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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
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Washington, D.C. 20536



File: SFR 214F 1764

Office: SAN FRANCISCO

Date:

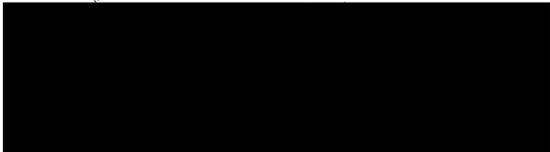
JAN 24 2003

IN RE: Petitioner:



Petition: Petition for Approval of School for Attendance by Nonimmigrant Students under Sections 101(a)(15)(F)(i) and 101(a)(15)(M)(i) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(F)(i) and 1101(a)(15)(M)(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.

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 in part by the District Director, San Francisco, California. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained.

The Form I-17 reflects that the petitioner in this matter, the Art Institute of California, is a private institution that offers bachelor and associate degree programs. The petitioner seeks approval for attendance of F-1 nonimmigrant students to all its programs of study.

The district director denied the petition in part, finding that the petitioner's associate degree programs must be classified for attendance by M-1 students pursuant to the pertinent regulations. The director re-authorized the petitioner to accept F-1 students into its Bachelor of Science and Bachelor of Fine Arts programs.

On appeal, counsel for the petitioner submits a brief and additional documentation.

The issue is whether the petitioner has established eligibility for approval for attendance by F-1 nonimmigrant students for its associate degree programs. In order to establish eligibility for approval 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), a petitioner must satisfy each of several eligibility requirements.

8 C.F.R. 214.3(a)(2)(i)(G) provides that approval for F-1 attendance may be authorized for:

An institution which provides language training, instruction in the liberal arts or fine arts, instruction in the professions, or instruction or training in more than one of these disciplines.

8 C.F.R. 214.3(a)(2)(iii) provides:

A school may be approved for attendance by nonimmigrant students under both sections 101(a)(15)(F)(i) and 101(a)(15)(M)(i) of the Act if it has both instruction in the liberal arts, fine arts, language, religion, or the professions and vocational or technical training. In that case, a student whose primary intent is to pursue studies in liberal arts, fine arts, language, religion, or the professions at the school is classified as a nonimmigrant under section 101(a)(15)(F)(i) of the Act. A student whose primary intent is to pursue vocational or technical training at the school is classified as a nonimmigrant under section 101(a)(15)(M)(i) of the Act.

In the instant case, the petitioner seeks authorization to accord associate degree students F-1 nonimmigrant status. The petitioner offers associate degree programs in graphic design, media and arts animation, game art and design, multimedia and web design, and fashion design.

Counsel for the petitioner asserts that these programs are academic rather than vocational in nature. Counsel for the petitioner argues that coursework in the associate degree program may be applied to meet the requirements of the Institute's similar bachelor degree programs for F-1 nonimmigrant students; hence, the associate degree program is academic.

Counsel for the petitioner argues that the disciplines of graphic design, fashion design and multimedia and web design are professions and therefore are appropriate for F-1 students.

The district director found that the courses of study offered by the petitioner, including graphic design, media and arts animation, game and art design, multimedia and web design, and fashion design, are vocational and technical in nature, and classified the programs as appropriate for M-1 students. In review, these disciplines are more aptly categorized as the fine arts, and hence an institution offering instruction in such disciplines may be approved for attendance by F-1 nonimmigrant students under 8 C.F.R. 214.3(a)(2)(i)(G) and 8 C.F.R. 214.3(a)(2)(iii). Consistent with the district director's decision, the school will not be approved for attendance of F-1 students for any program not listed on the petition.

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 sustained that burden.

ORDER: The appeal is sustained.