



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
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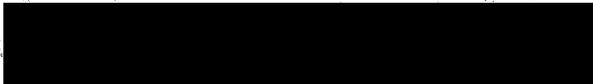


File: PHI 214F 0802

Office: PHILADELPHIA

Date: FEB 27 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, 8 U.S.C. § 1101(a)(15)(F)(i)

IN BEHALF OF PETITIONER:



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.

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, Philadelphia, Pennsylvania, and 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, the Won Institute of Graduate Studies, is a private school licensed by the State of Pennsylvania. The school offers a master's degree in Won Buddhist studies and in applied meditation studies. The petitioner seeks approval for attendance by F-1 nonimmigrant academic students. The school has never been approved for attendance by nonimmigrant students in the past.

The district director denied the petition, finding that the petitioner failed to show that the school is an established institution of learning or other recognized place of study.

On appeal, counsel for the petitioner asserts that the basis for denial was that the petitioner had not established that it was a candidate for accreditation (or preaccredited), and that subsequent to the director's decision, the petitioner received candidate status.

The issue raised by the district director is whether the petitioner has shown that it is an established institution of learning or other recognized place of study.

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.

The evidence on the record indicates that the petitioner was incorporated on December 5, 2001, two months prior to filing the instant petition. The petitioner had not yet obtained preaccreditation status (or the equivalent candidacy status) from the appropriate accreditation authority as of the time of filing the instant petition. The petitioner had not enrolled any students as of the date of filing the petition. The petitioner has not demonstrated that it is an established institution of learning.

On appeal, counsel for the petitioner asserts that the petitioner

has received eligibility for candidacy from the Middle States Association of Colleges and Schools as of September 16, 2002. The petition was filed on February 8, 2001. The petitioner must establish eligibility as of the filing date. Here, the petitioner provided the Service with documentation of accreditation as of September 2002, more than nineteen months after the initial filing date. According to regulation, a petition shall be denied where evidence submitted in response to a request for evidence does not establish filing eligibility at the time the petition was filed. 8 C.F.R. § 103.2(b)(12). The petitioner has not overcome the district director's objections to approving the petition.

Beyond the decision of the director, the petitioner has failed to meet another regulatory requirement, i.e., that it is engaged in instruction. According to the Form I-17 petition, the petitioner had no students enrolled as of the date of filing.

The petitioner failed to provide the Service with a certified copy of the accountant's last statement of the school's net worth, income, and expenses as required by 8 C.F.R. § 214.3(b).

Finally, the petitioner failed to provide evidence that it confers recognized degrees or that its credits are accepted unconditionally by at least three institutions of higher learning as required by 8 C.F.R. § 214.3(c).

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.