



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: LOS 214F 1884 Office: LOS ANGELES, CA

Date: JAN 09 2003

IN RE: Petitioner: [REDACTED]

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

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 Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The Form I-17 reflects that the petitioner in this matter, the American Medical Sciences Center, is a private institution. The school offers vocational education. The school declares an enrollment of 80 students with five 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 district director denied the petition, finding that the petitioner failed to establish that it offers any courses of study that would allow an M-1 student to carry a full course of study. The district director also determined that the petitioner failed to submit sufficient evidence detailing the salaries and qualifications of its teaching staff, and the amount and character of supervisory and consultative services. The district director denied the petition, in part, because the petitioner failed to submit evidence that its courses are accepted as fulfilling the requirements for the attainment of an educational, professional and vocational objective and that its courses are not avocational or recreational in character. Finally, the district director denied the petition because it failed to provide sufficient evidence that the school is an established institution of learning as required under 8 CFR 214.3(e).

The petitioner timely filed an appeal with additional documentation.

The first issue in this proceeding is whether the petitioner offers sufficient class hours for an M-1 student to maintain a full course of study.

8 CFR 214.2(m)(9) states, in pertinent part:

*A full course of study . . . means -*

\* \* \*

(iii) Study in a vocational or other nonacademic curriculum . . . certified by a designated school official to consist of at least eighteen clock hours of attendance a week if the dominant part of the course of study consists of classroom instruction, or at least twenty-two clock hours a week if the dominant part of the course of study consists of shop or laboratory work . . . .

The petitioner provided the Service with a list of its courses of study with the total number of hours and weeks

required to complete each course. The average number of hours of instruction per week ranged from 13 to 17 hours, less than the minimum requirement of 18 hours a week of classroom instruction.

The next issue in this proceeding relates to required documentation. 8 CFR 214.3(b) states in pertinent part:

A school catalogue, if one is issued, shall 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 teach staff, salaries of the teachers, attendance and scholastic grading policy, amount and character of supervisory and consultative services available to students and trainees . . . .

In his decision, the district director determined that the petitioner failed to submit sufficient evidence detailing the teachers' salaries and their qualifications, as well as the amount and character of supervisory and consultative services.

On appeal, the petitioner provided the Service with sufficient information regarding its teachers' salaries and qualifications, as well as a description of the amount and character of supervisory and consultative services available to students and trainees.

The district director denied the petition, in part, because the petitioner failed to submit evidence that its courses are accepted as fulfilling the requirements for the attainment of an educational, professional and vocational objective and that its courses are not avocational or recreational in character.

8 CFR 214.3(c) states, in part, that:

If the petitioner is a vocational, business or language school . . . 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.

On appeal, the petitioner provided the Service with two letters from employers that indicate that they have hired graduates from the petitioner's school. The petitioner provided the Service with a handwritten letter from an employer, which fails to state that it hired a graduate from the petitioner school and the name of the author of the letter is not apparent. According to the

Service's Operations Instructions at 214.3(b)(4)(ii), in order to establish that a course of study meets a vocational or professional objective, a petitioner must submit letters from three employers of the petitioner's graduates, on the employer's letterhead, stating the name of the graduate, the school from which he or she graduated, the position in which he or she was employed, and the period of employment. In review, the petitioner failed to provide adequate documentation that its courses of study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective.

Finally, the district director denied the petition, in part, because he determined that because the petitioner failed to submit evidence that the school had been in operation for two years with approval from the State of California prior to the filing of the I-17 petition, the petitioner had failed to establish that it is an established institution of learning.

The record shows that the petitioner filed the I-17 petition on August 8, 2001 and received course approval from the State of California on May 13, 2000, fifteen months earlier. The petitioner indicated that it was established on May 13, 1997.

The statute and regulations are silent as to what constitutes an "established institution of learning." According to an internal memorandum,<sup>1</sup> an established institution of learning is one that has been in operation for two years with state approval. In the instant case, the petitioner has not shown that it is operational, let alone established. An officer of the Service phoned the petitioner to make an inquiry during business hours. Whoever answered the phone told the officer to call back the next day. Officers of the Service visited the school site on July 31, 2002 at 12 noon. The door was locked and nobody answered the door. According to material provided to the Service by the petitioner, its hours of operation are Monday to Saturday from 9 am to 1 pm. The fact that no one was found on the premises calls into question whether the petitioner is operational. The petitioner has failed to meet its burden of proof in establishing that it is an "established institution of learning."

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 met that burden.

**ORDER:** The appeal is dismissed.

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<sup>1</sup> James A. Puleo, Acting Executive Associate Commissioner, Office of Operations, Memorandum dated January 14, 1994.