 C.F.R. § 204.5(i)(3)(iii) does not state a requirement that the prospective offer of employment to the beneficiary be full-time.

While 8 C.F.R. § 204.5(i)(3)(iii) does not explicitly require the prospective employment to be “full-time,” it does require the prospective position to be “permanent.” It appears to be the director’s position that a “part-time” position inherently cannot constitute a “permanent” position. The AAO finds this reasoning to be unpersuasive.

The regulations provide a definition of “permanent” for purposes of the outstanding researcher classification. Specifically, 8 C.F.R. § 204.5(i)(3)(ii) defines “permanent” as “either tenured, tenure-track, or for a term of indefinite or unlimited duration, and in which the employee will ordinarily have an expectation of continued employment unless there is good cause for termination.” Nowhere in the definition of “permanent” at 8 C.F.R. § 204.5(i)(3)(ii) does it state that the position must be full-time.

Furthermore, nowhere in the definition of “permanent” does the language of 8 C.F.R. § 204.5(i)(3)(ii) imply that the prospective position must be full-time. 8 C.F.R. § 204.5(i)(3)(ii), in defining a “permanent” position as being “either tenured, tenure-track, or for a term of indefinite or unlimited duration,” focuses on the *duration* of the term of employment, not the number of hours worked per day. In addition, courts have defined the term “tenure” in the academic setting as “a faculty appointment for an indefinite period of time.” *University Educ. Ass’n v. Regents of University of Minnesota*, 353 N.W.2d 534, 540 (Minn. 1984); *Robinson v. Ada S. McKinley Community Services, Inc.*, 19 F.3d 359, 361 (7th Cir. 1994) (citing Black’s Law Dictionary 1469 (6th ed. 1990) defining “tenure” as “a right, term, or mode of holding or occupying,” and “tenure of an office” as “the manner in which it is held, especially with regard to time”); *see also* CJS COLLEGES § 20. Again, the focus is on the duration of the term of employment, not the length of the work day.

Similarly, the Aytes memorandum makes not a single reference to a requirement that the permanent research position be full time. In providing guidance regarding the meaning of “permanent” for research positions under this classification, the Aytes memorandum stresses that the offer of employment must be for “a term of indefinite or unlimited duration,” and one in which the beneficiary “will ordinarily have an expectation of continued employment unless there is good cause for termination.” The Aytes memorandum further states that research positions funded by grant money received on a yearly basis can be considered “permanent” within the meaning of 8 C.F.R. § 204.5(i)(2), if the petitioner demonstrates the intent to continue to seek funding and a reasonable expectation that funding will continue. The Aytes memorandum also focuses on the duration and continuity of the proposed employment, not the length of the work day.

It is not self-evident that a “permanent,” “tenure,” or “tenure-track” position must inherently be “full-time.” The terms are not synonymous or mutually exclusive. For instance, in a report by the

modified their tenure regulations so as to permit tenure positions to be held on a part-time basis.” Various state regulations also allow for permanent part-time positions, or tenured or tenure-track part-time positions in higher education. *See e.g.* Or. Admin. R. 580-021-0105 (allowing faculty members on a full-time tenure appointment to be given less than full-time workload within the *Columbia University System*); WV ADC § 135-9-3 (allowing a full-time tenured appointment to be converted to a part-time tenured appointment, and a full-time tenure-track appointment to be converted to a part-time tenure-track appointment within public institutions of higher education in West Virginia). In addition, courts have long recognized the existence of part-time tenured teaching positions. *See e.g.*, *Ferner v. Harris*, 45 Cal.App.3d 363, 368 (Cal.App. 1975); *Vittal v. Long Beach Unified School District*, 8 Cal.App.3d 111, at 120; *Sherrod v. Lawrenceburg School*

City, 213 Ind. 392, 12 N.E.2d 944 (Sup. Ct. Ind. 1938). The existence of permanent, tenure or tenure-track positions on a part-time basis undermines the reasoning that a part-time position inherently cannot constitute a permanent position.

Based on the language of the RFE, it appears the director is applying the Department of Labor's regulation at 20 C.F.R. § 656.3, which defines "employment" as "Permanent, full-time work by an employee for an employer other than oneself," to the instant classification.⁴ The AAO agrees with the petitioner that the definition of "employment" at 20 C.F.R. § 656.3 is inapplicable to the outstanding researcher classification. The plain language of the regulations at 20 C.F.R. §§ 656, 656.3 clearly indicates that the definitions found in 20 C.F.R. § 656.3 are limited to the labor certification process. Specifically, C.F.R. § 656 is entitled "Labor Certification Process for Permanent Employment of Aliens in the United States," and 20 C.F.R. § 656.3 provides definitions "for purposes of this part, of terms used in this part." In requiring the beneficiary's prospective position to be full-time in compliance with Department of Labor regulations, the director is imposing upon the petitioner an additional requirement not found or supported by the plain language of the statute and regulations relating to the outstanding researcher classification. 8 C.F.R. § 204.5(i)(3)(iii) clearly states that "[a] labor certification is not required for this classification."

In short, the AAO concludes that a permanent, part-time research position can qualify as a "comparable position to conduct research" pursuant to section 203(b)(1)(B)(iii)(III) and a "permanent research position" pursuant to 8 C.F.R. § 204.5(i)(3)(iii). The petitioner's job offer to the beneficiary for a permanent, part-time research position is sufficient to meet the statutory and regulatory requirements. Furthermore, considering that the beneficiary's prospective position is a research position funded by grant money, the petitioner has submitted sufficient evidence to establish that the beneficiary will ordinarily have an expectation of continued employment, consistent with the Aytes memorandum. The petitioner has submitted evidence of the petitioner's past and current grants up until June 30, 2017. The record adequately demonstrates a reasonable expectation that funding will continue past June 30, 2017.

B. Multiple job offers

The AAO will now turn to the question of whether the beneficiary's "multiple [job] offers from "multiple employers" disqualifies him from classification as an outstanding researcher. The AAO concludes that a beneficiary with multiple job offers from multiple employers will not be disqualified for the outstanding researcher classification, as long as the beneficiary has a qualifying job offer from the petitioner.

The director concluded that "the regulations do not support the idea that the beneficiary can receive multiple offers from multiple employers and still account it as a single offer of employment." In coming to this conclusion, the director emphasized that Section 203(b)(1)(B)(iii)(III) and 8 C.F.R. § 204.5(i)(3)(iii) both use the singular form in describing the prospective position and offer of employment.

⁴ The director did not cite to 20 C.F.R. § 656 or 20 C.F.R. § 656.3 in the denial.

However, it is a commonly accepted rule of statutory interpretation that the singular shall include the plural. *European Cmty. v. RJR Nabisco, Inc.*, 814 F. Supp. 2d 189, 201 (E.D.N.Y. 2011) (holding that the European Community can be an “organ of a foreign state” even though it consists of more than one foreign state (citing *Public Citizen, Inc. v. Mineta*, 340 F.3d 39, 54 (2d Cir.2003) (equating “a tire” to “tires” under the relevant statute)). In determining the meaning of any Act of Congress, unless the context indicates otherwise, words importing the singular include and apply to several persons, parties, or things. 1 U.S.C. § 1 (2012). Under this directive, unless the text of the Act at issue suggests otherwise, terms couched in the singular should not be interpreted to exclude the plural. *In re Pincus*, 280 B.R. 303, 314 Bkrtcy (S.D.N.Y. 2002).

Hence, unless the context indicates otherwise, the use of the singular form in Section 203(b)(1)(B)(iii)(III) and 8 C.F.R. § 204.5(i)(3)(iii) does not exclude a beneficiary who has multiple job offers from multiple employers. There is no indication here that Congress, in using the singular form for Section 203(b)(1)(B)(iii)(III), meant to exclude the plural. Moreover, the AAO observes that 8 C.F.R. § 204.5(i)(3)(i) uses the word “Any” when describing which United States employer could file a petition for an outstanding professor or researcher. The word “any” is defined as “one, some, or all indiscriminately of whatever quantity” by Merriam-Webster’s Online Dictionary, available at <http://www.merriam-webster.com/dictionary/any> (last accessed February 27, 2014). In a different context, courts have interpreted the term “any” to include (i.e., not necessarily exclude any part of) the plural. *Brown v. U.S.*, 623 F.2d 54, 58 (C.A.Cal. 1980). Based on the foregoing, the AAO determines that the language of Section 203(b)(1)(B)(iii)(III) and 8 C.F.R. § 204.5(i)(3)(iii), requiring “a comparable position” and “[a]n offer of employment from a prospective United States employer,” does not exclude a beneficiary who has multiple job offers from multiple employers.

Furthermore, this interpretation is in accord with our earlier conclusion that a beneficiary may qualify for the outstanding researcher classification with a permanent, part-time position. Had Congress wanted to exclude the possibility that a beneficiary for the outstanding researcher classification have multiple job offers from multiple employers, Congress could have added the requirement that the prospective position be full-time, or otherwise must be the beneficiary’s sole or primary employment.

In conclusion, in order to meet the requirements at Section 203(b)(1)(B)(iii)(III) and 8 C.F.R. § 204.5(i)(3)(iii), the beneficiary need only one qualifying offer from one petitioning employer. This requirement has been met in the instant case. Whether or not the beneficiary may have other job offers from other employers does not take away his eligibility for the classification sought.

Because only one offer of employment is sufficient to meet the statutory and regulatory requirements for classification as an outstanding professor or researcher, the AAO finds the director’s detailed discussion regarding the petitioner and Columbia University as separate business entities to be inconsequential to the issue at hand. Finally, the AAO finds the director’s comment that the [REDACTED] statement regarding the sources of funding to be factually incorrect. The AAO finds no contradictions in the record.⁵

⁵ Specifically, the director asserted: [REDACTED] funding come from State appropriations and public/private research grants but [REDACTED] state that the funds come from

IV. Conclusion

Upon careful consideration, the AAO concludes that the petitioner has satisfactorily established that the beneficiary enjoys international recognition as an outstanding researcher, and has a qualifying offer of employment from the petitioner. The petitioner has established that the beneficiary qualifies under section 203(b)(1)(B) of the Act as an outstanding researcher.

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 been met.

ORDER: The director's decision denying the petition is withdrawn. The petition is approved.

Federal grants.” The phrase “public/private research grants” used in the [REDACTED] report does not reasonably exclude federal grants. Moreover, the [REDACTED] response specifically acknowledged that [REDACTED] receives significant funding from [REDACTED], which is a federal agency.