U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43906509

Date: AUG. 27, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner is an entrepreneur who 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.

Through its Service Center Operations (SCOPS), USCIS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding the record did not establish that the Petitioner had received a major, internationally recognized award, nor did he demonstrate that he met at least three of the ten regulatory criteria. The matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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 qualify under this immigrant classification, the statute requires the filing party demonstrate:

- The alien enjoys extraordinary ability in the sciences, arts, education, business, or athletics;
- They seek to enter the country to continue working in the area of extraordinary ability; and
- The alien's entry into the United States will substantially benefit the country in the future.

Section 203(b)(1)(A)(i)–(iii) of the Act. The term "extraordinary ability" refers only to those in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). *See also* H.R. Rep. 101-723, 59 (Sept. 19, 1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739 (stating: "In short, admission under this category is to be reserved for that small percentage of individuals who have risen to the very top of their field of endeavor.").

The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-step analysis. In the first step, a petitioner can demonstrate international recognition of his or her achievements in the field

through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then move to the second step to consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115, 1121 (9th Cir. 2010) (discussing a two-step 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 owns a brokerage business and has work experience in the areas of mergers and acquisitions and financial services.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). Before SCOPS, the Petitioner claimed he met seven of the regulatory criteria. SCOPS decided that the Petitioner satisfied two of the criteria relating to prizes or awards and performing in a leading or critical role but that he had not satisfied the criteria associated with membership, published material, original contributions, the authorship of scholarly articles, or a high salary or remuneration. On appeal, the Petitioner maintains that he meets the same evidentiary criteria. After reviewing all the evidence in the record, we do not agree with him.

1. "Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." 8 C.F.R. § 204.5(h)(3)(i).

This criterion contains several evidentiary elements, all of which must be met to satisfy the regulation. According to the plain language of the regulation the evidence must establish: (1) the alien is the recipient of the prizes or the awards; (2) those accolades are nationally or internationally recognized; and (3) each prize or award is one for excellence in the field of endeavor.

The Petitioner claimed four awards under this criterion. SCOPS determined that the Petitioner met the requirements here, although they made that determination without any analysis and we do not agree with that favorable outcome.

USCIS determines whether a prize or award is a lesser nationally or internationally recognized prize or award for excellence in the person's field of endeavor. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policymanual. In making this determination, USCIS focuses on the recognition of the particular prize or award, rather than merely on the reputation of the issuing

organization, the prominence of the individual who signed the award, or the reputation of the competition or institution associated with it.

National or international recognition does not automatically transfer from a well-known competition, institution, organization, or individual to every prize, certificate, or honor issued under its name. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 183 (D.N.J. 2021) (explaining that "the focus is on the award, not the awarding organization" and finding that evidence concerning a festival did not establish the recognition of the particular award); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 136 (D.D.C. 2013). Instead, the relevant inquiry is whether the particular accolade is recognized nationally or internationally as an award for excellence in the field. So, an entity or event may be nationally or internationally known while particular accolades it issues are not themselves nationally or internationally recognized prizes or awards for excellence.

The same principle applies when a competition includes the word "National" in its title or otherwise has a national or international profile. The national or international scope or reputation of the competition does not, by itself, establish that every prize or award issued in connection with the competition is nationally or internationally recognized. A competition may issue different awards that vary substantially in their level of selectivity, prominence, and recognition. Some may receive national or international recognition, while others may receive only local, regional, internal, or otherwise limited recognition. *See Guida v. Miller*, No. 20-CV-01471-LB, 2021 WL 568850, at *8 (N.D. Cal. Feb. 16, 2021) (upholding the determination that awards must be nationally or internationally recognized).

USCIS policy reinforces the requirement that the focus is on the award and not the issuer (explaining that the agency considers the "national or international significance of the awards or prizes in the field") and it addresses the requisite level of recognition noting that "national or international recognition is most often associated with awards given to individuals at the highest level in a given field." *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(1). The Policy Manual further provides that examples of qualifying awards may include, but are not limited to, "[c]ertain awards from well-known national institutions or well-known professional associations." *Id.* The qualifiers "certain" and "well-known" reinforce that the focus is on the prize or award and that the inquiry is case-specific. The fact that an award is issued by a well-known national institution, professional association, competition, or event may be relevant, but it does not by itself establish that the particular award is nationally or internationally recognized for excellence.

In some circumstances, receipt of a top prize or honor from a nationally or internationally recognized competition or institution may provide evidence that the particular award is nationally or internationally recognized. A petitioner, however, must submit evidence establishing the significance and recognition of that specific award, rather than relying solely on the existence or reputation of the competition, institution, or issuing organization. Relevant evidence may include national or international media coverage of the particular award, material demonstrating that the award is widely known or regarded as prestigious within the field, or other independent evidence demonstrating that the accolade carries national or international recognition for excellence in the field. The weight of such evidence depends on its specificity and probative value.

Conversely, unsupported or conclusory statements from individuals in the petitioner's field ordinarily are insufficient to establish that a particular prize or award is nationally or internationally recognized. Evidence from sources independent of the issuing entity may be particularly probative because it can demonstrate how the particular award is viewed beyond the organization that conferred it. *See Krasniqi*, 558 F. Supp. 3d at 183. Evidence merely establishing that the issuing organization, competition, event, or institution is nationally or internationally known does not necessarily establish that the particular prize or award itself enjoys comparable recognition.

Now to the Petitioner's claims. First is the [redacted] Award. The Petitioner claims this award is nationally and internationally administered by a leading professional association in the field at a conference of national professionals. The organization describes this award as going to those who meet a certain sales threshold for the year, and according to the evidence in the record, the [redacted] issued it to 108 individuals in the year the Petitioner received this accolade. The award is therefore based on a production threshold rather than selection of a limited number of recipients as the leading or most accomplished brokers in the field. Although this organization is an international professional association, the reputation or scope of the issuing organization does not by itself establish that every award it issues is nationally or internationally recognized. *Id.*

The Petitioner has not provided sufficient independent evidence demonstrating that this award itself is widely recognized nationally or internationally within the business-brokerage field. In particular, the record does not illustrate that the award received significant independent recognition or that it was regarded as a leading distinction within the profession. Accordingly, the Petitioner has not established eligibility under this criterion based on this award.

Next, he received the Executive Club Award from [redacted] another prominent professional organization. This is another threshold-based award issued to all qualifying dealmakers who meet a certain monetary amount, and it too is not a competitively selected award issued to a limited number of the field's most accomplished dealmakers. The record does not show the award's independent recognition or prestige within the broader mergers and acquisition field, such as through evidence of its selectivity, prominence among professionals outside the organization, or independent recognition of the award itself. As a result, proof of the organization's stature establishes the reputation of the issuing entity, but it doesn't substantiate the award meets the criterion's requirements.

He also offers awards from the franchise under which his business operates, but these are more akin to internal awards than they are as nationally or internationally recognized for excellence in the field. And the final claim relating to the [redacted] also suffers from a similar shortcoming.

Ultimately, the Petitioner has not provided evidence that satisfies all of this criterion's requirements and we withdraw SCOPS' determination that he has.

2. "Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." 8 C.F.R. § 204.5(h)(3)(viii).

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for "evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." A

qualifying role may be shown to be leading or critical for a division or department of an organization or establishment, or for the organization or establishment overall. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(1). Evidence of a leading role should show that the alien was a leader for the claimed component, and a job title with matching duties may help to establish that a role was leading. A leading role should be apparent by its position in the overall hierarchy and the role's matching duties. *Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *7 (N.D. Tex. June 17, 2025).

For a critical role, evidence should show that the alien has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(1). In determining whether the organization, establishment, department, or division has a distinguished reputation, relevant factors include its size, longevity, scale of its customer base, and relevant media coverage. *Id.* Organizations, establishments, divisions, or departments that enjoy a distinguished reputation are "marked by eminence, distinction, or excellence." *Id.* The Petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion. *Branski v. Seng*, No. 24-CV-360, 2024 WL 4678939, at *7 (E.D. Wis. Nov. 4, 2024).

The Petitioner offered three claims under this criterion and SCOPS decided he met the requirements. Below we explain why we are withdrawing that favorable determination.

His first claim is based on his own business. We begin noting that the record lacks an explanation of how his particular company has a distinguished reputation versus the reputation of the larger franchise entity. He provided promotional materials relating to the business, corporate documents, and other material that does not delineate between the larger corporate franchise and the Petitioner's particular business. As it relates to the role the Petitioner performed, if his intention was to indicate he performed in a leading or critical role for the broader franchise, while he provided a letter from the franchise's chief executive officer, that letter simply confirmed his performance as a business broker when compared to the network of franchise businesses. The letter's author did not describe how the Petitioner's role was leading or critical for the overall franchise.

The next company was a foreign entity, [redacted] Although the Petitioner submitted a letter from a former executive board member of [redacted] the only material relating to the organization's reputation are its own website printouts and what appears to be a PowerPoint presentation about the company. The Petitioner did not submit any independent, objective evidence establishing that it has a distinguished reputation pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(viii) and material from the relevant entity is generally inadequate to meet his burden of proof. *Cuckic v. Jaddou*, No. 21-CV-8395 (JPO), 2023 WL 2586031, at *5 (S.D.N.Y. Mar. 21, 2023) (finding self-promotional material from the organization did not establish a sufficiently high reputation); *Goncharov v. Allen*, No. 3:21-CV-1372-B, 2022 WL 17327304, at *6 (N.D. Tex. Nov. 29, 2022) (upholding petitioner's letters did not show his employers were set apart from others); *Melnattur v. USCIS.*, No. 8:21CV345, 2022 WL 18086892, at *5 (D. Neb. Sept. 12, 2022) (upholding that much of the evidence was self-promotional material from the university itself). USCIS is not required to rely on the self-promotional material of an entity and "we may require more than [their] own say-so.'" *Cf. Krasniqi*, 558 F. Supp. 3d at 185.

His third claim was based on another foreign company, [redacted] Here, the Petitioner does not identify what piece of evidence demonstrates his role for the organization and as a result, he has not satisfied his burden of proof. A petitioner's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion. *Matter of Y-B-*, 21 I&N Dec. 1136, 1142 n.3 (BIA 1998).

In the end, the Petitioner has not submitted evidence that meets the plain language requirements of this criterion and we withdraw SCOPS' determination to the contrary.

3. "Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." 8 C.F.R. § 204.5(h)(3)(ix).

The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ix) requires the Petitioner to submit evidence of a "high salary or other significantly high remuneration for services, in relation to others in the field." That means a petitioner must provide comparative evidence for those performing similar work, during the same approximate time and geographic location, within the field. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(1). And the presentation of only average salaries in the field is generally inadequate to demonstrate a petitioner's earnings are high, or their other types of remuneration are significantly high, in relation to the rest of the field.

The Petitioner provided evidence of his earnings as an owner of a business brokerage firm and comparative evidence relating to business brokers as employees. SCOPS determined that the Petitioner did not meet the requirements of this criterion. Part of SCOPS' determination reflected that for the Petitioner to demonstrate his remuneration was high in relation to others in the field, he must provide evidence comparing his remuneration to his peers in specific positions.

We note that the Petitioner's comparison here is not apt because he submitted evidence of his earnings as an owner of a business brokerage firm, but compares those earnings to compensation data for business brokers working as employees. Earnings derived from business ownership may reflect factors other than compensation for personal services. Therefore, employee wage data for business brokers does not provide a reliable basis to determine whether the Petitioner has commanded a high salary or other significantly high remuneration for services in relation to others in the field. This artificially conflates guaranteed earnings with highly variable conditions that lean higher, thus creating an illogical, inflated, and fundamentally invalid benchmark of earnings. To make a legally sound comparison, one must measure like with like. *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 a petitioner must show that salary reports reflect an apples to apples, rather than an apples to oranges).

The Petitioner has not submitted evidence that meets the plain language requirements of this criterion.

4. "Documentation 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." 8 C.F.R. § 204.5(h)(3)(ii).

This criterion contains several evidentiary elements the Petitioner must satisfy. First, the Petitioner must demonstrate that he is a member of an association in his field. Second, the Petitioner must

demonstrate both of the following: (1) the associations utilize nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements are outstanding, and (2) the associations use this outstanding determination as a condition of eligibility for prospective membership. The Petitioner must satisfy all of these elements to meet the plain language requirements of this criterion. *Tapia v. Jaddou*, No. 8:23-CV-813-CEH-AAS, 2025 WL 2780815, at *3–4 (M.D. Fla. Sept. 30, 2025).

The Petitioner claimed his membership in two organizations and SCOPS decided his evidence was inadequate.

The Petitioner's first membership is within the Chartered Management Institute (CMI), and he claims his "Chartered Manager" status designation. We note this is not a level of membership, but instead a status within this organization. The Petitioner provided CMI's "Become a Member" webpage that establishes their only membership grades as: affiliate, associate, member, chartered member, fellow, and chartered fellow in that lowest to highest hierarchy. The Petitioner initially provided evidence of his membership at the Chartered Member level even though he expressed eligibility relating to the non-member status designation of Chartered Manager. We note he also provided a certificate from CMI stating he "[h]as been awarded *the designation* of Chartered Manager" further demonstrating that chartered manager is not a level of membership and instead is a status the organization designates. (Emphasis added).

In his response to the request for evidence, the Petitioner continued to discuss his Chartered Manager status designation instead of his actual membership level. Despite that, we will evaluate his eligibility under this criterion at the CMI actual membership level of a Chartered Member. Accompanying his request for evidence response, the Petitioner only provided portions of CMI's Handbook, while omitting sections that are directly relevant to his membership claims. The selective nature of the submission limits the probative value of the evidence and prevents USCIS from determining whether his membership in CMI meets the regulatory requirements. Part of the omitted section is page seven, covering membership. A subsequent page explained membership grades and for the Petitioner's membership level of chartered member it stated:

> [I]ndividuals who are eligible for the 'Member' grade can progress to become Chartered. This membership type is designed for managers who can demonstrate excellence and their personal operational impact via the Chartered Manager assessment process. Individuals meeting this criteria can use the designatory letters CMgr MCMI after their name.

The Petitioner did not offer additional information about what CMI considers to be a showing of excellence as described here, so he has not demonstrated this organization requires outstanding achievements as a condition of membership. While neither the regulation nor existing precedent speak to what constitutes an outstanding achievement, Merriam-Webster's online dictionary defines outstanding as, "standing out from a group" or "marked by eminence and distinction." *Outstanding*, Merriam-Webster.com Dictionary (Aug. 25, 2026), https://www.merriam-webster.com/dictionary/outstanding. Dictionaries are not of themselves evidence, but they may be referred to as aids to the memory and understanding in these proceedings. *Nix v. Hedden*, 149 U.S. 304, 306 (1893). Therefore, it is the Petitioner's burden to demonstrate that

as a condition of membership at the Chartered Member level, CMI required that his achievements in the field were outstanding, and he has not done so here. Also absent is any evidence from CMI on who is making those determinations about prospective members' achievements. So, he hasn't demonstrated that CMI utilizes nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements are outstanding.

Even if Chartered Manager status was a designation that equated to a level of membership, the Petitioner still has not demonstrated it would qualify under this criterion. The Chartered Manager website the Petitioner provided in the initial filing listed the requirements and they do not mandate outstanding achievements in order to achieve this status. Instead, under the "Eligibility Criteria" section it lists three requirements: (1) a sponsorship letter, (2) information about your current role, and (3) information about your leadership journey. And nowhere within those three elements does CMI describe what could be considered outstanding achievements.

Therefore, aside from showing he has a membership in an organization, the Petitioner has failed to meet the substantive elements under this criterion based on his membership in CMI.

For the second membership, SCOPS concluded the record fell short of demonstrating the association utilized nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements were outstanding. The Petitioner argues that his fellowship level membership meets this criterion's requirements because that level is the organization's highest and most selective membership tier, and it is reserved exclusively for individuals who demonstrate sustained, field-recognized excellence in enterprise innovation, strategic leadership, and interdisciplinary business impact.

The sole regulatory based reason that SCOPS declined to grant this criterion for this organization was the Petitioner's failure to demonstrate that his achievements were "judged by recognized national or international experts in their disciplines or fields." Within the appeal, the Petitioner only addresses that sole basis in passing with a single sentence stating: "Candidates must be evaluated by at least five current Fellows and receive a minimum of 4 out of 5 votes to be elected."

Even though the Petitioner presumes that those judging membership admittance have demonstrated achievement in their field, that doesn't speak to whether those judges are nationally or internationally recognized which is explicitly mandated in this criterion's plain language. *Kim v. Mullin*, No. 9:24-CV-80834-BER, 2026 WL 1512990, at *5 (S.D. Fla. Apr. 7, 2026) (upholding an alien did not show that recognized national or international experts judged them as having outstanding achievements in the field); *Kumar v. USCIS*, No. CV RDB-23-2251, 2024 WL 1374794, at *5 (D. Md. Apr. 1, 2024); *Strategati, LLC v. Sessions*, No. 3:18-CV-01200-H-AGS, 2019 WL 2330181, at *5 (S.D. Cal. May 31, 2019); *Soni v. United States*, No. CV 11-2431, 2016 WL 4154137, at *4 (D.N.J. Aug. 2, 2016). Without evidence reflecting such national or international recognition of the Fellows, this organization cannot assist the Petitioner in demonstrating that he has satisfied the requirements here.

It remains that the Petitioner has not submitted evidence satisfying this criterion's plain language requirements.

5. "Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media." 8 C.F.R. § 204.5(h)(3)(vi).

This criterion contains multiple evidentiary elements the Petitioner must demonstrate. The first element is that the Petitioner is an author of scholarly articles in his field in which he intends to engage once admitted to the United States as a lawful permanent resident.

We consider these articles to fall within two distinct areas. One area is within the academic arena in which a scholarly article reports on original research, experimentation, or philosophical discourse. It is written by a researcher or expert in the field who is often affiliated with a college, university, or research institution. In general, it should have footnotes, endnotes, or a bibliography, and may include graphs, charts, videos, or pictures as illustrations of the concepts expressed in the article. The next area lies outside of the academic arena in which a scholarly article should be written for learned persons in that field. "Learned" is defined as "having or demonstrating profound knowledge or scholarship." Learned persons include all persons having profound knowledge of a field. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(1).

The second evidentiary element this criterion requires is that the scholarly articles appear in one of the following: (1) a professional publication, (2) a major trade publication, or (3) in a form of major media. Relevant factors a petitioner should demonstrate include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership are high relative to similar publications (for major trade publications and other major media). *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The Petitioner must submit evidence satisfying each of these elements to meet the plain language requirements of this criterion.

USCIS policy differentiates between scholarly articles in the academic arena and those in non-academic fields of endeavor. As the Petitioner's field is not within the academic arena, USCIS policy provides that this article should be written for learned persons in the field of business brokers, mergers and acquisitions, or financial services. The policy recognizes that "learned" is defined as "having or demonstrating profound knowledge or scholarship." As it relates to this case, learned persons include all those having profound knowledge in the field of business brokers. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(1).

SCOPS determined that the Petitioner did not meet the requirements of this criterion. The Petitioner provided several informational or advisory publications consisting of one to two pages in length and he has not demonstrated that they are for learned persons in his field, as agency policy requires. Although several of the publications addressed legitimate business and mergers and acquisition subjects, the content was presented primarily as practical educational material for business owners, prospective buyers and sellers, and other members of the general business public. The articles explained basic concepts, provided practical advice, and frequently assumed little or no specialized background in business brokerage or mergers and acquisitions.

For example, the material addressing SWOT (strengths, weaknesses, opportunities, and threats) analysis explains the basic meaning and components of SWOT and then instructs prospective buyers and sellers of how to apply it to a mergers and acquisitions transaction. Similarly, the material concerning franchises, selling a business, timing a sale, and preparing a business for sale is framed as

guidance to individuals contemplating or participating in a transaction rather than as an exchange of specialized knowledge among persons who already possess profound knowledge of the field. So the fact that the subjects themselves may not be basic or simple does not establish that the articles were written for a learned audience. This goes directly against the Petitioner's claims that the "subjects remain objectively exclusive to a specialized audience."

We conclude that the Petitioner's claims and evidence do not satisfy the plain language requirements of this criterion or the agency's policy on the matter of the scholarly nature of his evidence.

B. We Reserve the Petitioner's Remaining Claims

We conclude that although the Petitioner claims he meets two additional criteria, because his arguments fail on any single criterion discussed above, that means he cannot numerically meet the required number of at least three criteria and it is unnecessary for us to make a decision on these additional grounds. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve his additional claims or issues. *Patel v. Garland*, 596 U.S. 328, 332 (2022) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25–26 (1976) (finding agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision)); *see also Matter of W-F-D-*, 29 I&N Dec. 854, 858 n.5 (BIA 2026) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

Congress set a very high benchmark for aliens of extraordinary ability by requiring a petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to show his or her achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. "In creating the 'extraordinary ability' visa, Congress hoped to 'draw the world's best and brightest to American shores' by giving 'preferential treatment to highly talented immigrants.'" *Branski v. USCIS*, No. 25-CV-1695, 2026 WL 2427439, at *11 (E.D. Wis. Aug. 19, 2026) (quoting *Amin*, 24 F.4th at 386). Because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that he is an alien of extraordinary ability and it is unnecessary that we provide further analysis of the merits under the statute. *See Kazarian*, 596 F.3d at 1119–20; *see also Nagaiah v. Allen*, 784 F. Supp. 3d 798, 814 (E.D. Pa. 2025) (finding the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x) "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa.").

The two-step adjudication process is an interpretive rule that does not violate the Administrative Procedure Act, nor is it a legislative rule. *Taneja v. USCIS*, No. 24-CV-05657 (RER), 2026 WL 1734266, at *8 (E.D.N.Y. June 16, 2026); *Nagaiah*, 784 F. Supp. 3d at 810; *Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *12 (D. Neb. Sept. 12, 2025); *Etsy, Inc. v. Jaddou*, No. 4:22CV3022, 2023 WL 3689555, at *23 (D. Neb. May 25, 2023) (citing *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 96 (2015). This approach is rooted in an exhaustive historical review of the congressional record, the governing statutory language, and the comprehensive regulatory scheme intended to ensure only those at the very top of their field receive this classification.

To date, no other federal court has offered an alternative framework that is similarly grounded in such a thorough analysis of the legislative and agency history. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(2). *Contra Mukherji v. Miller*, No. 4:24CV3170, 2026 WL 895708, at *6 (D. Neb. Jan. 28, 2026) (concluding the two-step framework was adopted without required notice-and-comment rulemaking). But that appears to misconstrue a conference report—which serves solely to explain how the House and Senate resolved differences between their two versions of the bill—as being more authoritative on this issue than a Judiciary Committee Report, the purpose of which includes guiding the executive branch in implementing the law and assisting the judicial branch in its interpretation. That view has been directly rejected by numerous federal courts before and since the *Mukherji* court made it. Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *Patel*, 596 U.S. at 332.

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an alien of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

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.