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U.S. Citizenship and Immigration Services

[redacted]

FILE: LOS 214F 2006 Office: LOS ANGELES, CALIFORNIA Date: JUN 16 2004

IN RE: Petitioner: [redacted]

PETITION: Petition for Approval of School for Attendance by Nonimmigrant Student under Section 101(a)(15)(M)(i) of the Immigration and Nationality 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, Los Angeles, California. The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the district director will be withdrawn and the case remanded to him for entry of a new decision.

The Form I-17 reflects that the petitioner in this matter, [redacted] is a private school established in 2001. The petitioning school provides vocational and technical education and seeks approval for the following study programs: Graduate Gemologist, Graduate Jeweler, Jewelry Design, Wax Techniques/Casting/Mold Making, and Metal Arts. The petitioner seeks approval for its courses of study for attendance by M-1 nonimmigrant students.

The district director denied the petition on October 14, 2003, after determining that the petitioner failed to establish that it was licensed, approved, or accredited in accordance with the regulations. In addition, the district director found that the petitioner had failed to provide sufficient evidence to establish that its courses were not avocational or recreational in nature. Finally, the district director determined that the petitioner had failed to demonstrate that it is an established institution of learning or other recognized place of study as required by regulation.

The petitioner files a timely appeal with supporting evidence.

The first issue to be determined is whether the petitioner meets the requirements of 8 C.F.R. § 214.3(b) which states, in pertinent part:

> Any other petitioning school shall submit a certification by the appropriate licensing, approving, or accrediting official who shall certify that he or she is authorized to do so to the effect that it is licensed, approved, or accredited. In lieu of such certification a school which offers courses recognized by a State-approving agency as appropriate for study for veterans under the provisions of 38 U.S.C. 3675 and 3676 may submit a statement of recognition signed by the appropriate official of the State approving agency who shall certify that he or she is authorized to do so...

In his decision, the district director states that the petitioner "failed to provide sufficient evidence" to satisfy this regulation. However, the decision does not discuss any of the evidence submitted by the petitioner in support of the original petition. We note that at the time of filing the record contained evidence that the California Bureau for Private Postsecondary and Vocational Education (BPPVE) granted the petitioner approval to operate and indicated specific approval for the following programs: Graduate [redacted] Wax Techniques/Casting/Mold Making, and Metal Arts.[1] We find that such evidence from the state of California satisfies the requirement of certification by the appropriate licensing or approving official.

Additionally, we find that approval from the BPPVE in this case also meets the requirements of 8 C.F.R. §§ 214.3 (c) and (e). Such certification sufficiently establishes that, within the state in which it operates, the petitioner is recognized as providing a vocational education and is considered an established institution.

Thus, we find that the petitioner has sufficiently overcome the grounds for denial as determined by the district director. Nevertheless, we find a separate issue beyond the decision of the district director that must also be addressed, and remand the decision for further consideration.

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[1] The petitioner's Form I-17 also indicates approval by the California BPPVE (*See* page 2, question number 12).

The remaining issue is whether the programs offered by the petitioner will allow an M-1 nonimmigrant student to maintain a full course of study as required by the regulation. A "full course of study" is defined in the regulation at 8 C.F.R. § 214.3(m)(9) and states, in pertinent part:

> (ii) Study at a postsecondary vocational or business school, other than a language training program...which confers upon its graduates recognized associates or other degrees or has established that its credits have been and are unconditionally accepted by at least three institutions of higher learning...and which has been certified by a DSO to consist of at least twelve hours of instruction a week, or its equivalent . . .
>
> (iii) Study in a vocational or other nonacademic curriculum . . . certified by a designated school official to consist of at least eighteen clock hours of attendance a week if the dominant part of the course of study consists of classroom instruction, or at least twenty-two clock hours a week if the dominant part of the course of study consists of shop or laboratory work . . .

The evidence submitted into the record by the petitioner related to the clock hours required of its students is not consistent. In one portion of the petitioner's catalogue it states that the total number of hours required to obtain diplomas in the [redacted] ock hours in 24 weeks, while the certificate programs in Jewelry Design, Wax Techniques/Casting/Mold Making, and Metal Arts only require 300 hours in 12 weeks.[2] A second portion of the petitioner's catalogue indicates that all of the petitioner's programs require 600 hours in 24 weeks.[3]

It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

In addition to the above inconsistencies related to whether the petitioner's programs provide the minimum clock hours per week of instruction, we also find that the basic structure of three of the petitioner's programs do not allow for an M-1 nonimmigrant student to be enrolled in a full course of study.

The "Instructional Clock Hour Disclosure" contained in the record reflects that three of the petitioner's courses, [redacted] require 150 practicum hours, 100 practicum hours, and 100 practicum hours of internship/externship respectively. This description indicates the hours spent in an internship/externship are included in the determination of the overall credits for these classes.

The regulation at 8 C.F.R. § 214.2(f) provides the following definition for curricular practical training:

> [C]urricular practical training...is an integral part of an established curriculum. Curricular practical training is defined to be alternative work/study, internship, cooperative education, or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school.

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[2] Pages 5 through 9 of the Jewelry Arts and Design College Catalogue (2004)
[3] Page 4 of the Jewelry Arts and Design College Catalogue (2004)

As completion of the internship/externship hours are required in order for a student to complete the overall program with a total of 52.5 credits, 25 credits, and 25 credits respectively, the internship/externship required in the petitioner's programs falls within the definition of curricular practical training.

However, 8 C.F.R. § 214.2(m) states that practical training may only be authorized *after* completion of the M-1 nonimmigrant student's course of study. Therefore, the fact that an internship/externship is required of an M-1 nonimmigrant student in order to complete the course of study rather than after completion of the course of study renders it impossible for an M-1 student to complete the above-mentioned programs at the petitioning school. An M-1 nonimmigrant student could not enroll in a full course of study in any of the petitioner's programs where an internship/externship is required as the regulations prohibit them from participating in part of the petitioner's core curriculum.

Based on the inconsistencies related to the clock hours offered by the petitioner, as well as the fact that three of the petitioner's programs require an internship/externship as part of the curriculum, it cannot be concluded that the petitioner's programs will allow an M-1 nonimmigrant student to maintain a full course of study. For these reasons, the petition will be remanded to the district director in order to determine whether the petitioner's courses allow an M-1 nonimmigrant student to maintain a full course of study.

On remand, the petitioner should be given an opportunity to resolve the inconsistencies related to the total number of hours necessary to complete each program. Further, the petitioner should be afforded an opportunity to address the issue of practicum hours required in its Graduate Jeweler, Wax Techniques, and Metal Arts programs.

As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The decision of the district director will be withdrawn and the case remanded for further action and entry of a new decision consistent with the above discussion, which if adverse to the petitioner, is to be certified to the AAO for review.