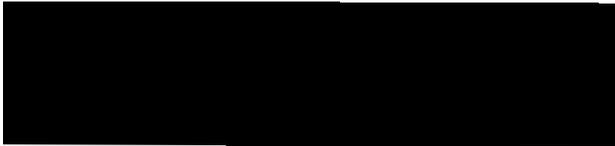


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U.S. Citizenship  
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FILE: [Redacted]  
MSC 02 206 61188

Office: LOS ANGELES

Date: APR 17 2008

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:

SELF-REPRESENTED

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 Records 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 remanded for further action, you will be contacted.

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, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. This matter will be remanded for further action and consideration.

The district director denied the application because the applicant 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 states that he was not aware that he had to demonstrate citizenship skills as he was applying for law permanent resident status. The applicant submits additional documentation in support of his application.

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 above 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. An applicant can demonstrate that he meets the requirements of section 312(a) 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).

The regulation at 8 C.F.R. § 245a.17(b) provides 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 six months (or earlier at the request of the applicant) to pass the tests or submit evidence as described in paragraphs (a)(2) or (a)(3) of this section.

The record reflects that the applicant was interviewed in connection with his LIFE application on November 6, 2003. The record contains unexplained notations of "UUE" and that a Form I-72 was issued "for school." This annotation presumably documents that the applicant was unable to demonstrate basic citizenship skills during the course of his interview. The Form I-72 advised the applicant that he would be re-interviewed in approximately 180 days, but that he could submit proof of enrollment or completion of attendance at a state recognized, accredited learning institution in lieu of demonstrating his basic citizenship skills. The applicant responded by stating that was "adjusting status as an LPR [and] I am not currently applying for citizenship." The applicant also stated that "citizenship" was "not needed for an LPR" applicant under LIFE.

The director did not schedule a second interview with the applicant pursuant to 8 C.F.R. § 245a.17(b). However, he issued the applicant a Notice of Intent to Deny (NOID) dated November 29, 2005, advising the applicant that he had failed to submit evidence of attendance at a state recognized, accredited institution and for this reason, the director proposed to deny his application. The applicant did not respond to the NOID and the director denied the application based on the applicant's failure to respond to the NOID.

On appeal, the applicant again states that he was not aware that he had to demonstrate citizenship skills in order to qualify for adjustment of status under the LIFE Act.

The applicant could meet the basic citizenship skills requirement under section 1104(c)(2)(E)(i)(II) of the LIFE Act, if he meets one of the criteria defined in 8 C.F.R. §§ 245a.17(a)(2) and (3). In part, an applicant must establish that he meets the following under 8 C.F.R § 245a.17:

- (2) has a high school diploma or general educational development diploma (GED) from a school in the United States; or
- (3) 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.

The record does not reflect that the applicant has 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). However, on appeal, the applicant submits a March 20, 2006, letter from Fremont-Washington Community Adult School in Los Angeles, California, certifying that the applicant was enrolled in English as a Second Language/Citizenship Preparation class at the school. While the letter indicates that the period of instruction was 40 hours, it does not indicate that the course of study at Fremont-Washington Community Adult School was for a period of one academic year or the academic equivalent thereof according to the standards of the school.

Nonetheless, the applicant was not given an opportunity to demonstrate his citizenship skills at a second interview. Accordingly, the decision of the district director is withdrawn. The case will be remanded for the purpose of reviewing the evidence, providing the applicant with a second interview to demonstrate his compliance with the basic citizenship skills requirement, and for issuance of a new decision. The new decision, if adverse, shall be certified to this office for review.

**ORDER:** This matter is remanded for further action and consideration pursuant to the above.