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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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FILE:



Office: HOUSTON

Date:

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IN RE:

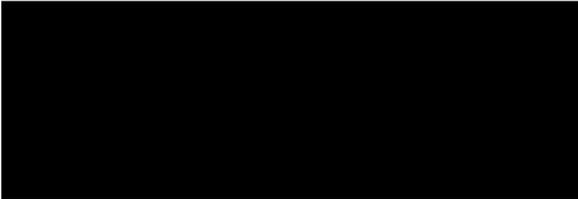
Applicant:



APPLICATION:

Application for Adjustment from Temporary to Permanent Resident Status pursuant to
Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained, or if your case was remanded for further action, you will be contacted.

Elizabeth McCormack

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary resident status to permanent resident status was denied by the Director, Houston. It is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant twice failed to demonstrate a minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States.

On appeal, the applicant states that she has established she satisfied the English and civics requirement because she submitted a certificate from the Houston Community College, demonstrating that she has satisfactorily pursued a course of study in an accredited state recognized learning institution.

Any alien who has been lawfully admitted for temporary resident status may apply for adjustment of status if the alien (A) can demonstrate that he or she meets the requirements of section 312 of the Immigration and Nationality Act (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States); **or**, (B) can demonstrate he or she 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. *See* 8 C.F.R. § 245a.3(b)(4).

An applicant may demonstrate that the section 312 requirements have been met by speaking and understanding English during the course of the permanent residence interview, **or** by passing a standardized section 312 test given in the English language by the Legalization Assistance Board with the Educational Testing Service or the California State Department of Education with the Comprehensive Adult Student Assessment System. *See* 8 C.F.R. § 245a.3(b)(4)(iii).

The applicant appeared for the permanent residence interview on April 8, 1997, and failed the history, government and English language test on that date. The applicant was given another opportunity to demonstrate these competencies on April 12, 2006 pursuant to 8 C.F.R. § 245a.3(b)(4)(iii)(B), and again failed the history, government and English language test. The director found the applicant ineligible to adjust status from temporary to permanent resident, and denied the Form I-698 application.

On appeal, the applicant states that it is unfair to deny her permanent resident status and she submitted a certificate from the Houston Community College.

The regulation at 8 C.F.R. § 245a.3(b)(4)(iv) states, in pertinent part, that to satisfy the English language and basic citizenship skills requirements under the "satisfactorily pursuing" standard, the applicant must submit evidence of such satisfactory pursuant prior to or at the time of the interview. The applicant submitted the certificate after her second interview.

The applicant has not shown that she meets the requirements concerning the English language and history and government of the United States. Therefore, she is ineligible for permanent residence in the legalization program.

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