



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **MAR 25 2014** OFFICE: TEXAS SERVICE CENTER

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a special education teacher at [REDACTED]. The petitioner taught at various [REDACTED] beginning in 2007. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a brief and supplemental exhibits.

Section 203(b) of the Act states, in pertinent part:

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –

(A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of Job Offer –

(i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term “national interest.” Additionally, Congress did not provide a specific definition of “in the national interest.” The Committee on the Judiciary merely noted in its report to the Senate that the committee had “focused on national interest by

increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . .” S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990 (IMMACT 90), P.L. 101-649, 104 Stat. 4978 (Nov. 29, 1990), published at 56 Fed. Reg. 60897, 60900 (Nov. 29, 1991), states:

The Service [now U.S. Citizenship and Immigration Services (USCIS)] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the “prospective national benefit” [required of aliens seeking to qualify as “exceptional.”] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

In re New York State Dep’t of Transportation, 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm’r 1998) (NYSDOT), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must establish that the alien seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must establish that the proposed benefit will be national in scope. *Id.* Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. *Id.* at 217-18.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien’s past record justifies projections of future benefit to the national interest. *Id.* at 219. The petitioner’s assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The term “prospective” is included here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative. *Id.*

The USCIS regulation at 8 C.F.R. § 204.5(k)(2) defines “exceptional ability” as “a degree of expertise significantly above that ordinarily encountered” in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

In this decision, the term “former counsel” shall refer to [REDACTED], who represented the petitioner at the time the petitioner filed the petition. On appeal, the petitioner states: “I do not have a lawyer,” indicating that [REDACTED] is no longer her attorney of record in this proceeding.

The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on July 2, 2012. In an introductory statement, former counsel stated that the petitioner's "petition for waiver of the labor certification is premised on her Master of Arts Degree in Education and more than twenty five (25) years of inspired, innovative, and progressive teaching experience in both the United States and the Philippines." Academic degrees and experience can support a claim of exceptional ability in the sciences, the arts, or business, under the USCIS regulations at 8 C.F.R. §§ 204.5(k)(3)(ii)(A) and (B), respectively. However, exceptional ability alone does not establish eligibility for the waiver, and therefore partial evidence of exceptional ability is not sufficient to show eligibility for the waiver.

Former counsel did not directly address the *NYSDOT* guidelines. Instead, counsel listed the exhibits submitted with the petition, and stated:

As demonstrated through the above-summarized and enclosed documentation, [the petitioner] plays a crucial role in the future of the improvement of United States education and the attainment of our nation's goals. The need for her skills is vast, particularly in a community so in need of educational support.

The substantial impact that [the petitioner] already has had on her students, their families, her community, and the education field is already evident by her past achievements.

The petitioner, in her own statement, listed 46 certificates she received between 1990 and 2012, recognizing activities such as service as a mentor and as a tutor, organizing a choir group, and coordinating various academic and professional activities. The petitioner did not establish that any of these recognized activities had more than a local impact or influence. Proposals and improvement plans in the record show that the petitioner was heavily involved in various plans for [redacted], but the materials do not show the significance of the programs beyond that one school.

Regarding her "Action Plan in the United States," the petitioner stated:

I will continue to challenge my students to reach their utmost potential by posing higher order thinking questions during whole group discussion. I will not only focus on academic achievements, but social skills development. I will allow them to explore, discover, appreciate, and own their learning by providing rigorous classroom activities. I will expose them to 21st century learning by integrating technology focused on Common Core and Project-Based Learning.

The petitioner submitted copies of letters from school administrators, teachers, parents of students, and others. The letters were originally written earlier, for other purposes, between 2005 and early 2012. For example, a January 31, 2012 letter from [redacted] assistant director of the Office of International Initiatives at the [redacted] thanked the petitioner for her participation in a mentoring program, and a February 17, 2010 letter from [redacted] principal of

recommended the petitioner “for a scholarship in order to pursue her interest in attaining National Board Certification.” The letters contained praise for the petitioner’s abilities as a teacher and for her associated professional activities, but did not indicate that the petitioner’s work has had an impact or influence on the field of special education as a whole, rather than at a primarily local level.

Documentation of the petitioner’s students’ assessment scores appear to show high achievement, but the petitioner’s impact in her own classroom is inherently local. See *NYS DOT* at 217 n.3. The record does not show that the petitioner’s work has had, or will have, a significant effect on student test scores on a national scale.

The director issued a request for evidence on December 15, 2012. The director cited *NYS DOT*’s observation that school teachers generally have only a local impact, and stated: “The petitioner must establish that the beneficiary has a past record of specific prior achievement with some degree of influence on the teaching field as a whole.”

In response, former counsel stated:

Immigration Act of 1990 (IMMACT 90) which enacted . . . the ‘National Interest Waiver’ included ‘educators’ as among the targets of this legislation, specifically stated – ‘this bill provides for vital increases for entry on the basis of skills, infusing the ranks of our scientists and engineers and educators with new blood and new ideas.’

Elsewhere in the brief, former counsel clarified that the quoted language comes not from the statute itself, but from comments made by then-President George H.W. Bush as he signed the legislation. IMMACT 90 did create the national interest waiver, and the president mentioned “educators” in his remarks, but it does not follow that a blanket waiver for educators was either the intent or the result of the legislation. The same statute plainly subjected professionals – including “scientists and engineers and educators” – to the job offer requirement. President Bush’s remarks did not specifically mention the national interest waiver, and should not be construed as creating a blanket waiver for educators. Such a construction would conflict with the statute’s plain wording.

Former counsel contended that the *NYS DOT* decision provided no specific definition of the “national interest,” and that Congress filled this void with the passage of the No Child Left Behind Act (NCLBA), Pub.L. 107-110, 115 Stat. 1425 (Jan. 8, 2002):

Congress has in effect remarkably engraved the missing definition upon the concept of ‘in the national interest,’ centered on the ‘Best Interest of American School Children.’ More importantly, U.S. Congress also provided the means to achieve this now defined ‘in the national interest,’ i.e., ‘Hiring and Retaining Highly Qualified Teachers.’ Interestingly, “NCLB Act” also specified the ‘Standard of a Highly Qualified Teacher.’

None of the phrases presented as quotations appears in the text of the NCLBA. The term “best interest,” with respect to children, appears only in provisions relating to homeless students. The NCLBA contains no mention of the national interest waiver or any immigration benefits for foreign teachers, and it did not amend section 203(b)(2)(B) of the Act (which created the waiver). Former counsel contended that Congress specifically intended to make the waiver available to “highly qualified teachers” when it passed the NCLBA, and that “favorable decisions for the NIW [national interest waiver] teachers” are a means of “honoring the Congressional intent in No Child Left Behind Act of 2001.” Former counsel, however, cited no specific language from the statute itself, its legislative history, or the implementing regulations to support this claim. The unsupported assertions of counsel do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The petitioner offers similar assertions on appeal, to be addressed below in that context.

Former counsel’s response to the RFE discussed other federal initiatives beyond the NCLBA. These programs establish that the federal government places a priority on improving the quality of education, but former counsel did not establish that any of these programs had the express or implied result of changing immigration policy toward teachers. Section 203(b)(2)(A) of the Act remains in effect, and therefore teachers, “highly qualified” or otherwise, remain subject to the job offer requirement.

“Highly Qualified Teachers,” as a class, play a significant collective role in implementing the provisions of the NCLBA. It does not follow, however, that every such teacher individually qualifies for special immigration benefits as a result, or that collective benefit justifies a blanket waiver for every such teacher, when the waiver otherwise rests on the specific merits of individual intending immigrants.

Former counsel claimed that the petitioner’s “proposed employment is national in scope,” but the assertions that former counsel put forward to support that claim all concern the general importance of education, rather than the petitioner’s specific accomplishments. Former counsel asserted that the petitioner “plays a primary role in accomplishing the law’s goal of closing the achievement gap,” but former counsel did not explain how this role expanded beyond the confines of [REDACTED]

Former counsel claimed that the labor certification process presents a “dilemma” because the petitioner’s qualifications significantly exceed the minimum qualifications that an employer could specify on an application for labor certification, and “the employer cannot overstate the qualification requirement for the job offer nor can it tailor-fit in favor of the alien worker.” Former counsel asserted that the “labor certification process . . . may not meet the objective of employers to hire highly qualified teachers pursuant to No Child Left Behind (NCLB) Law.” Former counsel did not show that these two considerations are incompatible. Section 9101(23) of the NCLB Act defines the term “highly qualified teacher.” By the statutory definition, a “highly qualified” school teacher:

- has obtained full State certification as a teacher or passed the State teacher licensing examination, and holds a license to teach in such State;
- holds at least a bachelor's degree; and
- demonstrates competence in the academic subjects he or she teaches.

Former counsel did not explain how the above requirements are incompatible with the existing labor certification process, and the petitioner submitted no evidence that the labor certification requirement has resulted in the widespread employment of teachers who are less than "highly qualified." The minimum degree requirement is the same for labor certification as it is for a highly qualified teacher (*i.e.*, a bachelor's degree).

Former counsel requested "equitable consideration" of a Department of Labor debarment order which temporarily prevents PGCPs from petitioning for foreign workers. The threshold for waiving the job offer requirement is the national interest, rather than the inability of a particular employer to petition for an intended employee. The inapplicability or unavailability of a labor certification cannot be viewed as sufficient cause for a national interest waiver; the petitioner still must demonstrate that the self-employed alien will serve the national interest to a substantially greater degree than do others in the same field. *NYSDOT* at 218 n.5.

The director denied the petition on August 28, 2013, stating that the petitioner's proposed employment possesses substantial intrinsic merit but "is not national in scope," and that the petitioner had not established that her "proposed employment would specifically benefit the national interest of the United States to a substantially greater degree than a similarly qualified U.S. worker." The director acknowledged the petitioner's evidence, but found "[t]he evidence does not show that the petitioner's teaching strategies have been widely adopted by others in the field, or that the petitioner has been significantly recognized for her teaching strategies nationally."

On appeal, the petitioner states: "The national educational interest of the United States provides the proper prism through which the national interest waiver (NIW) application . . . should be evaluated. Because the director gave insufficient weight to such national educational interest in adjudicating my petition, the decision is based on erroneous conclusion of law and erroneous statement of fact."

The petitioner discusses the legislative history of IMMACT 90, and President Bush's comments upon signing that legislation into law. The petitioner states: "Despite these congressional and presidential pronouncements, the Acting Associate Commissioner in *NYSDOT* contended that there is ambiguity as to the precise parameters for implementing the job offer waiver under INA section 203(b)(2)(B)(i)." The petitioner's use of the word "despite" implies that the "congressional and presidential pronouncements" contain no such ambiguity. None of the quoted passages, however, create or imply a blanket waiver for educators. Congress could have created such a waiver, but instead counsel applied the job offer requirement to professionals at section 203(b)(2)(A) of the Act, and defined teachers as professionals at section 101(a)(32) of the Act. Broad statements about how the United States benefits from the work of educators, or from the work of professionals in general,

do not establish or imply that educators, as a class, are exempt from the job offer/labor certification requirement, particularly when the plain wording of the statute indicates otherwise.

Statutory interpretation begins with the language of the statute itself. *Pennsylvania Department of Public Welfare v. Davenport*, 495 U.S. 552 (1990). 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). Here, the petitioner has not established that Congress intended to exempt teachers from the job offer requirement, either through section 203(b)(2) of the Act, the NCLBA, or any other federal legislation. Congress's only direct statement on the matter has been to apply, not waive, the requirement. The plain wording of the statute applies, rather than waives, the job offer requirement with regard to professional educators.

NYS DOT was not, as the petitioner implies, the first acknowledgment of a lack of a precise definition for the "national interest." When the Immigration and Naturalization Service published a final rule to promulgate regulations relating to the employment-based immigrant classifications reorganized by IMMACT 90, the preamble to that rule included the following passage:

Some commenters also asked that the phrase "in the national interest" be defined. One commenter suggested that the phrase should apply to any alien who would substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States. The Act itself requires this showing of all aliens seeking to qualify as "exceptional," but adds the "national interest" test to permit a job offer waiver for certain aliens who have already satisfied the "prospective national benefit" test. The Service, therefore, cannot equate the two standards. Congress has not provided a more particular definition of the phrase in the national interest. The Service believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the standard must make a showing significantly above that necessary to prove "prospective national benefit." The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case will be judged on its own merits.

56 Fed. Reg. 60897, 60900-01 (Nov. 29, 1991).

The petitioner states: "With regard to the national educational interest . . . , there is no ambiguity. Congress has unequivocally spelled out in the NCLB the national interest underpinning public elementary and secondary education." The petitioner quotes various "salient provisions of the NCLB and IDEA," the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et. seq.* None of the quoted provisions, however, amended section 203(b)(2) of the Act or otherwise mentioned the national interest waiver. In contrast, the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Pub. L. 102-232, 105 Stat. 1733 (Dec. 12, 1991) made the national interest waiver available to members of the professions holding advanced degrees, where

previously it was available only to aliens of exceptional ability. Following the 1998 publication of *NYSDOT*, section 5 of the Nursing Relief for Disadvantaged Areas Act of 1999 amended the Immigration and Nationality Act by adding section 203(b)(2)(B)(ii) to that Act, to create special waiver provisions for certain physicians. Congress not only can amend the Act to clarify the waiver provisions, but has in fact done so in direct response to *NYSDOT*. The petitioner has not established that the NCLBA or the IDEA indirectly implies a similar legislative change.

The quoted statutes, and other initiatives such as Race to the Top, establish the federal government's priorities with respect to public education, but these laws and policies do not give national scope to the work of any one individual teacher. Rather, the goals described are collective. Section 203(b)(2)(A) of the Act, which subjects professionals (including teachers) to the job offer requirement, remains in effect.

The petitioner describes recent changes to Maryland's assessment system and provides demographic information regarding [REDACTED] students, but does not explain their relevance to the statutory job offer that remains in effect and which continues to apply to special education teachers. The petitioner states:

I directly contributed to [REDACTED] effort in meeting its 2012 AMO [Annual Measurable Objectives] in Reading and Math proficiency. . . .

[M]y effective work in a high minority, high poverty school district positively contributes to closing the achievement gaps between minority and nonminority students, and between disadvantaged and more advantaged children, including those with disabilities, thereby advancing the NCLB goal of ensuring that all children reach proficiency in Reading and Math. . . .

[M]y success in raising student achievement of my high minority, high poverty students, however seemingly localized in scope, has a ripple effect on the nation at large.

The petitioner has not documented that the "ripple effect" from her work has resulted in nationally significant improvement in student performance. The petitioner states: "Based on the *2012 Maryland Report Card* . . . [REDACTED] did not meet its AMO targets for Reading proficiency . . . and . . . Math proficiency" for some demographic subgroups, including minorities. By 2012, the petitioner had been teaching in [REDACTED] for five years. Therefore, even assuming that the petitioner's work resulted in improvements within her own classroom, the cited statistics do not show sufficient improvement even at the county level. The information provided, therefore, does not show that the petitioner's efforts as a special education teacher (as opposed to the occupation of special education teaching as a whole and in general) have yielded results at a national level. Furthermore, when discussing improvement at [REDACTED] the petitioner has cited the figures from 2012, but the data provided on appeal shows a subsequent decline in 2013. Regardless of the exact figures documented, the petitioner's participation in an overall upward trend in test scores does not show

that the petitioner has caused test scores at other schools to be higher than they otherwise would have been.

The petitioner asserts: “the employment of an alien, who has a track record of being an effective Highly Qualified Teacher in a high minority, high poverty public elementary school, benefits the national interest.” The petitioner has not established that the direct benefit from her work has extended, or will extend, beyond [REDACTED]

The petitioner also states: “granting the NIW petition of a minority, such as myself, would also dovetail with Congress’ finding in IDEA that the Federal Government must respond to the growing needs of an increasingly diverse American society.” The national interest waiver is an employment-based immigration benefit, and the petitioner has not cited any provision in any statute, regulation, or case law that justifies taking a given alien’s ethnic or minority status into the equation.

The petitioner claims:

I have demonstrated a past history of achievement with some degree of influence on the field of public secondary education as a whole by highlighting specific prior achievements, which justify projections of future benefit to the United States. . . . Specifically . . . , my effectiveness in improving the Reading and Math proficiency of my predominantly minority and mostly underprivileged students advance the realization of the NCLB’s national priority goal of closing achievement gaps.

The petitioner submits no evidence that her efforts have closed the achievement gaps at schools other than [REDACTED] and she does not explain how her work at [REDACTED] could have raised the test scores of students at other schools. Local efforts in service of national goals do not, as a result, become national in scope.

The petitioner states:

My effectiveness as a teacher has been recognized beyond the walls of [REDACTED]. I have been selected to mentor Elementary Education student-interns of the [REDACTED] College of Education and to serve as an evaluator of their year-end presentations leading to their graduations. Also, international teachers from Singapore, China, Thailand and Indonesia have received mentorship from me. . . . Finally, I was instrumental in the introduction of Mandarin language instruction at [REDACTED] which became the model adopted by other schools in [REDACTED] and other school systems in the state.

To support the above statement, the petitioner submits further witness letters. Almost all of the witnesses are current or former [REDACTED], former principal of [REDACTED], stated:

Outside the classroom, [the petitioner] was instrumental in the creation of a partnership between the school and the [redacted]. As the member of the original committee and through this committee's guidance and monitoring, the instruction of Mandarin language at [redacted] became the preferred model for elementary schools in Maryland and replicated not only in the school district but also in other parts of the state. Additionally, [the petitioner] served as Teacher Mentor to multiple undergraduate Education majors from the university's College of Education.

With respect to [redacted] Mandarin language program, previously submitted documents identified the petitioner as "the Chairperson of the Scheduling Department of [the] World Languages Initiative." The record includes no evidence from any school other than [redacted] or from state educational authorities, to show the adoption of [redacted] Mandarin language program beyond [redacted]. The record generally focuses on the petitioner's work with disabled 2nd and 3rd grade students in subjects such as reading and mathematics; her role in this foreign-language program appears to represent a departure from her usual duties rather than an integral or ongoing part thereof.

[redacted] a teacher of English to speakers of other languages at [redacted], focuses on the petitioner's duties within [redacted] and states that [redacted] "is a school system in desperate need of exemplary teachers such as [the petitioner]." Also focusing on the petitioner's work at [redacted] is a general statement jointly signed by several dozen [redacted] staff members, calling the petitioner "a dedicated and hardworking educator" who "displays an extra-ordinary professionalism." [redacted] mostly discussed the petitioner's work within that school, but also asserted that the petitioner "serves as a Teacher-Mentor" for "international [redacted] student-interns."

[redacted] stated:

I have had the opportunity to interact with [the petitioner] through my role as the liaison from the [redacted] School. In this role, I act as support for teachers in obtaining university and outside resources and experiences for students. . . . [The petitioner] goes above and beyond in seeking out and taking advantage of resources to bolster her students' educational opportunities. Some examples include putting together a field trip to the Smithsonian Museum of Natural History and working to bring opportunities for art education towards completing a class-wide diorama project. She is a committed teacher, a thoughtful team member, and truly an asset to [redacted].

The above letter establishes activity by the petitioner outside of [redacted] but her participation in training new teachers at a local university does not expand her influence on education beyond the local level. That some of the trainees are "international Fulbright Scholars" does not make the petitioner's mentoring activities more influential than they otherwise would have been.

Eligibility for the waiver depends on impact and influence not on one school, one district or an unspecified number of trainees from a nearby college, but on the field as a whole. The petitioner has not established such influence, and her assertions that the NCLBA, IDEA and other federal initiatives temper the requirements of the Act and *NYSDOT* are not persuasive.

The petitioner has not established a past record of achievement at a level that would justify a waiver of the job offer requirement. The petitioner need not demonstrate notoriety on the scale of national acclaim, but the national interest waiver contemplates that her influence be national in scope. *NYSDOT* at 217, n.3. More specifically, the petitioner “must clearly present a significant benefit to the field of endeavor.” *Id.* at 218. *See also id.* at 219, n.6 (the alien must have “a past history of demonstrable achievement with some degree of influence on the field as a whole.”).

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession, such as teaching, in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. Congress has created no blanket waiver for teachers or for any particular subset of teachers. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The AAO will dismiss the appeal 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, the petitioner has not met that burden.

ORDER: The appeal is dismissed.