

PUBLIC COPY

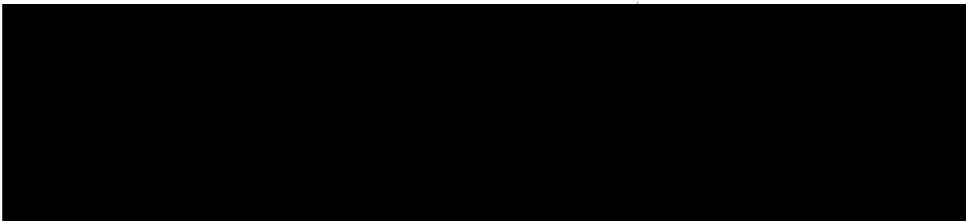
U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

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

J I

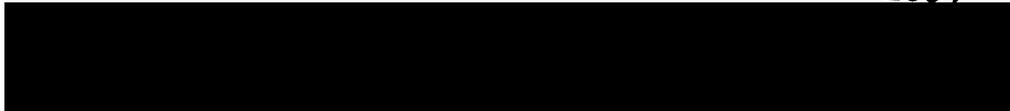


**U.S. Citizenship
and Immigration
Services**



FILE: LOS 214F 1071 Office: LOS ANGELES, CALIFORNIA Date: **MAR 11 2004**

IN RE: Petitioner:



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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Mari Johnson

RP

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Petition for Approval of School for Attendance by Nonimmigrant Student (Form I-17) was denied by the Interim District Director, Los Angeles, California. The matter 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 [REDACTED] [REDACTED] is a private language school established in 1978. The school declares an enrollment of 40 students with eight instructors. The petitioner previously received approval for attendance by F-1 nonimmigrant academic students in 1980 and again in 1986. The petitioner seeks approval for attendance by F-1 nonimmigrant academic students.

On July 14, 2003, the interim district director denied the petition, finding that the petitioner failed to meet the requirements of 8 C.F.R. § 214.3(e) and failed to establish that its courses of study are accepted for the attainment of an educational, professional, or vocational objective as required by 8 C.F.R. § 214.3(c).

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 several eligibility requirements.

According to 8 C.F.R. § 214.3(e), there are four eligibility requirements:

(1) *Eligibility.* To be eligible for approval, 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.

In order to establish each of these requirements, the regulations require supporting documentation to be submitted depending upon the type of school seeking approval (e.g., public vs. private schools, vocational, language school, etc.).

Finally, further documentary evidence is required under 8 C.F.R. § 214.3(c) if the petitioner is a language school. The regulation states, in pertinent part:

If the petitioner is a vocational, business, or language school, or American institution of research recognized as such by the Attorney General, 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.

The interim district director denied the petition, in part, citing the language of 8 C.F.R. § 214.3(e). The interim district director did not discuss any of the petitioner's evidence or provide any explanation as to why she concluded that the evidence was not sufficient.

In a request for evidence dated January 30, 2003, the interim district director requested evidence of classes conducted, a copy of the institution's accreditation, approval or licensure, information about the school's physical plant, teacher qualifications and salaries, policies, services and finances. In response, the petitioner submitted evidence regarding the school's physical plant, teacher qualifications and salaries, services and finances that appear to meet the requirements of 8 C.F.R. § 214.3(e)(i), (iii) and (iv). However, the record does not reflect that the school meets the requirements of section (ii) in that the school does not appear to have been licensed, approved or accredited under 8 C.F.R. § 214.3(b) at the time of filing. The record reflects that the school's approval from the Bureau for Private Postsecondary and Vocational Education (BPPVE) was expired as of August 31, 2000 and had not yet been renewed at the time of the onsite visit. The BPPVE indicates that the school was approved on January 4, 2004. In response to the January, 2003 RFE, the school said that it had state approval. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). The petitioner failed to establish that it has met the requirements of 8 C.F.R. § 214.3(b) and 214.3(e)(ii) because it failed to demonstrate that it was approved, accredited or licensed as of the date of filing.

The interim district director denied the decision, in part, finding that "the petitioner did not submit sufficient evidence to establish that its *courses of study* meet the requirements in section 214.3(c) of Title 8 Code of Federal Regulations," yet in the request for additional evidence, the interim district director requested evidence that accredited institutions of higher learning accepted the petitioner's *credits*. This portion of the district director's request for evidence is erroneous. There is a distinction between *courses of study* and *credits*.

In a request for additional evidence dated June 20, 2003, the interim district director requested the petitioner to submit the following:

Letters from three accredited institutions attesting that the accredited institution unconditionally accepts and has accepted credits from the petitioning institution. Each letter must state all of the following:

The name of your school.

The names of its graduates who have or are attending the accredited school and their dates of enrollment.

The program(s) in which your school's graduates enrolled at the accredited institution.

For each letter submitted for this requirement from a non-public institution, a copy of the schools current accreditation, from a Department of Education recognized accreditation agency, shall be submitted.

[Emphasis added.]

This request for additional evidence is inappropriate in the instant case. The regulation at 8 C.F.R. § 214.3(c) states, in pertinent part:

If the petitioner is a vocational, business, or *language school*, or American institution of research recognized as such by the Attorney General, 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.*

[Emphasis added.]

As evidence that the petitioner's 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, the petitioner submitted evidence that many of its students achieved English proficiency adequate for admission to post-secondary institutions of higher learning. The evidence includes letters from school officials and copies of approved I-20 Certificates of Eligibility for Nonimmigrant (F-1) Student, granting students permission to transfer from the petitioner's institution to other schools. The petitioner has overcome this objection of the interim district director to approving the petition.

As always, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.