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

(b)(6)

U.S. Citizenship and Immigration Services

DATE: JUN 1 2 2015

PETITION RECEIPT #:

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(i)

ON BEHALF OF PETITIONER:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO**.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. We will dismiss the appeal.

The petitioner, an entertainment agent, filed this petition seeking to classify the beneficiary as an O-1 nonimmigrant pursuant to section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(O)(i), as an alien with extraordinary achievement in the motion picture or television industry. The petitioner requests that the beneficiary be granted O-1 classification so that he may work as a film producer/director in the United States from September 1, 2014 until August 30, 2017.

On August 19, 2014, the director denied the petition, concluding that the petitioner did not establish that the beneficiary has a demonstrated record of extraordinary achievement in the motion picture and television industry. In denying the petition, the director determined that the petitioner did not establish that the beneficiary has been nominated for or has been the recipient of a significant national or international award, pursuant to 8 C.F.R. § 214.2(o)(3)(v)(A), or that he has satisfied three of the six evidentiary criteria set forth at 8 C.F.R.§ 214.2(o)(3)(v)(B). The director's decision noted that the evidence of record included a negative consultation from the Director's Guild of America (DGA).

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to us. On appeal, the petitioner notes that consultations are advisory in nature and are not binding on USCIS. *See* 8 C.F.R. § 214.2(o)(5)(i)(D). The petitioner asserts that it has submitted evidence that overcomes the negative advisory opinion and which establishes the beneficiary's eligibility for classification as an alien with extraordinary achievement in the motion picture and television industry as a producer/director. The petitioner contends that "USCIS discounted important evidence" pertaining to the awards that the beneficiary has received. The petitioner asserts that the beneficiary is "one of the film industry's greatest talents," whose films "appear at premiere events" and who "often garners frequent and positive media attention." The petitioner submits a brief and additional documentary evidence in support of the appeal. For the reasons discussed below, we agree that the petitioner did not establish the beneficiary's eligibility as an individual with extraordinary achievement in the motion picture or television industry. Accordingly, we will uphold the director's decision and dismiss the appeal.

I. Pertinent Law and Regulations

Section 101(a)(15)(O)(i) of the Act, 8 U.S.C. § 1101(a)(15)(O)(i), provides classification to a qualified alien who has, with regard to motion picture and television productions, a demonstrated record of extraordinary achievement, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability.

The regulation at 8 C.F.R. § 214.2(o)(3)(ii) provides, in pertinent part: "*Extraordinary achievement* with respect to motion picture and television productions, as commonly defined in the industry, means a very high level of accomplishment in the motion picture or television industry evidenced by a degree of skill and recognition significantly above that ordinarily encountered to the extent that the person is recognized as outstanding, notable, or leading in the motion picture or television

field." The extraordinary ability provisions of this visa classification are intended to be highly restrictive. *See* 137 Cong. Rec. S18247 (daily ed., Nov. 16, 1991).

The regulation at 8 C.F.R. § 214.2(o)(3)(v) sets forth a multi-part analysis. First, a petitioner can demonstrate the beneficiary's recognition in the field through evidence that the alien has been nominated for, or the recipient of, significant national or international awards or prizes in the particular field such as an Academy Award, an Emmy, a Grammy, or a Director's Guild Award. 8 C.F.R. § 214.2(o)(3)(v)(A). If the petitioner does not submit this evidence, then a petitioner must submit sufficient qualifying evidence that satisfies at least three of the six categories of evidence listed at 8 C.F.R. § 214.2(o)(3)(v)(B)(*1*)-(*6*).

The submission of evidence relating to at least three criteria does not, in and of itself, establish eligibility for O-1 classification. 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994). In addition, we have held that "truth is to be determined not by the quantity of evidence alone but by its quality. Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

Additionally, the regulation at 8 C.F.R. § 214.2(o)(2)(iii) provides:

> The evidence submitted with an O petition shall conform to the following:
>
> (A) Affidavits, contracts, awards, and similar documentation must reflect the nature of the alien's achievement and be executed by an officer or responsible person employed by the institution, firm, establishment, or organization where the work was performed.
>
> (B) Affidavits written by present or former employers or recognized experts certifying to the recognition and extraordinary ability . . . shall specifically describe the alien's recognition and ability or achievement in factual terms and set forth the expertise of the affiant and the manner in which the affiant acquired such information.

II. Factual and Procedural History

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, and supporting documentation on June 20, 2014. The director issued a request for additional evidence (RFE) on July 1, 2014, to which the petitioner replied. We have considered the evidence of record in its entirety in reaching this decision.

According to the beneficiary's resume, he has been training in film in the United States since at least 2008, and holds a Master of Fine Arts in film directing and screenwriting from The beneficiary's resume lists directing, producing and screenwriting credits between 2008 and 2014, of which the producer/director credits are as follows:

- [redacted]

The beneficiary's resume further lists screenwriting credit for four specific feature-length films, "and many short films." The evidence submitted in support of the petition includes numerous testimonial letters, articles and promotional materials pertaining to the films the beneficiary has directed/produced, copies of invitations to screen those films at film festivals in the United States and abroad and copies of awards the beneficiary received.

In a letter dated June 18, 2014, the petitioner, also a filmmaker, states that he has "been authorized to act as an agent for [the beneficiary's] other employers, as well as the beneficiary for purposes of filing this petition." The petitioner describes the beneficiary as "an extraordinary producer/director with a high level of distinction in the international film market." The petitioner describes the role of producer/director as "somebody who directs and produces films. They are responsible for taking the concept for a film project . . . and turning it into a finished film by assembling a cast and/or crew and 'shooting' the sequences." The petitioner states that the roles and responsibilities of a producer/director may include the following:

> [D]eveloping the initial story or concept into a production-feasible project, managing a large production crew to ensure that the components of the film or TV production go ahead as planned, hiring and appoint[ing] members of the technical crew and cast where appropriate, working with the Director of Photography to deliver the project from a technical perspective, managing actors and ensur[ing] that all personnel deliver their best performance for the good of the competed picture or show, securing or procuring finance for the project, if it is to be an independent release, and managing the outreach and distribution of the film when ready.

The record contains signed copies of the petitioner's agent contract with the beneficiary dated May 20, 2014, and an undated itinerary for the period from September 1, 2014 to September 15, 2017. The petitioner's initial evidence also included employment agreements, signed by the

petitioner, the beneficiary and representatives of each of five employers, pertaining to the beneficiary's employment during the requested period as follows:

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3.
4.
5.

In response to the director's request for additional evidence (RFE), the petitioner submitted "an updated and clarified copy of [the beneficiary's] itinerary and contracts," running from September 1, 2014 to August 30, 2017, which omitted the project " " and the employer

In the initial cover letter, the petitioner states that he is a co-owner of On appeal, the petitioner submits a profile for which states as follows:

> A multinational creative production company formed in 2010. . . . (Canada), [the beneficiary] (Swiss/Mexican), [the petitioner] (Mexico), and . All four are primarily writer/directors with an in Film from in New York but with strong backgrounds in producing. The idea in creating the company was to push each other's work by taking turns and producing each other's projects . . . . Since its inception, has produced one feature film and 13 short films that span all genres with all 14 films having played in film festivals around the world and winning various awards . . . . Last year, produced its first feature film in Denmark . . . . Their next feature will be produced in association with producer

[1] It appears that has signed the employment agreements on behalf of both and

On appeal, the petitioner describes the beneficiary as "one of the film industry's greatest talents," one who has had an "illustrious career," whose films "appear at premiere events" and who "often garners frequent and positive media attention."

III. Analysis

A. The Beneficiary's Eligibility under the Evidentiary Criteria

The sole issue to be addressed is whether the petitioner submitted evidence to establish that the beneficiary satisfies the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(v)(A) or at least three of the six categories of evidence listed at 8 C.F.R. § 214.2(o)(3)(v)(B)(*1*)-(*6*). In denying the petition, the director determined that the evidence submitted does not satisfy any of these criteria. After careful review, the petitioner has not overcome the grounds for denial.

In order to establish eligibility as an alien of extraordinary achievement, the statute and regulations require evidence of a very high level of accomplishment in the motion picture or television industry evidenced by a degree of skill and recognition significantly above that ordinarily encountered to the extent that the person is recognized as outstanding, notable, or leading in the field, and whose achievements have been recognized in the field through extensive documentation. The petitioner has not established that the beneficiary or his achievements have been so recognized.

If the petitioner establishes through the submission of documentary evidence that the beneficiary has been nominated for or has received a significant national or international award or prize in his or her field pursuant to 8 C.F.R. § 214.2(o)(3)(v)(A), then it will meet its burden of production with respect to the beneficiary's eligibility for O-1 classification. Here, the petitioner has not submitted evidence that the beneficiary has been nominated for or received a significant national or international award or prize comparable to an Academy, Emmy or Grammy Award.

As there is no evidence that the beneficiary has been nominated for or received a significant national or international award or prize, the petitioner must establish the beneficiary's eligibility under at least three of the six criteria set forth at 8 C.F.R. § 214.2(o)(3)(v)(B). We will address these criteria below.[2]

> *Evidence that the alien has performed, and will perform, services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements*

In order to meet criterion number one, the petitioner must submit evidence that the beneficiary has performed, and will perform, services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts or endorsements. 8 C.F.R. § 214.2(o)(3)(v)(B)(*1*).

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[2] The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

The beneficiary's resume lists a total of eleven producer/director credits between 2008 and 2014. The beneficiary indicates on his resume that he has directed seven short films: ' (also referred to as ' The beneficiary's resume also lists producing credits for and three films directed by others: "A (shorts films of various directors including the beneficiary's , the short film and the feature-length film '

The beneficiary's role as producer and/or director of these productions may be categorized as providing services as a lead participant. However, the petitioner must also establish through the submission of critical reviews, advertisements, publicity releases, contracts or endorsements that the films themselves have a distinguished reputation.

The petitioner initially provided documentary evidence of awards received by the beneficiary for films he has produced/directed and press releases and articles showing that the beneficiary's films were screened at various film festivals. The petitioner submitted evidence that the beneficiary received awards including, but not limited to, the following:

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The petitioner also submitted a photograph dated April, 30, 2012, of a billboard , advertising the showing a trailer for

Additionally, the petitioner initially submitted press releases and articles showing that the beneficiary's films were screened at more than 75 film festivals, including festivals in the United States, Spain, Mexico, South Korea and Brazil.

In the RFE issued on July 1, 2014, the director advised the petitioner that the initial evidence did not meet this criterion, and requested that the petitioner submit additional evidence to establish that the beneficiary has performed and will perform as a lead participant in productions or events that have a distinguished reputation, including evidence in the form of written reviews from critics, advertisements, publicity releases, publication contracts or endorsements. The director noted that the reviews reflect that the feature-length film was well received at various film festivals.

The petitioner submitted a response to the RFE, which included the beneficiary's biography from the and additional copies of press releases and articles showing the festivals at which the beneficiary's films were screened. The director determined that the petitioner did not satisfy the evidentiary requirements of this criterion. On appeal, the petitioner submits additional copies of press releases and published articles showing the festivals at which the beneficiary's films were screened, the majority of which are related to the film ' ' and awards received by the beneficiary.

Upon review, the record, including the petitioner's submission on appeal, does not support the director's determination. The petitioner has submitted sufficient evidence in the form of critical reviews, advertisements, publications and contracts to establish that the beneficiary satisfies the criterion at 8 C.F.R. § 214.2(o)(3)(v)(B)(*1*).

The petitioner has submitted evidence that the feature film received highly favorable reviews in the motion picture press, positive reviews from film festival screenings, and won numerous awards. In addition, the short film, ' won a bronze medal at the as well as other awards, not all of which are student awards. We find that, based on the beneficiary's role as the director of and his role as the producer of ' the petitioner has established that the beneficiary has performed and will perform in a lead or starring role for productions or events which have a distinguished reputation.

> *Evidence that the alien has achieved national or international recognition for achievements evidenced by critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines, or other publications*

The plain language of the regulation at 8 C.F.R. § 214.2(o)(3)(v)(B)(*2*) requires the petitioner to demonstrate that the beneficiary has achieved national or international recognition for achievements through submission of critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines, or other publications. In general, in order for published material to meet this criterion, it must be about the beneficiary and, as stated in the regulations, be printed in major newspapers, magazines or other major publications. To qualify as major media, the publication should have significant national or international distribution. The director determined that the petitioner did not satisfy the evidentiary requirements of this criterion.

The petitioner has provided numerous articles that mention the beneficiary by name, several with photographs of the beneficiary, in reviewing film awards ceremonies and films screened at film festivals in the United States and abroad, in publications including, but not limited to, the

While not addressed by the director in her decision, the translation certifications of the foreign-language articles are all photocopies of the same certification used for multiple translations. The regulation at 8 C.F.R. § 103.2(b)(3) states: "Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English." A single certification, whether or not copied, that does not list the translations it certifies is not probative evidence that the translator(s) of each translation certified the translation. Because these translations do not comply with 8 C.F.R. § 103.2(b)(3), they have significantly diminished probative value.

The articles about the awards in general are not about the beneficiary. Rather, they only briefly mention the beneficiary. The plain language of this regulatory criterion requires that the published material be "about the individual." In addition, while the authors of the published material from film festivals speak very positively of the beneficiary's films, the articles do not recognize the beneficiary's individual achievements in the motion picture industry as a filmmaker or the national/international recognition he received for such achievements.

The petitioner also submitted two interviews with the beneficiary from Swiss German-language newspapers. The first, appeared in the on May 25, 2012, and contains a picture of the beneficiary. The interview indicates that the beneficiary was finishing his master's degree in film at that his short film was selected for the at the The interview states that at the beneficiary "organizes meetings after meetings with programmers in order to find out to what festivals he should submit his film." The interview notes that after the beneficiary is producing his first feature film in and that the beneficiary's main reason why he is in is to make contacts with Danish filmmakers. The interview notes that interest in the beneficiary's work grew after a short film of the beneficiary's won a Student Oscar, and quoted the beneficiary as stating, "[e]ach day I get one or two emails from production companies, agents and managers, who suddenly are interested in me."

The record does not contain the circulation data for the or other evidence that the publication could be considered major media. Even if we determined that the is a major newspaper, we cannot conclude that this brief article is evidence of the beneficiary's receipt of national recognition for his achievements in the field of filmmaking. The article reflects that the beneficiary was currently a student filmmaker seeking out festivals and investors for his work for whom interest has recently begun to grow, rather than a film director/producer who is already nationally recognized for his achievements in the field.

The second article appeared in the October 7, 2013, edition of the and also mentions that the beneficiary is pursuing his MFA in film directing and screenwriting at The article mentions that the beneficiary was currently producing a feature film "] that includes a segment he directed in It also states that ' has been shown at over 40 film festivals, including recently being screened at the It discusses his upcoming film and notes that because he won the Student Oscar for " he received some press in Switzerland and that "[w]e were able to present our production company Fidelio film at the major studios in Because of the prize, I've also got a manager in the USA . . . to advance our film projects." The petitioner has not established that the s a "major newspaper" in Germany, rather than a local or regional newspaper. Additionally, the article indicates that the beneficiary is student filmmaker whose film projects are beginning to be advanced, rather than a film director/producer who is already nationally recognized for his achievements in the field.

Further, while the petitioner has submitted numerous favorable critical reviews of the feature film the reviews do not demonstrate the beneficiary's recognition for achievements because, while some of them list him as one of several producers, the reviews all focus on the film's director,

Finally, the petitioner submitted foreign-language articles published on the websites but the petitioner has not provided translations of the

articles. Because the petitioner did not submit full and certified English language translations, it did not comply with the regulation at 8 C.F.R. § 103.2(b)(3), as set forth above. As such, the petitioner has not established that these materials demonstrate his national or international recognition for achievements as required under the plain language of the criterion. Moreover, the petitioner has not documented the significance of these websites.

In light of the above, the petitioner has not established that the evidence satisfies the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(v)(B)(*2*).

> *Evidence that the alien has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials.*

In order to establish that the beneficiary meets the third criterion, the petitioner must submit evidence that the alien has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation, evidenced by articles in newspapers, trade journals, publications, or testimonials. 8 C.F.R. § 214.2(o)(3)(v)(B)(*3*). The director determined that the petitioner did not satisfy the evidentiary requirements of this criterion.

The beneficiary has performed as a producer/director for and/or companies that he founded. The petitioner has provided no information regarding any other organizations or establishments that have employed the beneficiary in the past. While the evidence establishes that the beneficiary previously performed as a producer, director and screenwriter, the submitted evidence does not describe the duties the petitioner performed for either organization in his various roles, or establish how his position fit within the overall hierarchy of the organizations. The record also does not contain the required documentary evidence in the form of articles in newspapers, trade journals, publications or testimonials pertaining to the reputation of

Additionally, the petitioner has asserted that the evidence establishes the beneficiary's eligibility based on his role with the co-directors of in Colorado provided a joint reference letter mentioning the role the beneficiary played in their organization's event, which they describe as "an annual six-day festival that is one of the world's premier international showcases for the trend-setting art form: the short," and "an influential event in the film world because it identifies and celebrates emerging talent." Ms. and Mr. stated that the beneficiary's films, " were screened at the in 2013 and 2014, respectively, where "[i]n addition to presenting his films . . . [the beneficiary] generously mentored students interested in filmmaking. At we provide free one-of-a-kind educational enrichment opportunities for middle and high schools. [The beneficiary] played an invaluable role by generously sharing his experience with local students about the creative and technical aspects of the filmmaking process." Ms. and Mr. do not assert in their letter that the beneficiary played a lead, starring or critical role in their organization.

Director of Awards and Operations at provided two reference letters, dated April 1, 2014, and August 20, 2014, respectively. In her first letter, Ms. stated that the beneficiary "played a critical role for our organization as a juror for our " In her second letter she stated that the beneficiary "served as a juror for our " Her letters stated that the beneficiary helped to evaluate numerous films in the organization's student drama category, and that his jury was thorough, critical and provided wonderful and constructive feedback for the young filmmakers. Merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *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).

A leading role should be apparent by its position in the overall organizational hierarchy and should be accompanied by the role's matching duties. A critical role should be apparent from the petitioner's impact on the organization or the establishment's activities. The petitioner's performance in this role should establish whether the role was critical for an organization or establishment as a whole. Ms. letters do not explain how the petitioner performed in a leading or a critical role for the organization beyond concluding that he did.

The reference letters submitted by the petitioner are not without weight and have been considered above. We may, in our discretion, use as advisory opinion statements submitted as expert testimony. *See Matter of Caron International,* 19 I&N Dec. 791, 795 (Comm'r 1988). However, we are ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters of support from the petitioner's personal contacts is not presumptive evidence of eligibility; we may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796; *see also Matter of V-K-,* 24 I&N Dec. at 500 n.2 (BIA 2008). Thus, the content of the writers' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence. We affirm the director's finding that the petitioner did not submit evidence demonstrating that he has performed in a lead, starring or critical role for organizations or establishments that have a distinguished reputation.

In addition, the petitioner must establish that the beneficiary will provide services as a lead or starring participant for organizations or establishments that have a distinguished reputation. The "updated and clarified" employment agreements establish that the beneficiary will work as a film producer/director for
The plain language of the regulation requires "[e]vidence that the alien has performed, and will perform, in a lead, starring or critical role *for organizations or establishments* that have a distinguished reputation." (Emphasis added.) The petitioner has not demonstrated how the beneficiary's role as a producer/director on a film rises to the level of a lead, starring or critical role for the film's production company. While the petitioner has established the beneficiary's job title on upcoming film projects, the submitted evidence does not describe how the beneficiary will

contribute to the each production company as a whole or how his position fits within the overall hierarchy of the company.

The petitioner also did not provide sufficient evidence to demonstrate that the production companies enjoy a distinguished reputation. On appeal the petitioner asserts that are established award-winning production houses. While the petitioner has provided promotional materials from those companies as evidence of their reputations, as previously noted, the plain language of this criterion requires the submission of evidence in the form of newspapers, trade journals, publications or testimonials. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190).

In light of the above, the petitioner has not submitted evidence to satisfy the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(v)(B)(*3*).

> *Evidence that the alien has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which the alien is engaged. Such testimonials must be in a form which clearly indicates the author's authority, expertise, and knowledge of the alien's achievements.*

In order to meet the fifth regulatory criterion, the petitioner may submit evidence that the beneficiary has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which the alien is engaged. Such testimonials must be in a form which clearly indicates the author's authority, expertise, and knowledge of the alien's achievements. 8 C.F.R. § 214.2(o)(3)(v)(B)(*5*).

The petitioner has submitted testimonial letters from 26 individuals. The director determined that the evidence of record does not establish that the beneficiary satisfies the criterion. On appeal, the petitioner characterizes the beneficiary as "one of the film industry's greatest talents" and argues that the director did not take into proper consideration the reference letters submitted from "international clients, colleagues and peers" and "entertainment professionals who confirm the significant reputation [the beneficiary] has built as a producer/director, while offering details about his invaluable creative contributions to the field."

We acknowledge the petitioner's assertions on appeal that "the fact that some of [the beneficiary's] films were created during [his] time at , only goes to highlight his high level of distinction. To compete with film professionals and still win multiple awards and high acclaim for his work, despite being a student, only serves to further illustrate [the beneficiary's] extraordinary ability as a director/producer."

At issue is not the beneficiary's student status when he won the award, but whether the pool of candidates was limited to students. It is the petitioner's burden to establish the recognition that accrues from an award that excludes from competition those experienced in the field. In this

matter, the petitioner has met that burden with respect to one of the awards. Specifically, we find that the beneficiary's receipt of a bronze medal at the ceremony held by which was covered by the at both the nomination and award stage, is evidence of "significant recognition for achievements from organizations in the field," pursuant to the plain language of the criterion.

Accordingly, the petitioner has established that the beneficiary meets this criterion at 8 C.F.R. § 214.2(o)(3)(v)(B)(5).

IV. Conclusion

The petitioner has not submitted qualifying evidence under 8 C.F.R. § 214.2(o)(3)(v)(A) or at least three criteria at 8 C.F.R. § 214.2(o)(3)(v)(B). Consequently, the petitioner has not established that the beneficiary is eligible for classification as an alien with extraordinary achievement in the motion picture or television industry and the petition may not be approved.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. 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.