U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 EYE STREET
BCIS, AAO, 20 MASS., 3/F
Washington, D.C. 20536

PUBLIC COPY

[redacted]

File: LOS 214F 1826 Office: LOS ANGELES Date: APR 09 2003

IN RE: Petitioner: [redacted]

Petition: Petition for Approval of School for Attendance by Nonimmigrant Students 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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:
This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Petition for Approval of School for Attendance by Nonimmigrant Students (Form I-17) was denied by the District Director, Los Angeles, California. An appeal was dismissed by the Administrative Appeals Office (AAO). The matter is again before the AAO on motion to reconsider. The motion to reconsider will be granted; the denial of the petition will be affirmed.

The Form I-17 reflects that the petitioner in this matter, the [redacted] is a private post-secondary vocational institution established in 1988. [redacted] offers ten courses in massage therapy. [redacted] has two classroom facilities accommodating 24 students at a time. The petitioner claimed an enrollment of 300 students with eight instructors. The petitioner seeks approval for attendance by M-1 nonimmigrant vocational students.

The petitioner initially filed a Form I-17 requesting permission for attendance by both academic and vocational students on October 23, 2000. The initial Form I-17 petition lists only two courses of study. On February 26, 2002, the district director requested the petitioner to submit an amended Form I-17 petition to reflect that the petitioner sought permission for attendance by vocational students only. The petitioner did submit an amended Form I-17 that lists six courses of study.

The district director denied the petition, finding that the petitioner failed to demonstrate that the school's curriculum satisfied the full course of study requirements of 8 C.F.R. § 214.2(m)(9)(iii). In his decision, the district director only evaluated the two petitioner's programs of study that were listed on the original Form I-17.

The petitioner appealed the district director's decision and stated the reason for the appeal:

> The I-17 petition submitted by [redacted] made no mention of its recently approved, and amended Massage Therapist - Advanced Master CN1000 program . . . that does qualify as a full course of study . . . please note that the program requires attendance of 23.8 clock-hours per week.

The AAO dismissed the appeal, finding that the information provided in the petitioner's school catalog conflicted with the petitioner's assertion that the CN1000 program was a full-time course. The AAO further found that the petitioner's proposal to amend its class schedule could not overcome the basis for denial of the petition.

On motion, the petitioner asserts that the AAO erred in evaluating the evidence regarding the CN1000 program. The petitioner's argument is persuasive to the extent that the AAO erred in finding that "the school's catalogue states that its Advanced Master's program classes are only offered three evenings per week, and one Sunday per month. This schedule would not

satisfy the 22 hour minimum requirement." In review, the school catalog describes only two of the petitioner's programs of study and not the CN1000 program.

The petitioner denied that it amended its course schedule to comport with the Bureau's requirements. The petitioner is not persuasive. The amended Form I-17 petition lists six courses of study:

Massage therapist - technician CN100 (6 weeks)
Massage therapist - practitioner CN150 (8 weeks)
Massage therapist - professional CN300 (23-32 weeks)
Massage therapist - advanced professional (33-42 weeks)
Massage therapist master (48 weeks)
Massage therapist advanced master (96 weeks)

On appeal, the petitioner states as the reason for appeal, that the Form I-17 petition made no mention of its recently approved and amended massage therapist - advanced master CN1000 program and indicates that this program is a full-time course of study. In review, it is evident that the petitioner sought to amend its petition by its inclusion of another program of study on appeal. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to Bureau requirements. *Matter of Izummi*, 22 I&N 169 (Assoc. Comm., 1998). Accordingly, the petitioner's proposal to amend its petition and class schedule may not overcome the basis for denial of the petition.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed; the denial of the petition is affirmed.