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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W. MS 2090  
Washington, DC 20529-2090  
**U.S. Citizenship  
and Immigration  
Services**



L1

Date: **JUL 31 2012** Office: HOUSTON

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

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:

[REDACTED]

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.

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director of the Houston office denied the application for adjustment from temporary resident status to permanent resident status. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application, finding the applicant had failed to establish he satisfied the English requirements of the Immigration and Nationality Act.

On appeal, counsel for the applicant asserts that the applicant should be considered to be satisfactorily pursuing a course of study to achieve an understanding of English and civics.

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 July 15, 2010, and failed the United States civics and English language tests on that date. The applicant was given another opportunity to demonstrate these competencies on February 8, 2011, pursuant to 8 C.F.R. § 245a.3(b)(4)(iii)(B), and again failed the civics and English language tests. The director found the applicant ineligible to adjust status from temporary to permanent resident, and denied the Form I-698 application.

On appeal, counsel for the applicant asserts that the applicant should be considered to be satisfactorily pursuing a course of study to achieve an understanding of English and civics. The record reveals that the applicant previously submitted two certifications from the Houston Community College, stating that he had completed a course entitled, Communications Improvement I, ESL I, a course of 48 contact hours.

Pursuant to 8 C.F.R. § 245a.1(s), "satisfactorily pursuing" means, in part:

- (1) An applicant for permanent resident status has attended a recognized program for at least 40 hours of a minimum 60-hour course as appropriate for his or her ability level, and is demonstrating progress according to the performance standards of the English/citizenship course prescribed by the recognized program in which he or she is enrolled (as long as enrollment occurred on or after May 1, 1987, course standards include attainment of particular functional skills related to communicative ability, subject matter knowledge, and English language competency, and attainment of these skills is measured either by successful completion of learning objectives appropriate to the applicant's ability level, or attainment of a determined score on a test or tests, or both of these) . . .

On May 8, 2012, the AAO issued a notice to provide the applicant with an opportunity to establish that the courses he attended, met the requirements of 8 C.F.R. § 245a.1(s). More than two months have lapsed and the applicant has not responded to the notice to date.

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

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