U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41542275

Date: MAR.13, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner is a financial risk specialist 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.

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding the record did not establish that the Petitioner had 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 to U.S. Citizenship and Immigration Services (USCIS) 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).

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

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 six of the regulatory criteria. SCOPS decided that the Petitioner satisfied two of the criteria relating to judging and original contributions but that he had not satisfied the criteria associated with prizes or awards, membership, published material, or performing in a leading or critical role. On appeal, the Petitioner maintains that he meets the previously claimed evidentiary criteria except for prizes or awards. Because he no longer claims that criterion on appeal, it is waived. *Matter of R-B-E-*, 29 I&N Dec. 499, 499 n.1 (BIA 2026) (citing *Matter of P-B-B-*, 28 I&N Dec. 43, 44 n.1 (BIA 2020); *Matter of N-A-I-*, 27 I&N Dec. 72, 73 n.1 (BIA 2017), *aff'd sub nom., Ali v. Barr*, 951 F.3d 275 (5th Cir. 2020)). After reviewing all the evidence in the record, we conclude the Petitioner has not met at least three criteria.

1. "Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 8 C.F.R. § 204.5(h)(3)(v).

The primary requirements here are that the Petitioner's contributions in their field were original and they rise to the level of major significance in the field, rather than to a project or to an organization. *See Amin*, 24 F.4th at 394 (citing *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134 (D.D.C. 2013)). The regulatory phrase "major significance" is not superfluous and, thus, it has some meaning. *Nielsen v. Preap*, 586 U.S. 392, 415 (2019) (finding that every word and every provision in a statute is to be given effect and none should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence). Contributions of major significance connotes that the Petitioner's work has significantly impacted the field. Further, the Petitioner's contributions must have already been realized rather than being potential, future improvements. The Petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

SCOPS granted this criterion based on the Petitioner's initial filing claims and evidence and they did not offer an explanation of how his evidence satisfied the requirements. A review of the material reveals the Petitioner made several claims of how his contributions that may have been original were of major significance in the field. But the material he offered in support of those claims primarily

consisted of evidence demonstrating the originality of the contributions that also reflected he was given credit for it, and contractual documents showing various entities utilized his work. What is absent from the record is documentation establishing that his original work impacted the field and that any of those contributions were of major significance. 8 C.F.R. § 204.5(h)(3)(v); *see generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policymanual. The Petitioner doesn't identify any support letters or media attention that shows his original contributions significantly impacted the field. Because we are unable to assess SCOPS' reasoning for their favorable finding on this issue, we cannot evaluate whether their assessment was correct and we withdraw their determination that this criterion was satisfied.

The Petitioner has not submitted evidence that his contributions have had a sufficiently appreciable impact in the field, and as a result he has not met this criterion's requirements.

2. "Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iv).

This criterion requires not only that the Petitioner was selected to serve as a judge, but also that he is able to produce evidence that he actually participated as a judge. Additionally, these duties must have been directly judging the work of others in the same or an allied field in which the Petitioner seeks an immigrant classification within the present petition. The Petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

Similar to the previous requirement, we do not agree with the determination that the Petitioner has satisfied this criterion and we will withdraw SCOPS' favorable determination.

The Petitioner claimed that he judged one event involving university students in a regional competition. The Petitioner does not adequately explain how judging the performance of undergraduate students constitutes judging "the work of others in the same or an allied field." Undergraduates are not professionals and are not yet "in the field" as this criterion requires. *See Sarin v. United States*, No. 2:22-CV-07498-SVW-JS, 2023 WL 5667531, at *11 (C.D. Cal. July 27, 2023) (upholding the determination that a petitioner's judging of students was not in the field of acting or in an allied field of acting). In fact, material from the organization the Petitioner provided for the record reflects the competition is meant "to instill high standards of ethical concepts in the next generation of investment professionals, helping them prepare for successful careers in the future."

Contrast the Petitioner's performance claimed here with serving as a member of a Ph.D. dissertation committee that makes the final judgment as to whether a candidate's body of work satisfies the requirements for a doctoral degree, as evidenced by departmental records could serve as qualifying evidence under this criterion. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(1). The possibility exists for serving on such a dissertation committee to qualify under this criterion's requirements, as Ph.D. candidates are often considered working professionals in their field—particularly in certain areas—and they are actively contributing to academic and professional knowledge in their discipline.

Nevertheless, the Petitioner failed to document for the record that his performance for the [redacted] is equivalent to serving on a Ph.D.

dissertation committee as described in agency policy. The rigor involved in the two processes do not appear to be adequately similar. For instance, the Petitioner neither asserted nor documented through evidence that his evaluation was at the doctoral level. Judging students at the level represented here does not meet the regulation's plain language requirements.

We therefore withdraw the favorable determination under this criterion as the Petitioner has not submitted evidence that meets this criterion's requirements.

3. "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 he 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 two memberships, neither of which meets this criterion's requirements. The first is the Chartered Alternative Investment Analyst Association that has three types of members. Affiliate members must pass an exam but do not yet meet the specific education or work experience requirements for full membership. Full members must hold a bachelor's degree with one year of relevant professional experience, or alternatively, possess four years of professional experience in a related financial field. And retired members are former full members who are no longer employed full-time and can revert to full member status if they return to the workforce. Based on this organization's described criteria, these memberships are granted for passing exams and meeting baseline education or experience requirements rather than for outstanding achievements. It also falls short as the Petitioner has not established that this organization utilizes nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements are outstanding.

The second membership falls under the CFA that has two levels of membership, regular and affiliate. But both fall short in the same areas as the previous group as its regular membership requires passing an exam, possessing a bachelor's degree or an equivalent, and completing 4,000 hours of qualifying professional work experience over at least 36 months. And affiliate membership is for those who do not yet meet the exam or experience requirements. So, neither requires outstanding achievements, and the record lacks evidence demonstrating the CFA utilizes nationally or internationally recognized experts to judge the achievements of prospective members.

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

B. We Reserve the Petitioner's Remaining Claims

We conclude that the Petitioner has not satisfied any of the claimed criteria we discussed in this decision. While he argues and submits evidence for two additional criteria on appeal relating to published material at 8 C.F.R. § 204.5(h)(3)(iii) and performing in a leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii), it is unnecessary that we make a decision on these additional grounds because he cannot numerically meet the required number of criteria. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve the remaining 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 Forjoe*, 29 I&N Dec. 463, 475 n.6 (BIA 2026) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). It is also unnecessary that we provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119–20.

III. CONCLUSION

Congress set a very high benchmark for aliens of extraordinary ability by requiring the 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. 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 we need not further analyze 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 regulation "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. *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. 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.