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U.S. Department of Homeland Security  
Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass., 3/F  
425 I Street N.W.  
Washington, D.C. 20536



File: DEN 214F 00747000

Office: DENVER, COLORADO Date:

DEC 15 2003

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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

**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.

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 Interim District Director, Denver, Colorado. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected and the matter will be remanded for further consideration and entry of a new decision.

The regulation at 8 C.F.R. § 103.3(a)(2)(i) indicates that appeals must be filed within 30 days after the service of the decision. The record indicates that the interim district director's denial was mailed on July 14, 2003. The appeal was filed on September 16, 2003, 64 days after the decision was mailed. Thus, the appeal was not timely filed.

It is noted that the interim district director erroneously allowed the petitioner to file the appeal. The interim district director's error does not, and cannot, supersede the regulation regarding the time allotted to file an appeal.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen as described in 8 C.F.R. § 103.5(a)(2), the appeal must be treated as a motion, and a decision must be made on the merits of the case. Furthermore, the regulation at 8 C.F.R. § 103.5(a)(2) requires that a motion to reopen state the new facts to be provided in the reopened proceeding, supported by affidavits or other documentary evidence. Review of the record indicates that the appeal meets these requirements. The petition will be remanded to the interim district director for consideration as a motion to reopen.

**ORDER:** The appeal is rejected. The matter is remanded to the interim district director to be considered as a motion to reopen.