U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37735926

Date: APR. 23, 2026

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a secondary school teacher, seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner meets the initial evidence requirements for this classification through evidence of either a one-time achievement (a major, internationally recognized award) or by meeting at least three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

To establish eligibility as an individual of extraordinary ability, a petitioner (or anyone on the petitioner's behalf) must establish that they:

- Have extraordinary ability in the sciences, arts, education, business, or athletics;
- Seek to enter the United States to continue work in their area of extraordinary ability; and that
- Their entry into the United States will prospectively substantially benefit the United States.

Extraordinary ability must be demonstrated by evidence of sustained national or international acclaim as well as extensive documentation that the petitioner's achievements have been recognized in the field. Section 203(b)(1) of the Act.

The implementing regulation further states that the term "extraordinary ability" refers only to those aliens in "that small percentage who have risen to the very top of the field of endeavor." A petitioner can demonstrate that they meet the initial evidence requirements for this immigrant visa classification through evidence of a one-time achievement (that is, a major, internationally recognized award). If such evidence is unavailable, then they must alternatively provide evidence that meets at least three of the ten listed criteria, which call for evidence about lesser awards they may have received, published material about them in qualifying media, and their authorship of scholarly articles, among other types of evidence. 8 C.F.R. §§ 204.5(h)(2),(3).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination, assessing whether the record shows that the alien possesses the acclaim and recognition required for this highly exclusive immigrant visa classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Amin v. Mayorkas*, 24 F.4th 383, 394 (5th. Cir. 2022).

II. ANALYSIS

The Petitioner is currently employed as an English for speakers of other languages (ESOL) teacher at a public middle school in [redacted] Georgia. She earned a master's degree in applied linguistics at [redacted] in 2005, and indicates that she intends to continue to work as a teacher.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). SCOPS concluded that the Petitioner met at least one of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), relating to her leading or critical role for an organization with a distinguished reputation, but did not provide an analysis of the evidence. For two additional criteria, relating to membership in associations in the field requiring outstanding achievements and original contributions of major significance to the field, SCOPS discussed the evidence and indicated that it was insufficient, but ended the discussion with a statement that each of the criteria had been met. On appeal, the Petitioner asserts that the inconsistencies in SCOPS' decision warrant a withdrawal of the decision. She also asserts that she meets the evidentiary criteria relating to a relatively high salary, whereas SCOPS concluded that she did not. After reviewing all of the evidence in the record de novo, we conclude that the Petitioner has not established that she meets the initial evidence requirements for this classification.

1. Evidence of Membership in Associations Requiring Outstanding Achievements of Members

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields."

The Petitioner initially submitted evidence of her membership in three associations, but in responding to SCOPS' request for evidence (RFE) focused on only one of these, Phi Beta Delta honor society for international scholars. In discussing the evidence in its decision, SCOPS noted that the record did not include sufficient evidence to show that Phi Beta Delta required outstanding achievements of its members, noting the lack of bylaws or other evidence which might explain the association's membership requirements.

However, as stated above, after initially concluding that the evidence was insufficient, SCOPS followed this with the single statement that "the submitted evidence does meet this criterion." Because this statement contradicts the discussion preceding it, we withdraw the statement and provide de novo analysis of the evidence below.

In support of the Petitioner's assertion that her membership in Phi Beta Delta qualifies under this criterion, she provided two pages from the website https://honorsocietymuseum.org which appear to be the society's profile. This evidence describes it as "an international honor society that recognizes and promotes academic achievement in the field of international education." The webpages also include a general summary of the society's membership requirement:

> To become a member of Phi Beta Delta, individuals must meet certain academic requirements, including a minimum GPA and completion of coursework in international education. Members are also expected to demonstrate a commitment to promoting international understanding and cooperation.

We first note that these requirements cannot be directly attributed to Phi Beta Delta, as they do not appear on the society's own website or reference any of its own material about membership requirements. More importantly, the requirements as stated do not show that the society requires its members to have outstanding achievements in the field of education, or international education, as they focus primarily on academic achievements. The Petitioner has not shown that the academic accomplishments of students studying to enter a field or profession can be considered to be outstanding achievements in the broader field which they intend to enter. Further, much like membership requirements based on a certain level of education or experience, requirements of meeting an unspecified GPA and completing certain coursework will generally not support a conclusion that an association requires outstanding achievements of its members. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.dhs.gov/policy-manual.

In addition, since this evidence provides no information regarding the selection process for members of Phi Beta Delta, it does not demonstrate that a membership candidate's achievements are judged to be outstanding by national or international experts in the field.

For all of these reasons, we conclude that the Petitioner has not established that she meets this criterion.

2. Original Contributions of Major Significance in the Field

The regulation at 8 C.F.R. § 204.5(h)(3)(v) seeks "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has

she made original contributions, but that they have been of major significance in the field. For example, a Petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126 (D.D.C. 2013).

The Petitioner asserts that she has developed and implemented an ESOL teaching methodology employing cognate recognition and contrastive rhetoric that has helped her students more efficiently learn English and impacted the work of other ESOL teachers. To show her development of this methodology, she submitted a copy of a course book, SPARTA, which she states became popular with students and instructors at a college in Canada where she was employed. She also submits pages from a website, www[redacted]com, in which she describes her teaching methods and materials. While this evidence shows that she has created original works in her field, as discussed below the record does not establish that these materials or methodology constitute contributions that have been of major significance in her field.

In support of the impact or influence of her methodology in the field of language education, the Petitioner submitted two letters from others in her field who express interest in her work. A-F-, who states that he is an ESOL teacher who provides instruction to employees of small businesses, indicates his interest in using SPARTA in his work and invites the Petitioner "to propose a cooperation framework." He asserts that an agreement would expose thousands of ESOL learners across the country to her methodology. But the record does not include evidence that an agreement arose from this proposal that resulted in the use of the Petitioner's teaching methodology beyond her own classroom or those of her employer.

A second letter was written by M-S-, who describes himself as the President of a manufacturer of molded products. In the letter he confirms his intent to use the Petitioner's services to aid in his company's program to provide English language instruction to its employees, noting that she would "work alongside the designated English language instructors using your English teaching methodology." However, as with the letter above, the record does not include evidence that the Petitioner provided these services. In addition, even if the record did show that she provided the services described in these letters, she has not shown that doing so would reflect a degree of implementation in the field of language education rising to the level of major significance.

The Petitioner also submitted a letter from a former co-worker at English for Internationals. The writer lauds the Petitioner's performance as an ESOL instructor, stating that other instructors saw her as a leader and sought her advice in classroom and curriculum preparation. While also complementing her teaching and language skills, the letter does not indicate that the Petitioner's "pedagogical approaches" made a contribution beyond her own students and fellow instructors at English for Internationals.

When responding to SCOPS' RFE, the Petitioner objected to the request for "patents, copyright or trademark material" to document her contributions and their impact on the field, asserting that this represents a requirement for evidence that exceeds the plain language of this criterion. While we agree that this evidence is not specifically required at 8 C.F.R. § 204.5(h)(3)(v), we do not read the RFE or SCOPS' decision to impose novel evidentiary requirements. *See Kazarian v. USCIS*, 596 F.3d at 1121 ("neither USCIS nor an AAO may unilaterally impose novel substantive or evidentiary requirements beyond those set forth at 8 C.F.R. § 204.5.") As noted at the outset, it is the Petitioner's

burden to show her eligibility by a preponderance of the evidence, and the RFE described a type of evidence that might show that she meets this evidentiary burden for this criterion. While the Petitioner mentioned "peer-reviewed publications and academic citations" in her RFE response as evidence in the record which supports her claim to original contributions of major significance, the record does not include such evidence. And as explained above, the evidence of record is insufficient to show that the Petitioner's original works have been of major significance in her field. Accordingly, we withdraw SCOPS' concluding statement regarding this criterion and determine that the Petitioner does not meet this criterion.

3. Commanded a High Salary or Significantly High Remuneration in Relation to Others in the Field

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) seeks "[e]vidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field."

The Petitioner submitted evidence confirming that her annual salary as a middle school teacher as of the time she filed her petition was approximately $69,000. She also submitted a salary report from www.ziprecruiter.com showing that the average salary for middle school teachers in Georgia was approximately $44,300 at the time.

SCOPS determined that although the evidence showed that the Petitioner's salary was higher than average for teachers in Georgia, it did not establish that her salary was high relative to other teachers with her same level of education. On appeal, the Petitioner asserts that SCOPS did not consider evidence submitted with her RFE response which she states suggests that a salary difference of approximately $4200 is "significant." She also cites to a district court decision which found that the regulation does not require a comparison to others in the field with extraordinary ability.

While we acknowledge that a comparison of the Petitioner's salary to that of "others in the field" does not limit that comparison to those who might qualify as aliens of extraordinary ability, the comparison should be specific to the Petitioner's position and work location. *See generally 6 USCIS Policy Manual* F.2(B)(1). This means that the comparison should consider others of a comparable level of education and/or experience in the field as well as those possessing similar skills. *Matter of Price*, 20 I&N Dec. 953, 955 (Assoc. Comm'r 1994) (considering a professional golfer's earnings versus other PGA Tour golfers); *see also Skokos v. U.S. Dep't of Homeland Sec.,* 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). Since the ZipRecruiter data submitted by the Petitioner did not differentiate between starting level salaries for teachers holding bachelor's degrees and the earnings of those with higher levels of education and/or experience, or between those performing ESOL duties and those teaching the same subjects to English speakers, the Petitioner has not provided an appropriate basis for comparison to the Petitioner's salary. *See Xia v. Miller*, No. 3:20-CV-01468-JR, 2021 WL 5817324, at *6 (D. Or. Nov. 18, 2021), report and recommendation adopted, No. 3:20-CV-01468-JR, 2021 WL 5825999 (D. Or. Dec. 6, 2021) (finding that a petitioner's burden under this criterion includes the need to explain how the comparative salary evidence presented provides "a relevant, appropriate, and fair comparison.").

In addition, the Petitioner has not shown that the ZipRecruiter salary report, which considers the salaries of all teachers across the state of Georgia, provides the basis of a geographically-relevant comparison with her own salary. We note that [redacted] County lies within the Atlanta metropolitan area, whereas a salary report including wages for teachers from the entire state would include rural areas in Georgia with a typically lower cost of living and lower wages.

For all of the reasons discussed above, we conclude that the Petitioner has not established that she meets this criterion.

4. Additional Evidentiary Criteria

SCOPS also concluded, without providing any analysis, that the Petitioner had established that she played a leading or critical role for distinguished organizations at 8 C.F.R. § 204.5(3)(3)(viii). But we need not discuss this additional criterion. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), the identified basis for denial is dispositive of the appeal. We therefore reserve the issue of whether the Petitioner meets this evidentiary criterion. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

B. Final Merits Determination

Per the foregoing discussion, the Petitioner has not established that she meets at least three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3), and has therefore not met the initial evidence requirements for classification as an alien of extraordinary ability. However, because SCOPS included concluding statements suggesting that the Petitioner met three of the criteria, we will briefly discuss whether she has shown that she has sustained national or international acclaim in her field and is one of the small percentage at the very top of her field.

In a final merits determination, we examine and weigh the totality of the evidence to determine whether the Petitioner has sustained national or international acclaim and is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. As extraordinary ability is an elite level of accomplishment whose recognition necessarily entails a judgement call, it cannot be established through meeting at least three of the evidentiary criteria alone. The final merits determination is the ultimate statutory inquiry of whether the applicant has extraordinary ability as demonstrated by sustained national or international acclaim. *Amin v. Mayorkas*, 24 F.4th 383, at 395 (2022).

The evidence indicates that the Petitioner has enjoyed a long career in teaching languages, in the United States and abroad. Her level of education and development of original teaching materials reflect her commitment to her profession, and the reference letters in the record show that she has earned the respect of her peers throughout her career. But the record does not include evidence that she has achieved national or international recognition. For example, the letters from her superiors in the [redacted] County School District indicate that she is a valued member of the teaching staff at [redacted], but the record does not include evidence showing the same level of recognition in the broader field of education, or even language education. And while she has shown that her ESOL

teaching methodology and materials have attracted interest from two potential clients, she has not demonstrated that this level of possible implementation of her work places is indicative of the requisite sustained acclaim. Similarly, she has not shown that her current or past salary reflects compensation at a level commensurate with an individual among the very few at the top of the field. For all of these reasons, the Petitioner has not demonstrated her eligibility as an alien of extraordinary ability.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.