U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40784627

Date: MAR. 30, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an English as a second language (ESL) instructor, 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 his or her extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in his or her field through extensive documentation.

SCOPS denied the petition, concluding that the Petitioner did not satisfy at least three of the ten initial evidentiary criteria, or that her entry into the United States will substantially benefit prospectively the United States. 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

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals 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-part analysis. First, a petitioner can demonstrate sustained acclaim and the 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 categories 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). If an evidentiary standard under 8 C.F.R. § 204.5(h)(3)(i) - (x) does not "readily apply" to a petitioner's occupation, the petitioner may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

Where a petitioner meets these initial evidence requirements, we then 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-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) (upholding USCIS' two-step review process as "consistent with the governing statute and regulation").

II. ANALYSIS

The Petitioner is seeking to be classified as an alien of extraordinary ability in the field of education based on her specialization in ESL instruction, curriculum leadership, and multilingual community engagement.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, the issue to be addressed on appeal is whether the Petitioner satisfied at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i) - (x). In denying the petition, SCOPS determined that while the Petitioner fulfilled one criterion, participation as a judge of others' work, she did not fulfill the following five claimed evidentiary criteria:

- memberships in associations;
- published material about the person;
- original contributions of major significance;
- leading or critical role; or
- high salary or renumeration in relation to others.

8 C.F.R. § 204.5(h)(3)(ii), (iii), (v), (viii), and (ix).

On appeal, the Petitioner maintains that in addition to the judging criterion, she qualifies for three criteria, memberships in associations, leading or critical role, and high salary. She does not mention or provide claims for the criteria related to published material and original contributions. Any ground of ineligibility that is not raised on appeal is waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336

n.5 (BIA 2021) (*citing Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)). Accordingly, we deem the claims to these two criteria to be waived.

Upon de novo review, the Petitioner has not demonstrated she meets at least three of the initial evidentiary criteria.[1]

1. "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).

To demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership, and that such achievements are judged by recognized experts in the field. Membership requirements based on employment in a certain occupation, minimum education or experience, or payment of dues or fees do not satisfy this criterion as such requirements do not constitute outstanding achievements. *See generally* 6 *USCIS Policy Manual* F.2(B)(2), www.uscis.gov/policy-manual.

The Petitioner submitted evidence showing she is a member of the curriculum support team at [redacted]. However, she did not demonstrate that the [redacted] curriculum support team requires outstanding achievements of its members, as judged by recognized national or international experts in the field.

To support her claims that [redacted] requires outstanding achievement of its curriculum support team members, the Petitioner submitted letters of recommendation from [redacted] and documentation relating to the team's onboarding training. A letter from the curriculum coordinator at [redacted] indicates the Petitioner's appointment was based on "exceptional professional contributions" and her having played a "vital role" in shaping [redacted] curriculum and supporting instructional development. Another letter from [redacted] human resource department states, the team "is a selective professional committee, made up of educators who have been invited to serve based on their demonstrated excellence, curriculum leadership, and professional contributions" and "[m]embership on the [c]urriculum [s]upport [t]eam is a distinction awarded only to educators with a proven record of excellence and collaboration."

To meet her burden of proof, the Petitioner must establish [redacted] requirements for membership on its curriculum support team and show that those requirements are consistent with the regulation. The letters from [redacted] and other evidence in the record provide general information about the curriculum support team and becoming a member of the team, but do not mention the specific requirements for membership. For instance, the evidence does not outline the selection process for being invited to be a member of the curriculum support team. While letters of support are not without weight, they should be corroborated by documentary evidence in the record. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(3). Letters reiterating definitions for the classification or making general and expansive statements regarding a petitioner's achievements are generally not persuasive without independent evidence supporting those claims. *Id.* Here, the Petitioner did not provide evidence to support the attestors'

[1] While we may not discuss every document submitted, we have reviewed and considered each one.

statements or otherwise demonstrate that the curriculum support team requires outstanding achievements of its members.

Moreover, the Petitioner does not establish that the outstanding achievements of the curriculum support team members are judged by recognized national or international experts in their field. The record does not include evidence of the individuals who participate in judging the outstanding achievements of those invited to be members of the team. Instead, the Petitioner emphasizes that the work of the curriculum support team has been reviewed by nationally recognized organizations, Western Association of Schools and Colleges (WASC) and California Association for Bilingual Education (CABE), submitting letters about the WASC accreditation of [redacted] and its affiliate, [redacted] informational material about WASC; and a certificate of attendance, a photograph, and a program of events from a 2024 CABE conference. The Petitioner's focus on the work of the association being judged by national or international experts is misplaced. The criterion requires that the national or international experts in the field judge the outstanding achievements of individuals invited to be members of the curriculum support team.

For these reasons, the Petitioner has not established that she meets the requirements for this criterion.

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).

For this criterion, the 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*, at F.2(B)(1). Evidence of a leading role should show that the petitioner was a leader for the claimed component, and a job title with matching duties may help to establish that a role was leading. *Id.* For a critical role, evidence should show that the petitioner 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. *Id.* In determining whether the organization or establishment, or a department or division thereof, has a distinguished reputation, relevant factors include its size, longevity, scale of its customer base, and relevant media coverage. *Id.*

The Petitioner claims eligibility for this criterion based on her role as an ESL instructor and curriculum support team member for [redacted] She claims her role at [redacted] exceeds typical teaching duties and includes leadership responsibilities through her work with the curriculum support team; as a lead facilitator of monthly town hall meetings and professional development instruction; her participation with the [redacted] curriculum delegation for the 2024 CABE conference; and her [redacted] position being retained after potential recission.

The Petitioner, however, did not establish that her role as an ESL instructor and curriculum team member is leading or critical for [redacted] The recommendation letters from her [redacted] colleagues mainly focus on the Petitioner's responsibilities as an ESL instructor, her involvement with student and faculty professional development, and her working with the curriculum support team on

curriculum development.[2] We acknowledge that the recommendation letters attest to the Petitioner being a valued and skilled educational instructor and curriculum team member who represented [redacted] at the CABE conference. While the letters make brief, general claims regarding the Petitioner's role being of significance to [redacted] and the curriculum support team, they do not indicate that the Petitioner role was leading or critical. For instance, the letter from the curriculum coordinator at [redacted] indicates the Petitioner played a "vital role" in shaping [redacted] curriculum and supporting instructional development. The letters do not explain with specific, detailed information the effect of the Petitioner's role in supporting curriculum and instructional development or the significance of the Petitioner's work in her roles as an ESL instructor and curriculum support team member. Without further evidence, the Petitioner did not establish that she performed in a leadership capacity, or she contributed in a way that was of significant importance to the outcome of [redacted]

For the reasons discussed, the Petitioner did not show she meets this criterion.

B. Reserved Issues

The Petitioner asserts that she meets eligibility for an additional criterion relating to high salary at 8 C.F.R. § 204.5(h)(3)(ix). Because SCOPS found that the Petitioner only fulfilled one evidentiary criterion, judging the work of others, she cannot fulfill the initial evidentiary requirement of meeting three criteria under 8 C.F.R. § 204.5(h)(3). We, therefore, need not determine whether she meets the requirements of the criterion for high salary. Accordingly, we will reserve this issue. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

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 v. USCIS*, 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."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. at 25.

In addition, SCOPS concluded that the Petitioner did not establish her entry into the United States will substantially benefit prospectively the United States, as required under section 203(b)(1)(A)(iii) of the Act. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(A)(3). Because the Petitioner has not demonstrated eligibility under section 203(b)(1)(A)(i) of the Act, we need not render a determination regarding whether her entry into the United States will substantially benefit prospectively our nation. *See Job v. Jaddou*, No. 4:22-CV-03017, 2024 WL 2963795, at *4 (S.D. Tex. June 12, 2024) (upholding a determination of whether the plaintiff would substantially benefit prospectively the United States was not needed because the plaintiff did not establish sustained national or international acclaim). Accordingly, we will reserve this issue. *See INS v. Bagamasbad*, 429 U.S. at 25.

[2] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that this is one criterion where letters from persons with knowledge of the significance of the person's leading or critical role can be particularly helpful to officers in making this determination, so long as the letters contain detailed and probative information that specifically addresses how the person's role for the organization, establishment, division, or department was leading or critical).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated her 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.