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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.  
U.I.L.B., 3rd Floor  
Washington, D.C. 20536



File: LOS 214F 1861

Office: LOS ANGELES, CALIFORNIA

Date:

FEB 12 2003

IN RE: Petitioner:



Petition: Petition for Approval of School for Attendance by Nonimmigrant Students under Section 101(a)(15)(F)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(F)(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, Los Angeles, California. The matter is now before the Administrative Appeals Office ("AAO") on appeal. The appeal will be dismissed.

The Form I-17 reflects that the petitioner in this matter, West Coast Baptist College, is a private postsecondary school established in 1995. The school offers bachelor, associate and master degree programs in religious education. The school declares an enrollment of 350 students with 23-28 instructors. The petitioner seeks approval for attendance by F-1 nonimmigrant academic students. There is no indication in the record that the school has ever been approved for attendance by nonimmigrant students in the past.

The district director denied the petition, finding that the petitioner failed to provide the Service with any evidence specified in 8 C.F.R. 214.3(b) and 8 C.F.R. 214.3(c). The district director determined that the petitioner failed to provide sufficient evidence that the school is an established institution of learning or other recognized place of study and that it is a bona fide school. The district director determined that the petitioner failed to provide evidence that it has state approval to operate or that it is exempt from the state requirements. Finally, the district director denied the petition, finding that the petitioner failed to establish that it possesses the necessary facilities, personnel and finances to conduct instruction in recognized courses as required under 8 C.F.R. 214.3(e).

On appeal, an employee of the petitioner school submitted additional documentation.

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

. . . . 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).

The petitioner provided the Service with three school catalogues. On appeal, the petitioner supplied the Service with sufficient evidence that it possesses the necessary facilities to conduct

instruction and provided information about the instructors' salaries.<sup>1</sup>

In review, the petitioner satisfied some of the requirements of 8 C.F.R. § 214.3(b), but not all. 8 C.F.R. § 214.3(b) states, in pertinent part:

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.

On appeal, the petitioner states that it has a "religious exempt relationship" with the appropriate state agency, the State of California Bureau for Private Postsecondary and Vocational Education (BPPVE). The petitioner adds that "this relationship has been consistent since the inception of [the petitioner school] in August 1995."

In review, the petitioner failed to provide the Service with evidence that it is exempt from state licensing, approval or accreditation requirements. A visit to the BPPVE website<sup>2</sup> indicates that the petitioner school obtained approval of three programs as of October 7, 2002, approximately eighteen months after filing the instant petition. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. 8 C.F.R. § 103.2(b)(12). Accordingly, the petitioner's late BPPVE approval does not overcome this issue as a ground for denial of the petition.

8 C.F.R. § 214.3(a)(2)(i) provides, in part, that:

The following schools may be approved for attendance by nonimmigrant students under section 101(a)(15)(F)(i) of the Act:

(A) A college or university, i.e., an institution of higher learning which awards recognized bachelor's, master's, doctor's or professional degrees.

8 C.F.R. 214.3(c) provides, in part:

If the petitioner is an institution of higher education. . . it must submit evidence that it confers upon its graduates recognized bachelor, master, doctor, professional, or divinity degrees, or if does not confer such degrees that its credits have been and are

<sup>1</sup> Rather than specify each instructor's salary, the petitioner stated that it anticipated spending \$460,000 on all instructor salaries in the 2002-2003 school year.

<sup>2</sup> See Bureau for Private Postsecondary and Vocational Education at [www.http/appl.dca.ca.gov/bppv/school](http://www.http/appl.dca.ca.gov/bppv/school).

accepted unconditionally by at least three such institutions of higher learning.

As evidence that its credits have been and are accepted unconditionally, the petitioner provided the Service with one letter from another Baptist bible college. This is insufficient. The regulation requires at least three letters from institutions of higher learning. The petitioner failed to establish that it awarded recognized degrees as required by 8 C.F.R. § 214.3(a)(2)(i)(A) and 8 C.F.R. 214.3(c) as of the date of filing the petition. For that additional reason, the petition may not be approved.

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.

As evidence that the school is engaged in instruction, the petitioner provided the Service with a list of classes conducted in 2001 and 2002. The petitioner has established that it is engaged in instruction.

On appeal, the petitioner submitted a financial statement, and sufficient evidence that it possesses the necessary facilities, personnel and finances to conduct instruction, plus evidence that it is a bona fide school.

The petitioner provided insufficient evidence to establish that it is an established institution of learning because it failed to establish that the school has been in operation and enrolling students with state approval from the Bureau for Postsecondary and Vocational Education until eighteen months after the filing date.

In summary, the petitioner provided the Service with some but not all of the required documentation. 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.