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



**U.S. Citizenship  
and Immigration  
Services**



D9

DATE: **APR 28 2011** Office: VERMONT SERVICE CENTER FILE: EAC 10 186 51604

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

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

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

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

The petitioner filed this nonimmigrant petition seeking classification of the beneficiary under section 101(a)(15)(P)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(iii), as a performing artist in a culturally unique program. The petitioner is self-described as a Chinese culture and performing arts center. It seeks to employ the beneficiary as a performer and instructor of Chinese folk dance for a period of one year.

The director denied the petition, concluding that the petitioner was unable to provide requested corroborating evidence to demonstrate that the beneficiary would perform in the events listed in the submitted itinerary.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, the petitioner emphasizes that it is a non-profit organization that has been invited to perform in many venues in the United States, but does not typically sign contracts because it “is a performing company with an aim to promote Chinese performing arts.” The petitioner suggests that the denial of the petition for the grounds stated displayed an “ignorance of the whole context of our business,” and was “erred, unreasonable, bias and malicious.” The petitioner submits a brief and additional evidence in support of the appeal.

## **I. The Law**

Section 101(a)(15)(P)(iii) of the Act provides for classification of an alien having a foreign residence which the alien has no intention of abandoning who:

- (I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and
- (II) seeks to enter the United States temporarily and solely to perform, teach, or coach as a culturally unique artist or entertainer or with such a group under a commercial or noncommercial program that is culturally unique.

Congress did not define the term “culturally unique,” leaving that determination to the expertise of the agency charged with the enforcement of the nation’s immigration laws. By regulation, the Immigration and Naturalization Service (now U.S. Citizenship and Immigration Services (USCIS)), defined the term at 8 C.F.R. § 214.2(p)(3):

*Culturally unique* means a style of artistic expression, methodology, or medium which is unique to a particular country, nation, society, class, ethnicity, religion, tribe, or other group of persons.

The regulation at 8 C.F.R. § 214.2(p)(3) states, in pertinent part:

*Competition, event or performance* means an activity such as an athletic competition, athletic season, tournament, tour, exhibit, project, entertainment event or engagement. Such activity could include short vacations, promotional appearances for the petitioning employer relating to the competition, event or performance, and stopovers which are incidental and/or related to the activity. An athletic activity or entertainment event could include an entire season of performances. A group of related activities will also be considered an event.

The regulation at 8 C.F.R. § 214.2(p)(2)(ii) states that all petitions for P classification shall be accompanied by:

- (A) The evidence specified in the specific section of this part for the classification;
- (B) Copies of any written contracts between the petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed;
- (C) An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities; and
- (D) A written consultation from a labor organization.

The regulation at 8 C.F.R. § 214.2(p)(6)(i) further provides:

- (A) A P-3 classification may be accorded to artists or entertainers, individually or as a group, coming to the United States for the purpose of developing, interpreting, representing, coaching, or teaching a unique or traditional ethnic, folk, cultural, musical, theatrical, or artistic performance or presentation.
- (B) The artist or entertainer must be coming to the United States to participate in a cultural event or events which will further the understanding or development of his or her art form. The program may be of a commercial or noncommercial nature.

The regulation at 8 C.F.R. § 214.2(p)(6)(ii) states that a petition for P-3 classification shall be accompanied by:

- (A) Affidavits, testimonials, or letters from recognized experts attesting to the authenticity of the alien's or group's skills in performing, presenting, coaching, or teaching the unique or traditional art form and giving the credentials of the expert, including the basis of his or her knowledge of the alien's or group's skill, or
- (B) Documentation that the performance of the alien or group is culturally unique, as evidenced by reviews in newspapers, journals, or other published materials; and
- (C) Evidence that all of the performances or presentations will be culturally unique events.

Pursuant to 8 C.F.R. § 214.2(p)(2)(iv)(A), a petition which requires the alien to work in more than one location must include an itinerary with the dates and locations of the performances.

## II. Discussion

The sole issue addressed by the director is whether the petitioner submitted evidence to satisfy the regulatory requirement at 8 C.F.R. § 214.2(p)(2)(ii)(C). The petitioner is required to provide an explanation of the nature of the events or activities, the beginning and end dates for such activities, and a copy of any itinerary for the events or activities.

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, on June 29, 2010. The petitioner, which claims to have three employees, indicated on Form I-129 that the beneficiary “will serve as Performer of Chinese folk dance at our public performances, as an instructor to teach Chinese dance in schools sponsored by [the petitioner].” The petitioner indicated that the beneficiary will work at the petitioner’s address at [REDACTED] as well as at “theaters, libraries, schools and community center.” The petitioner stated that the beneficiary will work 20 hours per week at a weekly salary of \$250, and also receive \$200 for each performance. The petitioner requested a one-year petition validity commencing on August 1, 2010.

In a letter dated June 17, 2010, the petitioner stated that the beneficiary will be involved in the following activities and events:

[The beneficiary] will serve as an artistic instructor for our on going school programs and workshops. He will lecture on Chinese folk dance with on site demonstration. He will direct the rehearsals of our productions of Chinese folk dance musicals and play the leading roles in those plays.

In support of the petition, the petitioner submitted an itinerary of “Projected Major Cultural Events and Programs” for 2010-2011. The petitioner notes that it operates a daily, year-round music program, offered in the summer and after-school, as well as a summer-long “Chinese Opera, Magic Art, Music and Dance Training Program for Students at this center from Monday to Saturday.” The itinerary lists a total of 23 events for the period between April 2010 and August 2011, including exact dates for events. The events include Chinese music, opera, dance, magic and acrobatics performances. The event locations include Flushing Library, “New Jersey Primary School,” the Taiwan Center in Flushing, “Asian Center” in New York City, Lincoln Center, New York Fashion Institute, Huaxia Art Center, Flushing Town Hall, FIT Theater, Flushing Senior Center, a high school auditorium, Greenwich Library, Chinese American Art Council, Brooklyn Library, and Chinatown Community Center in New York.

On September 20, 2010, the director issued a request for additional evidence (“RFE”) in which he instructed the petitioner to provide, *inter alia*, the following: (1) evidence that the petitioning organization was or has been contracted to perform at all of the events listed in the itinerary, including letters from managers at each venue, along with promotional materials for the petitioner’s listed performances; (2) evidence that the work lined up for the beneficiary is sufficient to allow the petitioner to compensate the beneficiary at the stated rate; (3) a copy of

the lease agreement for the petitioner's office or center, along with photographs depicting the nature of the business; and (4) evidence of the performances and lecture-demonstrations conducted by the petitioning organization in the last six months.

In a response dated November 1, 2010, the petitioner submitted the following as evidence of its "most recent" events:

- An invitation letter dated May 26, 2010 from the Chinese Center on Long Island, Inc., requesting "the services of a troupe of ten to eleven acrobats" and an orchestra for Chinese American Night on August 1, 2010. The performance was to take place at Eisenhower Park, East Meadow, New York at the Harry Chapin Lakeside Theatre.<sup>1</sup>
- Copy of a Theatre Rental Contract Agreement between the petitioner and the Flushing Council on Culture and the Arts for a Chinese Music & Acrobatics Session to be held on September 19, 2010, along with a flyer for this event. The AAO notes that the rental agreement indicates on its face that it was "made November 12, 2008," yet it was ostensibly signed on June 10, 2010.
- A letter dated May 10, 2010 from the Chinese Students and Scholars Association of the University of Bridgeport, inviting the petitioner to perform at a "Mid-Autumn Celebration" tentatively scheduled for September 22, 2010.
- A performance agreement between the University of Bridgeport and "Baoan Arts Center," made on August 30, 2010, for a performance at the "Mid-Autumn Festival Show" on October 1, 2010 at the University of Bridgeport. The petitioner also provided a program for this event.
- An invitation letter dated July 29, 2010 from the International Cultural Exchange Corporation in New Orleans requesting a performance from the petitioner for its "Mid-Autumn Celebration" tentatively scheduled for September 24-25, 2010 at "McAlister Auditorium." The petitioner also provided a program for this event.
- An invitation letter dated August 1, 2010 from the Tung Ching Chinese Center for the Arts, in which the petitioner was invited to perform at an event celebrating the 99<sup>th</sup> Birthday of the Republic of China to be held at a restaurant on October 15, 2010. The petitioner also provided a program for this event.

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<sup>1</sup> This letter was accompanied by three letters from local government officials thanking the Chinese Center on Long Island for its participation in previous Chinese cultural events and programs in and around Long Island. The petitioner is not mentioned in any of these letters.

- An invitation letter dated October 1, 2010 from Chinese American Voice, Inc. (CAV), requesting that the petitioner perform “The Percussion Orchestral Music” at the CAV’s annual party on October 24, 2010. The petitioner also provided a program for this event.

With respect to upcoming events, the petitioner submitted several additional invitation letters, including: (1) a letter from [REDACTED] requesting that the petitioner’s troupe of artists perform at her company’s Thanksgiving and Christmas events to be held at the Flushing Mall on November 6, 2010 and December 19, 2010; (2) a letter from [REDACTED] inviting the petitioner to perform at a Chinese Lunar new year event to be held at Flushing Mall on February 19, 2011; (3) a letter from [REDACTED] indicating that this organization and the petitioner would be “performing a show together” at Harrison Elementary School in Livingston, New Jersey on November 19, 2010; (4) a letter from [REDACTED] advising the petitioner that it would be performing a show with her organization at Kings Bay Library in Brooklyn, New York on March 5, 2011; (5) a letter from [REDACTED] advising the petitioner that it would be performing with her organization at three elementary schools in Berryville, Virginia on March 31 and April 1, 2011; and (6) a letter from [REDACTED] for the Arts, inviting the petitioner to perform a concert at the Peter Jay Shart Theater at Symphony Space in New York, New York on May 17-19, 2011.

The petitioner also submitted a programming contract dated October 20, 2010 which indicates that it has agreed to perform at the 2011 University of Bridgeport Chinese New Year Gala on February 3, 2011.

As requested by the director, the petitioner submitted a copy of a lease agreement for the premises located at [REDACTED]. The lease is a residential lease for a “private Apartment to live in and for no other reason.” The tenant is Bao An Cao, and under the terms of the agreement, only [REDACTED] his spouse and his children may use the apartment. The petitioner submitted several photographs of a small room within an apartment, which includes a sofa, a desk with a computer, a television and several musical instruments. One of the photographs appears to depict a student receiving instruction in playing an instrument. The name of the petitioning entity appears on a placard placed on the door to the room.

Finally, as additional evidence of the petitioner’s previous events and activities during the last six months, the petitioner submitted:

- A letter from [REDACTED] president of [REDACTED] stating that [REDACTED] and his cultural center “have partnered with us for numerous performances throughout the years,” have performed at “many schools and libraries,” and recently performed a Chinese New Year Show for Brooklyn Public Library on February 13, 2010, and a show for PS 225 on June 1, 2010.
- A program for the 2010 Chinese Art Festival Concert held at Western Connecticut State University on May 9, 2010. [REDACTED] delivered a solo performance on the Erhu at this event, but there is no mention of the petitioning organization.

- A program for “An Evening of Chinese Culture 2010” which indicates that the petitioning organization participated in the “Opening Ceremony: Dragon and Lion Dance” portion of the pre-game program. The program was held at a New Jersey Nets professional basketball game.
- A program for an “Autumn Moon Celebration” presented by the petitioning organization in conjunction with the Asian American Arts Alliance on October 22, 2009. The petitioner highlighted [REDACTED] performance at this event.
- A letter dated December 10, 2009 from [REDACTED] International Inc., inviting the petitioner to perform at New Year’s events scheduled for January 2, 2010 and February 20, 2010 on Flushing Mall.
- A letter dated March 27, 2010 from the [REDACTED], stating that he greatly enjoyed the performance of [REDACTED] on the Erhu (Chinese violin) at the University of Bridgeport’s Chinese New Year Celebration.
- A program for a fundraising event held by the Asian American Cultural Exchange Academy. The beneficiary and [REDACTED] are listed as performers at this event.
- A letter dated July 21, 2010 from [REDACTED] reference librarian at Greenwich Library, stating that the petitioning organization “performed a series of Chinese cultural programs at the Cole Auditorium of Greenwich Library on Sunday, February 7<sup>th</sup>, 2010.”
- A letter dated February 15, 2010 from the University of Bridgeport Chinese Students & Scholars Association, thanking the petitioner for its participation in its 2010 Chinese New Year celebration.
- A program for a November 15, 2009 Chinese Opera performance held by the petitioner at the John Bowne High School Auditorium in Queens, New York.

Finally, the petitioner submitted a revised itinerary for the period of June 2010 to October 2011, to which it added many of the above-referenced events.

The director denied the petition on November 18, 2010, concluding that the evidence provided in response to the RFE “is not sufficient to show to USCIS you have contracted employment for the proposed itinerary of events for the beneficiary . . . for the period of time requested on the petition.” The director acknowledged that the petitioner provided invitation letters and one programming contract for events to be held during the first few months of 2011. With respect to the invitation letters from [REDACTED], the director noted that the dates of the proposed events are questionable because it appears that the dates on the letters were altered. The director noted that the petitioner failed to provide copies of contracts or letters from venue managers to corroborate the upcoming events on its itinerary.

In addition, the director noted the lease agreement the petitioner submitted is for a residential apartment, which “brings to question the viability of your company and the proposed period of time requested on the petition.”

On appeal, the petitioner disagrees with the director’s conclusion that the petition failed to document its upcoming performances. The petitioner states:

Please note that [the petitioner] is a non for profit organization. We have been invited to perform in many venues in the U.S., on many occasions. We normally do not sign contracts as we are a performing company with an aim to promote Chinese performing arts, not for profit purpose. As the Service Center questioned about the letters from [REDACTED] we are submitted [sic] letters from [REDACTED] admitted [sic] the schedule typo and confirming the company’s plan to invite our organization for the upcoming shows in March and April of 2011.

The Service Center questioned about the viability of our organization as our organization is currently renting an apartment for its office. This is due to limited budget and in order to reduce the cost of running a nonprofit organization in a commercial building we are operating our office using a private apartment. This is not uncommon in the U.S. for nonprofit organization. There is no Federal Law or Regulations that prohibit an organization operates its office in a private apartment.

The Service denied the petition because the evidence is not sufficient to show USCIS we have contracted employment for the proposed itinerary of events for the beneficiary. Also, the Service ignored the fact that our organization is a not for profit organization and we perform regularly in schools and colleges, as well as libraries, and other cultural institutions. We have also been invited to give lecture-demonstrations at schools, colleges and cultural organizations throughout the New York and tri-state areas. In addition, we offer programs to educate school-age children in traditional Chinese folk arts and music. We give free lecture -demonstrations and classes for Chinese musical instruments, performing arts and other art forms. In Petitioner’s view, the Service’s ignorance of the whole context of our business is indeed erred, unreasonable, bias[ed] and malicious.

In support of the appeal, the petitioner submits a letter dated December 1, 2010 from [REDACTED], who states that she mistakenly wrote the wrong dates in her previous letters and authorized the petitioner to change the dates from 2010 to 2011, thus accounting for the alteration that the director noticed. She also provides new invitation letters for the March 5, March 31 and April 1, 2011 shows in Brooklyn, New York and Berryville, Virginia.

Upon review, and for the reasons discussed below, the AAO will uphold the director’s decision and dismiss the appeal.

First, the AAO concurs with the director’s conclusion that the petitioner’s failure to document that it has confirmed any of the events listed in the itinerary provided at the time of filing raises questions regarding the petitioner’s ability to offer the beneficiary the terms of employment outlined in the petition. Although requested

by the director, the petitioner has failed to document that its organization has performed or will perform at a single event listed on the itinerary submitted at the time of filing, which extends from April 16, 2010 until August 2011. The director specifically requested evidence to corroborate the information provided in the itinerary. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). Furthermore, several of the earlier events appeared to involve solo musical performances by the petitioner's artistic director, or small musical ensembles, rather than any performances by the petitioner's claimed "troupe" of dancers, acrobats, and opera performers.

In response to the RFE, the petitioner submitted documentation pertaining to past 2010 events that were not on the initial itinerary, as well as minimal evidence of upcoming performances or events in which the beneficiary may or not participate. For example, all but one of the upcoming events, scheduled to take place at a library, in three elementary schools, and at Flushing Mall are described simply as "shows" or "performances" which may or may not require the beneficiary's services as a Chinese folk dancer or instructor. Furthermore, the majority of the upcoming events have been documented solely through invitation letters. The events themselves appear to be sponsored or organized by other entities [REDACTED] and the petitioner failed to submit any corroborating evidence from the venues at which the performances will be held. The record contains only one contract for an upcoming Chinese New Year performance to be held in Bridgeport, Connecticut in February 2011.

Regardless, the petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. A visa petition may not be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978). The petitioner has not established that any of the events listed in its initial itinerary have occurred or will occur.

In addition to failing to submit documentation to corroborate the petitioner's commitment to specific performances in which the beneficiary will participate, the petitioner has neither identified with any specificity nor documented when or where he will perform his role as Chinese folk dance instructor. As noted above, at the time of filing the petitioner stated that "[the beneficiary] will serve as an artistic instructor for our on going school programs and workshops." The petitioner claims to provide year-round instructional programs, including after-school and summer programs. According to the itinerary, summer programs are held at the petitioner's "center," and the petitioner has also stated that the beneficiary will "teach Chinese dance in schools sponsored by [the petitioner]." The petitioner's center-based and school-based instructional programs have simply not been documented. 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. 158, 165 (Comm'r. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r. 1972)).

As noted above, when asked to provide a lease agreement for its place of business, the petitioner submitted its artistic director's residential apartment lease. The beneficiary would clearly not be teaching Chinese dance classes in an apartment in which any commercial use is prohibited, nor is it reasonable to believe that he would otherwise be working in [REDACTED] apartment. The petitioner has not submitted evidence such as agreements or letters from the hosts of the petitioner's purported "school-based" programs or otherwise

established the existence of such programs. Therefore, the petitioner has not established that it has work available for the beneficiary as an instructor.

Finally, we note that the petitioner claims to employ only three people, which raises further questions regarding its ability to provide the extensive cultural and arts programs described in the petition. While the petitioner has submitted some credible evidence of its involvement, or the involvement of its director, in Chinese cultural events in the past, the AAO concurs with the director's conclusion that the petitioner has not established that the beneficiary would be providing the proposed performance or teaching services as described in the petition. Accordingly, the petition will be dismissed.

Additionally, beyond the decision of the director, the remaining issue in this matter is whether the petitioner has met the evidentiary requirements for this visa classification as set forth at 8 C.F.R. § 214.2(p)(6)(ii)(A) or (B). Specifically, 8 C.F.R. § 214.2(p)(6)(ii)(A) requires the petitioner to submit affidavits, testimonials, or letters from recognized experts attesting to the authenticity of the alien's or group's skills in performing, presenting, coaching, or teaching the unique or traditional art form and giving the credentials of the expert, including the basis of his or her knowledge of the alien's or group's skill.

To satisfy this requirement, the petitioner submitted an undated letter from Guangzhou Orchestra. The letter is not attributed to an individual representative of that organization. The letter states:

[The beneficiary], an outstanding young dancer is a member of China Dancer Association and Guangzhou Dancer Association. He graduated from Lianning Dance School where he received professional training in Chinese folk dance and ballet under the guidance of famous master dancers from China and Russia. He was a lead dancer in Guangzhou Song and Dance Ensemble and played a lead role in the famous dance musical "Moonlight over the Erquan Pond." He was invited to dance at the Dalian International Fashion Festival from 1998 to 2000. His outstanding performance was well-received and highly praised by audience and the peer.

This letter does not adequately attest to the authenticity of the beneficiary's culturally-unique skills. As the letter has not been attributed to any specific official or representative of Guangzhou Orchestra, it fails to establish the author's credentials as a recognized expert in this area or sufficiently establish the basis of his or her knowledge of the beneficiary's skill. Nor does the letter attest with any specificity to the cultural or traditional elements of the beneficiary's performance.

The regulation at 8 C.F.R. § 214.2(p)(6)(ii) specifically requires "letters from recognized experts attesting to the authenticity of the alien's or group's skills in performing, presenting, coaching, or teaching the unique or traditional art form and giving the credentials of the expert, including the basis of his or her knowledge of the alien's or group's skill." In the present case, the petitioner has not established the credentials of the purported expert, the basis for the expert's opinion, or any specifics about the beneficiary's skill at performing a unique or traditional art form.

As a matter of discretion, USCIS may accept expert opinion testimony.<sup>2</sup> However, USCIS will reject an expert opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Matter of Caron International, Inc.*, 19 I&N Dec. 791, 795 (Comm. 1988). USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.*; see also *Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (“[E]xpert opinion testimony, while undoubtedly a form of evidence, does not purport to be evidence as to ‘fact’ but rather is admissible only if ‘it will assist the trier of fact to understand the evidence or to determine a fact in issue.’”).

Here, the sole letter submitted is entirely deficient and cannot be deemed probative of the “culturally unique” nature of the beneficiary’s performance. As the petitioner submitted no other affidavits, testimonials or letters from recognized experts, the petitioner has not satisfied the evidentiary requirement at 8 C.F.R. § 214.2(p)(6)(ii)(A).

The record does not contain any evidence that could, in the alternative, satisfy the requirement set forth at 8 C.F.R. § 214.2(p)(6)(ii)(B), which requires the petitioner to submit documentation that the beneficiary’s performances are culturally unique, in the form of reviews in newspapers, journals, or other published materials.

Therefore, the petition may not be approved as the petitioner has not submitted evidence to satisfy the evidentiary requirements at 8 C.F.R. § 214.2(p)(6)(ii)(A) or (B).

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. See *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff’d*, 345 F.3d 683 (9th Cir. 2003). The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).”

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<sup>2</sup> Letters may generally be divided into two types of testimonial evidence: expert opinion evidence and written testimonial evidence. Opinion testimony is based on one’s well-qualified belief or idea, rather than direct knowledge of the facts at issue. Black’s Law Dictionary 1515 (8th Ed. 2007) (defining “opinion testimony”). Written testimonial evidence, on the other hand, is testimony about facts, such as whether something occurred or did not occur, based on the witness’ direct knowledge. *Id.* (defining “written testimony”); see also *id* at 1514 (defining “affirmative testimony”).

Depending on the specificity, detail, and credibility of a letter, USCIS may give the document more or less persuasive weight in a proceeding. The Board of Immigration Appeals (the Board) has held that testimony should not be disregarded simply because it is “self-serving.” See, e.g., *Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The Board also held, however: “We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available.” *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The petition will be denied and the appeal dismissed for the above-stated reasons, with each considered as an independent and alternative basis for the decision. When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if it is shown that the AAO abused its discretion with respect to all of the AAO's enumerated grounds. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d at 1043.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.