

PUBLIC COPY

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



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



JT

FILE: BOS 214F 0710 Office: BOSTON, MASSACHUSETTS Date **MAY 05 2004**

IN RE: Petitioner: 

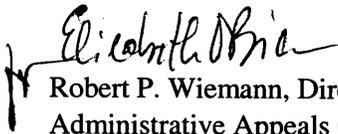
PETITION: Petition for Approval of School for Attendance by Nonimmigrant Students under Section 101(a)(15)(M)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(M)(i)

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.



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 District Director, Boston, Massachusetts. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The record reflects that the petitioner in this matter, [REDACTED] was previously approved for attendance by M-1 nonimmigrant students. The Form I-17 petition at issue in this proceeding is the Student and Exchange Visitor Information System (SEVIS) petition filed in accordance with 8 C.F.R. §214.3(a)(1)(i). The SEVIS Form I-17 indicates that the petitioner is a private school established in 1936. Graduates of the school's three-year program receive special recognition and a diploma. The school declares an enrollment of approximately 20 students per year, with three teachers.

The district director denied the petition based on a finding that the petitioner did not provide "training in a special skill to be pursued in a trade" such that the petitioner could be considered a vocational school. Additionally, the director determined that the petitioner had not established that it was licensed, approved, or accredited by the state in which it operates and that it was accredited by "any regional or national accrediting association."

The regulation at 8 C.F.R. § 103.2(a)(1) states:

Every application, petition, appeal, motion, request, or other document submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions (including where an application or form should be filed) being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. *This form must be filed with the appropriate filing fee required by § 103.7.*

(Emphasis added).

Further, the regulation at 8 C.F.R. § 103.3(a)(2)(i) states that an appeal must be filed within 30 days after the service of the decision.

The record indicates that the district director's denial was dated July 31, 2003, and the petitioner signed an acknowledgment of receipt on August 6, 2003. The petitioner filed the appeal on September 3, 2003, but failed to pay the fee required for appeal. The appeal was returned to the petitioner on September 17, 2003. The petitioner resubmitted the appeal with the proper fee on November 17, 2003. Thus, the appeal cannot be considered timely filed.

It is noted that the district director erroneously allowed the petitioner to re-file the appeal with appropriate fee after the time for appeal had lapsed. The district director's error does not, and cannot, supersede the regulation regarding the time allotted to file an appeal.

However, the regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen as described in 8 C.F.R. § 103.5(a)(2), the appeal must be treated as a motion, and a decision must be made on the merits of the case.

The regulation at 8 C.F.R. § 103.5(a)(2) requires that a motion to reopen state the new facts to be provided in the reopened proceeding, supported by affidavits or other documentary evidence.

On appeal, the petitioner submits a statement by its administrator indicating that the petitioner had previously obtained approval to admit nonimmigrant students. The letter also describes the nature of the petitioner's religious and vocational training as follows:

[The petitioner] trains students to carry on the work of the Christian Church, both in our own organization as well as in others. Our training is foundational for equipping pastors, elders, deacons, youth leaders, missionaries and Sunday School teachers for church work. Over 80% of the pastors currently serving The Kingdom Christian Ministries (our parent organization) have been trained at Fairwood.

Our students receive intensive training in two areas directly related to the vocations. **First** is how to conduct oneself in the workplace with a serious and conscientious "work ethic." Even though this part of the program is not highly specialized, it offers valuable instruction in basic work habits, integrity, ethics, anger management, Christian character, and interpersonal relationships. As many companies are now recognizing, this kind of training is more important than simply developing a set of technical skills. **In addition**, we provide students with actual hands-on opportunities to learn basic skills in a variety of trades including construction, plumbing, painting (exterior and interior), electrical, auto mechanics, and a number of home-making skills. Upon graduation from Fairwood, students are able to enter the workplace or function as homemakers and homeowners with a high degree of aptitude which would otherwise be missing.

The petitioner also submits a letter from the Association of Christian Schools International (ACSI) that indicates the petitioner is a member of ACSI. However, as the petitioner's membership in the organization is not at issue in this case and is not considered as evidence of accreditation, this letter does not support a grant of a motion to reopen.

Finally, the petitioner submits letters from former students and from employers who have hired the petitioner's former students. Again, however, these letters do not overcome the grounds for denial nor do they offer new facts that would support a reopening of the record.

On motion, the petitioner has not submitted any additional evidence to address whether it is licensed or approved by the state of New Hampshire or, in the alternative, that the laws of the state consider the petitioner to be exempt from state education laws and requirements.

As the information submitted on appeal does not meet the requirements of a motion to reopen the appeal cannot be treated as a motion.

ORDER: The appeal is rejected.