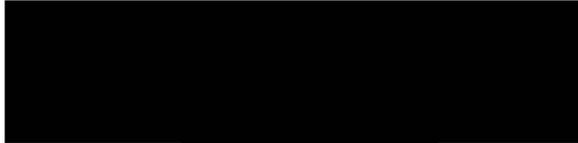


identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



42

FILE: [Redacted] Office: HOUSTON Date: **APR 01 2008**  
MSC 03 063 60317

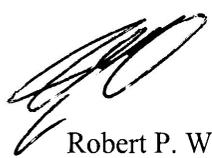
IN RE: Applicant: [Redacted]

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the  
Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat.  
2762 (2000), *amended by* LIFE Act Amendments, Pub. L. 106-554, 114 Stat.  
2763 (2000)

ON BEHALF OF APPLICANT:  
[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the National Benefits Center. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director for Services, Houston, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had failed to establish that he satisfied the “basic citizenship skills” required under section 1104(c)(2)(E) of the LIFE Act.

On appeal, the applicant submits a brief statement and additional documentation.

Under section 1104(c)(2)(E)(i) of the LIFE Act (“Basic Citizenship Skills”), an applicant for permanent resident status must demonstrate that he or she:

- (I) meets the requirements of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a) relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States; or
- (II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

Under section 1104(c)(2)(E)(ii) of the LIFE Act, the Attorney General may waive all or part of the requirements for aliens who are at least 65 years of age or developmentally disabled.

The applicant, who is neither 65 years old nor developmentally disabled, does not qualify for either of the exceptions in section 1104(c)(2)(E)(ii) of the LIFE Act. Nor does he satisfy the “basic citizenship skills” requirement of section 1104(c)(2)(E)(i)(I) of the LIFE Act because he does not meet the requirements of section 312(a) of the Immigration and Nationality Act (Act). An applicant can demonstrate that he or she meets the requirements of section 312(a) of the Act by “[s]peaking and understanding English during the course of the interview for permanent resident status” and answering questions based on the subject matter of approved citizenship training materials, or [b]y passing a standardized section 312 test . . . by the Legalization Assistance Board with the Educational Testing Service (ETS) or the California State Department of Education with the Comprehensive Adult Student Assessment System (CASAS).” 8 C.F.R. §§ 245a.3(b)(4)(iii)(A)(1) and (2).

In the alternative, an applicant can satisfy the basic citizenship skills requirement by demonstrating compliance with section 1104(c)(2)(E)(i)(II) of the LIFE Act. The “citizenship skills” requirement of the section 1104(c)(2)(E)(i)(II) is defined by regulation in 8 C.F.R. § 245a.17(a)(2) and 8 C.F.R. § 245a.17(a)(3). As specified therein, an applicant for LIFE Legalization must establish that:

He or she has a high school diploma or general education development diploma (GED) from a school in the United States . . . 8 C.F.R. § 245a.17(a)(2), or

He or she has attended, or is attending, a state recognized, accredited learning institution in the United States, and that institution certifies such attendance. The course of study at such learning institution must be for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) and the curriculum must include at least 40 hours of instruction in English and United States history and government . . . 8 C.F.R. § 245a.17(a)(3).

Both 8 C.F.R. § 245a.17(a)(2) and 8 C.F.R. § 245a.17(a)(3) specify that applicants must submit evidence to show compliance with the basic citizenship skills requirement "... either at the time of filing Form I-485, subsequent to filing the application but prior to the interview, or at the time of the interview . . . ."

The regulation at 8 C.F.R. § 245a.17(b) states that:

An applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the interview, shall be afforded a second opportunity after 6 months (or earlier at the request of the applicant) to pass the tests or submit evidence as described in paragraphs (a)(2) and (a)(3) of this section [8 C.F.R. § 245a.17(a)(2) and 8 C.F.R. § 245a.17(a)(3)]. The second interview shall be conducted prior to the denial of the application for permanent residence and may be based solely on the failure to pass the basic citizenship skills requirements.

Pursuant to 8 C.F.R. § 245a.17(b), the applicant was interviewed twice in connection with his LIFE Act application, on October 4, 2004, and again on June 15, 2005. On the first occasion, the interview had to be terminated because of the applicant's lack of English skills. On the second occasion, the applicant passed the history, government and writing tests in English, but the interview had to again be terminated because the applicant did not understand the questions asked in English by the interviewing officer.

In a Notice of Intent to Deny (NOID), dated June 17, 2005, the district director advised the applicant that on October 4, 2002, the interview had to be terminated due the applicant's lack of English skills, and that the second interview also had to be terminated because the applicant did not understand the questions asked in English by the interviewing officer. The district director stated that she intended to deny the application because of the applicant's inability to meet his burden of proof and to establish his eligibility under 8 C.F.R. § 245a.11(b) through (e). The district director advised the applicant that he had 30 days to rebut and/or submit evidence in support of his application.

In response, counsel for the applicant submitted a photocopy of a letter, dated July 14, 2005, from [REDACTED], Course Instructor for [REDACTED]'s Citizenship Tutorials, Mt. Pleasant, Texas,

stating that the applicant had attended (from April 5, 2005 to June 9, 2005) and completed a 10-week course (40 hours) of instruction on history, government and civics in the United States. Ms. [REDACTED] further stated that the course was sponsored by the St. Michael's Catholic Church of Mt. Pleasant, Texas, under the direction of Deacon [REDACTED] Immigration Advocate. Counsel states that the interviewing officer failed to give the applicant the opportunity to submit evidence of his having completed the course at the time of his second interview. It is noted that applicant's second interview occurred on June 15, 2005, one month prior to the letter from Ms. [REDACTED] dated July 15, 2005, and there is no certificate of course completion contained in the record of proceeding. Furthermore, the letter from [REDACTED] is not on official letterhead and does not establish that the course is a state recognized, accredited learning institution in the United States, as required under 8 C.F.R. § 245a.17(a)(3).

On December 27, 2005, the district director denied the application on the basis that the aforementioned 10-week course did not meet the requirements as stated in 8 C.F.R. § 245a.17.

The applicant filed his appeal from the district director's decision on January 30, 2006. On appeal, the applicant submits a letter, dated January 23, 2006, from [REDACTED], an instructor at the Adult Education Center of Northeast Texas Community College (NTCC), Mount Pleasant, Texas, stating that the applicant completed 12 hours of orientation and is attending GED preparation classes on Monday and Tuesday nights from 5-9 at the downtown NTCC center. Subsequent to the submission of the appeal, the applicant also submitted, on May 15, 2006, a letter, dated April 25, 2006, from [REDACTED] verifying that the applicant has attended 56 hours of GED study, as well as a certificate of achievement issued to the applicant by the NTCC on April 25, 2006. The evidence provided on appeal does not establish that the applicant has a high school diploma or general education development diploma (GED) from a school in the United States, as required under 8 C.F.R. § 245a.17(a)(2), but merely establishes that he attended 56 hours of GED study.

The applicant has not provided evidence of having passed a standardized citizenship test, as permitted by 8 C.F.R. § 312.3(a)(1). The applicant does not have a high school diploma or a GED from a United States school, and therefore does not satisfy the regulatory requirement of 8 C.F.R. § 245a.17(a)(2). Nor has the applicant provided evidence to demonstrate that he had attended or was attending at the time of the second interview a state recognized, accredited learning institution in the United States that provides a course of study for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) with curriculum including at least 40 hours of instruction in English and United States history and government as allowed under 8 C.F.R. § 245a.17(a)(3).

Therefore, the applicant does not satisfy either alternative of the "basic citizenship skills" requirement set forth in section 1104(c)(2)(E)(i) of the LIFE Act. Accordingly, the applicant is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.