U.S. Department of Justice

Immigration and Naturalization Service

PUBLIC COPY

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
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Washington, D.C. 20536

[redacted]

File: MIA 214F 1384 Office: MIAMI, FLORIDA Date: JAN 10 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)

IN 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 Service 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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

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 Acting District Director, Miami, Florida. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The Form I-17 reflects that the petitioner in this matter, Weingart School, is a private institution established in 1989. The school offers training for female incarcerated inmates, and drug-addicted high school dropout students. The school declares an enrollment of 100 students with eight instructors. The petitioner seeks approval for attendance by M-1 nonimmigrant vocational students and by F-1 nonimmigrant academic students. There is no indication in the record that the school has ever been approved for attendance by nonimmigrant vocational students in the past.

The acting district director denied the petition, finding that the petitioner failed to provide the Service with evidence that it is qualified to engage in the types of education indicated on the petition. The acting district director found that the record does not contain evidence of the qualifications of its teaching staff.

The principal of the school timely filed a Form I-290B Notice of Appeal and subsequently provided the Service with additional evidence.

In order to establish eligibility for approval for attendance by nonimmigrant students under section 101(a)(15)(M)(i) of the Act, a petitioner must satisfy each of several eligibility requirements.

8 CFR 214.3(c) states, in part, that:

> If the petitioner is a vocational, business or language school . . . it must submit evidence that its courses of study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective, and are not avocational or recreational in character. If the petitioner is an elementary or secondary school and is not within the category described in paragraph (b)(1) or (3) of this section, it must submit evidence that the attendance at the petitioning institution satisfies the compulsory attendance requirements of the State in which it is located and that the petitioning school qualifies graduates for acceptance by schools of a higher educational level within the category described in paragraph (b)(1) or (3) of this section.

In the instant case, the petitioner indicated on the Form I-17 petition that it is engaged in primary, high school and vocational education, language training and postsecondary and post-graduate programs.

The acting district director denied the petition in part, finding that the petitioner failed to provide evidence that it is qualified to engage in the following types of education: primary, high school, language training, postsecondary and post-graduate programs. On appeal, the petitioner asserts that the only postsecondary programs it provides are English as a second language and an entrepreneurship academy. The petitioner asserts that it seeks approval for attendance by nonimmigrant students in these programs only.

In review, the petitioner established that is has received approval of the State of Florida to offer programs of instruction in English as a second language and entrepreneurship. However, the petitioner's argument that it intends to only accept nonimmigrant students for these few programs, therefore, it should not be required to establish it is qualified to engage in all types of education it offers, is not persuasive. The regulations require that the petitioner establish that it is qualified to engage in the types of education it offers. 8 CFR 212.3(b). The regulations do not provide for limited qualifications.

As evidence that its courses of study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective, and are not avocational or recreational in character, the petitioner provided the Service with letters from three employers who had hired graduates from the petitioner's school.

The acting district director denied the petition in part, finding that the record does not contain evidence of the qualifications of its teaching staff. On appeal, the petitioner provided additional evidence of the qualifications of some of its teaching staff, but not for its entire teaching staff. The petitioner has failed to overcome the acting district director's objection.

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.