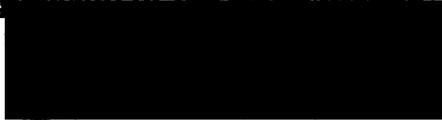




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U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

File: SFR214F 1854 Office: SAN FRANCISCO, CALIFORNIA Date: **NOV 13 2002**

IN RE: Petitioner:

Petition: Petition for Approval of School for Attendance by Nonimmigrant Students under Section 101(a)(15)(M)(i) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(M)(i)

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Petition for Approval of School for Attendance by Nonimmigrant Students (Form I-17) was denied by the District Director, San Francisco, California. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The Form I-17 reflects that the petitioner in this matter, Capitol Opera Sacramento (FKA the Voice Fitness Institute), is a private technical school established in 1990. The school offers training for opera singers. The school declares an enrollment of an unspecified number of students with six volunteer instructors. The petitioner seeks approval for attendance by M-1 nonimmigrant vocational students. There is no indication in the record that the school has ever been approved for attendance by nonimmigrant vocational students in the past.

The director denied the petition, finding that the petitioner failed to provide the Service with evidence of national accreditation and that the courses offered are not avocational or recreational in character. The director determined that the petitioner failed to submit additional required documentation, including a description of the school facilities, the teachers' salaries, the attendance and scholastic grading policy, the amount and character of its supervisory and consultative services, and a certified copy of the accountant's last statement of its net worth.

On appeal, the owner of the school submitted a statement and additional documentation.

The governing regulations, while somewhat lengthy, are reproduced in part here for the convenience of the petitioner.

8 C.F.R. 214.3(b) specifies required supporting evidence, in pertinent part, as follows:

Any other petitioning school shall submit a certification by the appropriate licensing, approving, or accrediting official who shall certify that he or she is authorized to do so to the effect that it is licensed, approved, or accredited. . . . A charter shall not be considered a license, approval, or accreditation. A school catalogue, if one is issued, shall also be submitted with each petition. If not included in the catalogue, or if a catalogue is not issued, the school shall furnish a written statement containing information concerning the size of its physical plant, nature of its facilities for study and training, educational, vocational or professional qualifications of the teaching staff, salaries of the teachers, attendance and scholastic grading policy, amount and character of supervisory and consultative services available to students and trainees, and finances (including a certified copy of accountant's last statement of school's net worth, income, and expenses).

8 C.F.R. 214.3(c) provides additional evidence that must be submitted:

If the petitioner is a vocational, business, or language school, or American institution of research recognized as such by the Attorney General, it must submit evidence that its courses of study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective, and are not avocational or recreational in character.

8 C.F.R. 214.3(e)(1) provides that the petitioner must establish that:

- (i) It is a bona fide school;
- (ii) It is an established institution of learning or other recognized place of study;
- (iii) It possesses the necessary facilities, personnel, and finances to conduct instruction in recognized courses; and
- (iv) It is, in fact, engaged in instruction in those courses.

Regarding 8 C.F.R. 214.3(e)(1)(ii), the Service defines an established institution of learning as one that has been in operation as an approved or accredited school for at least two years.¹

Here, the petitioner claimed that the school was established in 1990. The petition was filed on April 9, 2002. Therefore, the petitioner must establish that it has been an approved or accredited school since at least April 9, 2000.

The petitioner failed to provide any evidence to establish that the school has national accreditation and that the courses offered are not avocational or recreational in character.

On appeal, the petitioner provided the Service with a description of the school facilities, and indicated that its teachers are volunteers. The petitioner described the amount and character of supervisory and consultative services available to students; however, the financial statement it provided is inadequate because it is not certified by an accountant in accordance with the regulations.

¹ Revised School Approval Policy and Procedures, James A. Puleo, Acting Executive Associate Commissioner for Operations, January 14, 1994 (CO214f-P CO214m-P).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden.

ORDER: The appeal is dismissed.