



J 1

U.S. Department of Justice  
Immigration and Naturalization Service

**PUBLIC COPY**

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



File: HOU 214F 0472 Office: HOUSTON, TX

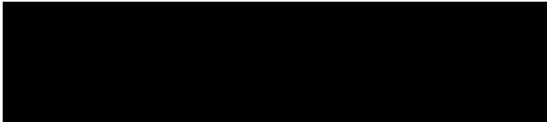
Date: FEB 11 2003

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)

IN BEHALF OF PETITIONER:



*identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy*

**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 Acting District Director, Houston, Texas, withdrew school approval on March 15, 2002, after giving the applicant proper notice of the Service's intent to withdraw the approval of the petition for approval of school for attendance by nonimmigrant students, approved on July 7, 1999. The matter is now before the Associate Commissioner for Examinations on appeal. The case will be remanded for further consideration.

The petitioner in this matter, MVP Aero Academy, is a private institution that is engaged in vocational and technical training, i.e., flight training. The district director initially approved the petitioner's petition for approval of school for attendance by nonimmigrant students. After further consideration, the district director concluded that the petition had been approved in error. On November 1, 2001, the district director properly served the petitioner with a notice of intent to withdraw the approval. Counsel for the petitioner responded to the notice of intent to withdraw the approval on November 19, 2001, and requested an interview. On December 19, 2001, the acting district director informed the petitioner that it had thirty days within service of the notice to submit written representations under oath, supported by documentary evidence, setting forth reasons why the approval should not be withdrawn. The acting district director informed the petitioner that if the school failed to file an answer within the 30-day period, the district director would withdraw the approval previously granted, and no appeal would be available. The acting district director specifically requested that the petitioner provide the Service with a current copy of accreditation from the Federal Aviation Administration (FAA). Counsel for the petitioner responded within the 30-day period with a letter dated January 16, 2002 captioned "supplemental response" that reiterated a request for an interview and incorporated by reference an affidavit of the president of the petitioning school that had been previously submitted. Counsel for the petitioner provided the Service with a letter dated January 4, 2002 from the FAA stating that "FAA records indicate that no air agency certificate has been issued to [the petitioner.]"

In a decision dated March 15, 2002, the acting district director informed the petitioner that the Service had withdrawn the approval of its school because the petitioner had not been certified by the FAA.

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....

Counsel for the petitioning school timely filed a Form I290B Notice of Appeal and provided the Service with provisional approval from the FAA dated March 26, 2002. 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).

Nonetheless, the acting district director failed to honor the petitioning school's request for an interview as required by 8 C.F.R. 214.4(f). Accordingly, this matter will be remanded for the purpose of granting the petitioning school's request for an interview. The district director shall then render a new decision based on the evidence of record as it relates to the regulatory requirements for eligibility.

**ORDER:** The acting district director's decision of March 15, 2002 is withdrawn. The matter is remanded for further action and consideration consistent with the above discussion and entry of a new decision.