U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 39967642

Date: DEC. 16, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a producer of performing arts events, seeks classification as an individual 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 met the initial evidence requirement for this classification through evidence of either a one-time achievement or that she meets at least three of the alternative ten evidentiary criteria. 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 alien of extraordinary ability, a petitioner must establish that he or she:

- Has extraordinary ability in the sciences, arts, education, business, or athletics;
- Seeks to enter the United States to continue work in his or her area of extraordinary ability; and that
- His or her 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 he or she meets 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 he or she must alternatively provide evidence that he or she 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 a Chinese national currently working in the United States in O-1B status, filed on her behalf by the [redacted] in California. Prior to entering the United States, the Petitioner had a career in China producing, directing, editing radio broadcasts of Chinese folk music programs and events. In October 2020, the Petitioner created the [redacted] which she continues to lead, and in October 2024, she was hired as the Artistic Director for the [redacted] which takes place in [redacted]. On the basis of her career, the Petitioner asserts she is an "extraordinary program producer who has significantly impacted the broadcasting and performing arts industry in China."

SCOPS denied the visa petition concluding that the Petitioner did not establish she is the recipient of a one-time achievement, or that she meets any of the additional evidentiary criteria found at 8 C.F.R. § 204.5(h)(3). On appeal, the Petitioner submits a two-page legal statement in which she asserts that SCOPS discounted relevant evidence in the categories of lesser national or international awards, scholarly publications, high salary, and failed to conduct a final merits determination. And, for the first time on appeal, the Petitioner asserts that she meets the criteria for leading or critical role for a distinguished organization under 8 C.F.R. § 204.5(h)(3)(viii). The Petitioner further submits that SCOPS incorrectly discounted evidence of her one-time achievement. For the following reasons, we agree with SCOPS' determination and affirm the decision below.

### A. One-time Achievement (A Major, Internationally Recognized Award)

The Petitioner asserts her eligibility for this visa classification based on a one-time achievement for receipt of a major, internationally recognized award for excellence in her field. She contends that her Asia-Pacific Broadcasting Union (ABU) [redacted] award for China National Radio's program [redacted] in [redacted] 2014 meets the definition of a one-time achievement. SCOPS acknowledged the Petitioner was given credit for planning [redacted] but determined that the Petitioner had not established that the commendation award is equivalent to winning a one-time achievement demonstrating extraordinary ability in the arts and noted that another broadcaster (the Japan Broadcasting Corporation) won the actual award. On appeal, the Petitioner asserts SCOPS'

analysis is incorrect and that dismissing the Petitioner's commendation award is equivalent to discounting an Olympic bronze medal.

Upon de novo review, we agree with SCOPS' assessment of the evidence and add that the Petitioner has not established the ABU award is internationally recognized such that it meets the plain language of the regulation. The Petitioner submitted background information about the ABU awards and asserts that the award is "comparable in stature to internationally adjudicated prizes in the media arts and is regarded as one of the most prestigious honors in global radio production." As noted above, USCIS requires a one-time achievement award to be internationally recognized and major. *See generally*, 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Furthermore, we do not accept comparable evidence to establish a one-time achievement. *Id.*

To establish that the award is major and internationally recognized, the Petitioner submitted a Wikipedia page discussing the ABU. However, because Wikipedia is an open, user-edited website, the information provided is not reliable.[1] Nevertheless, even if we did consider the Wikipedia information, it would not be sufficient to establish that the Petitioner's award is internationally recognized or major because the information does not discuss the award's prestige or international recognition. Second, the list of awardees provided for the 2014 ABU awards notes that [redacted] received a "Radio Commended Entries" recognition, however it is not self-evident that this recognition is equivalent to a major award, and other than the Petitioner's assertions, no additional independent corroborating information was provided to establish its equivalence to a major award.[2] *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (citing *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980)) (standing for the proposition that assertions of counsel do not constitute evidence.) For the foregoing reasons, the Petitioner has not satisfied her burden to establish that she has received a major, internationally recognized award.

B. Analysis of Evidentiary Criteria Found at 8 C.F.R. § 204.5(h)(3)

Because the Petitioner has not established that she has a one-time achievement, she must satisfy at least three of the ten alternate regulatory criteria found at 8 C.F.R. § 204.5(h)(3)(i)-(x). On appeal, the Petitioner reasserts she meets the previously-noted four criteria, summarized below:

- (i) Receipt of lesser nationally or internationally recognized prizes or awards;
- (vi) Authorship of scholarly articles in the field;
- (viii) Leading or critical role in distinguished organizations; and
- (ix) High salary or significantly high remuneration.

[1] Online content from Wikipedia is subject to the following disclaimer, "WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY. Wikipedia is an online open-content collaborative encyclopedia, that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . Wikipedia cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields." *See* Wikipedia: General disclaimer, Wikipedia (November 26, 2025), https://en.wikipedia.org/wiki/Wikipedia:General_disclaimer.

[2] Merriam-Webster's online dictionary defines "major" as a greater in dignity, rank, importance or interest. *See* Merriam-Webster, Merriam-Webster.com Dictionary, https:www.merriam-webster.com/dictionary.

In evaluating evidence submitted under 8 C.F.R. § 204.5(h)(3), USCIS' first step of evidentiary review is limited to determining whether the evidence submitted with a petition meets the plain language of the regulatory criteria. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B). In doing so, we consider the quality and caliber of the evidence to determine whether a particular criterion has been met, to the extent the criterion has qualitative elements. *Id.* at F.2(B)(1). While some criteria do not have such qualitative elements, we are nevertheless bound by the plain language of the regulations in evaluating whether the evidence before us satisfies all requirements.

The Petitioner claims eligibility under the following criteria for aliens of extraordinary ability.[3]

> *Evidence of the person'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)*

As evidence for this criterion, the Petitioner highlights eight publications, four of which were published in China Broadcasts, which she claims is "one of the most authoritative journals for radio arts in China,"[4] and her articles: [redacted] published in 2006 in the Chinese Radio and TV Academic Journal, '[redacted] published in the Journal of Shenyang Conservatory of Music in 2014, [redacted] published in China NCR in 2014, and [redacted] published in China Ancient Books Publishing House in 2015.

The regulation at 8 C.F.R. § 204.5(h)(3)(vi) requires "evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media." In academia, a scholarly article reports on original research, experimentation, or philosophical discourse, is generally peer reviewed, and may be published in professional or academic journals or conference presentations. In other fields, a scholarly article should be written for others who have profound knowledge in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

SCOPS determined that the Petitioner did not submit sufficient evidence to establish the publications were professional or major trade publications or other major media. On appeal, the Petitioner asserts that the Google Scholar printout listing her publications "is itself evidence

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[3] The Petitioner did not claim eligibility under the criteria for:

(ii) membership in associations in the field requiring outstanding achievements by their members, as judged by recognized national or international experts in their disciplines;
(iii) published material about her in professional or major trade publications or other major media;
(iv) participation as a judge of the work of others in the same or allied field;
(v) original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field;
original contributions of major significance in the field;
(vii) display of work in artistic exhibitions or showcases; or
(x) commercial success in the performing arts.

[4] The articles published in China Broadcasts include [redacted]

of [her articles] scholarly caliber and publication [and that] Google Scholar's description confirms that it only selects documents that would normally be regarded as scholarly."

Upon de novo review, we conclude the Petitioner has not provided sufficient evidence to establish her articles are scholarly as required by the plain language of the regulation. The record does not show that the articles were reviewed by experts in the field, prior to publication, or otherwise written for others with profound knowledge in the field. The Petitioner's evidence includes eight short abstracts of her claimed publications which include the title, author, publication and publication date. However, it is not self-evident that these are peer-reviewed articles or written for others with profound knowledge in her field and no independent corroborating evidence has been provided. Furthermore, notwithstanding the Petitioner's assertions to the contrary, a Google Scholar list is insufficient to satisfy her burden to demonstrate her publications are scholarly because the information contained is cursory and limited. Lastly, the Petitioner has not submitted evidence, such as the criteria Google Scholar uses to select articles, to support her assertion that the website only considers scholarly articles.

Next, we consider whether the Petitioner has established that the publications of her articles were in professional or major trade publications or other major media and conclude that she has not. In evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience (for professional journals) and the relative circulation, readership, or viewership (for major trade publications and other major media). *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Here, the Petitioner only submitted the Google Scholar printout listing her publications, which does not contain evidence of circulation, intended audience, or readership to establish these are professional journals, major trade publications or other major media. The Petitioner, therefore, has not established that she meets this regulatory criterion.

> *Evidence that the person 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 regulation at 8 C.F.R. § 204.5(h)(3)(ix) calls for "evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." A credible employment contract or job offer may establish that an alien "has commanded" such salary or remuneration, as may evidence of past earnings such as tax returns and pay statements. Comparative wage or remuneration data that is appropriate for the alien's occupation and location should be submitted to establish that their compensation is high relative to others working in the field. *See id.*

SCOPS considered her contract for one million RMB (Chinese currency) in 2021 but concluded that the Petitioner did not submit sufficient evidence to establish that compared to other producers in her field, her one million RMB remuneration was sufficient to meet this criterion. SCOPS further explained that the Petitioner did not provide sufficient evidence to show that she is among the top earning event producers in her field. On appeal, the Petitioner characterizes SCOPS request for comparative salary data as "unduly strict" and "defying the rule of reason" and asserts that her receive of one million RMB in China for a "single event would self-evidently be "high" in any country and should be recognized as such."

Upon de novo review, we agree with SCOPS for the following reasons. USCIS determines whether an alien's salary or remuneration is high relative to the compensation paid to others working in the field. *See generally*, 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (Criterion 9). In evaluating the sufficiency of evidence under this criterion, USCIS may consider geographical or position-appropriate compensation surveys and organizational justifications to pay the compensation data. Furthermore, for artists that are not paid an hourly rate but instead are paid a daily rate (which may not be equivalent to 8 hours) or are paid a certain amount for a project (involving an unknown number of hours), the alien may submit documentation regarding the number of hours worked on the project to show that, as compared to others in their field, the alien commanded a significantly high renumeration. Such documentation can include, but is not limited to, pay statements, personnel records, or testimonial evidence from the relevant employer. *Id.*

To support her contention that she meets this criterion, the Petitioner submits a certification attesting that she, on behalf of her company [redacted] received a one million RMB contract to produce "[redacted] (the event). In addition, the Petitioner provided the "Event Planning and Execution Agreement" (the agreement) between her company (Party B under the agreement) and [redacted] (Party A under the agreement). The agreement shows that the Petitioner is the legal representative and contact person for Party B and explains that Party B is responsible for "planning, material procurement, installation, and execution of" the event and further requires Party B to perform other "tasks necessary to achieve the contract's purpose." The agreement provides other details of the contract payment and states that it includes "planning fees, material procurement costs, transportation fees, installation fees, performer fees, labor costs, profit, taxes, and all other expenses required by Party B to complete all commissioned tasks." The agreement also explains that the one million RMB will be paid as a lump sum within 10 working days after signing the agreement.

We agree with SCOPS that without comparative data to understand what a producer would normally receive as compensation for a similar project, the Petitioner has not satisfied her burden to establish she receives a high salary or significantly high remuneration for services as a producer. Furthermore, as stated in the agreement, the one million RMB does not only cover the cost of her salary or remuneration for her services, but also covers additional costs related to the event. As such, the lack of comparative data to understand how her payment relates to others performing similar production work in her field and the fact that the one million RMB covers more than just payment for her services undermines her claim of eligibility under this criterion.

In light of the above conclusions, the Petitioner does not meet the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3).[5] Detailed discussion of the remaining claimed criterion at 8 C.F.R. § 204.5(h)(3), relating to award of lesser nationally or internationally recognized awards or prizes for excellence in the field and leading or critical role for organizations or establishments that have a distinguished reputation cannot change the outcome of this appeal. Therefore, we reserve these issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

[5] Although we did not discuss each piece of evidence submitted, we reviewed the entire record and based the decision on the relevant documentary evidence.

C. The Petitioner's O-1B Visa

We acknowledge the Petitioner is the Beneficiary of an approved O-1B nonimmigrant visa petition. Although USCIS has approved an O-1B nonimmigrant visa petition filed on behalf of the Petitioner, this prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different statute, regulations, and case law. The nonimmigrant and immigrant categories have different criteria, definitions and standards for persons working in the arts. "Extraordinary ability in the field of arts" in the nonimmigrant O-1B category means distinction. 8 C.F.R. § 214.2(o)(3)(ii). But in the immigrant context, "extraordinary ability" reflects that the alien is among the small percentage at the very top of the field. 8 C.F.R. § 204.5(h)(2).

## 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. Here, because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that she is an alien of extraordinary ability and need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, -- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. at 25.

**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.