

PUBLIC COPY

Ja

U.S. Department of Homeland Security
Citizenship and Immigration Services

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

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass., 3/F
425 I Street N.W.
Washington, D.C. 20536



File: DEN 214F 00660000

Office: DENVER, COLORADO

Date: DEC 15 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)

ON 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.

for 
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 Interim District Director, Denver, Colorado. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The Form I-17 reflects that the petitioner in this matter, The International Cultural Exchange, Ltd. is a private institution that offers language training. The institution was established in 1993 and declares an enrollment of approximately 20 students per year, with 2 teachers. As indicated on the petitioner's SEVIS Form I-17, the petitioner seeks initial approval for attendance by F-1 nonimmigrant students.

The record reflects that on May 14, 2003, the interim district director requested that further evidence be submitted in support of the petition. The petitioner's failure to respond to the request for evidence resulted in the interim district director's denial. While the interim district director advised the petitioner in the denial that the petitioner could file an appeal, 8 C.F.R. § 103.2(a)(13) and (15) provides the following, respectively:

If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied.

A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen under §103.5

As the petition was denied for abandonment, there is no appeal right.

Further, 8 C.F.R. § 103.5(a)(2) provides:

A motion to reopen an application or petition denied due to abandonment must be filed with evidence that the decision was in error because:

- (i) The requested evidence was not material to the issue of eligibility;
- (ii) The required initial evidence was submitted with the application or petition, or the request for initial evidence or additional evidence or appearance was complied with during the allotted period; or
- (iii) The request for additional information or appearance was sent to an address other than that on the application, petition, or notice of representation, or that the applicant or petitioner advised the Service, in writing, of a change of address or change of representation subsequent to filing and before the Service's request was sent, and the request did not go to the new address.

We note that the material requested by the interim district director was material to eligibility, the initial evidence and requested evidence was not submitted until the time of appeal, and the petitioner makes no claim that the interim district director sent any information to an incorrect address. Therefore, it does not appear that the petitioner meets any of the requirements for a motion to reopen. Accordingly, this case must be rejected, without prejudice to the proper filing of a new petition with the required evidence.

ORDER: The appeal is rejected.