



U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: [Redacted] Office: Atlanta Date: SEP 20 2000

IN RE: Petitioner: [Redacted]

Petition: Petition for Approval of School for Attendance by Nonimmigrant Students Under to Section 101(a)(15)(F) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(F) and Section 101(a)(15)(M) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(M)

IN BEHALF OF PETITIONER:
[Redacted]

Public Copy

Identifying case number to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS: This is the decision in your case. All documents have been returned to the office which 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 which 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 which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATION
Terrence M. O'Reilly
Terrence M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The petition was denied by the District Director, Atlanta, Georgia, and is now before the Associate Commissioner for Examinations on appeal. The decision will be withdrawn, and the case will be remanded for further action and consideration.

The petitioner, [REDACTED] is a privately owned institution which provides English language instruction, vocational or technical education, and higher education. It seeks approval of its institution for attendance of nonimmigrant students under section 101(a)(15)(F) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(F), and section 101(a)(15)(M) of the Act, 8 U.S.C. 1101(a)(15)(M).

On April 26, 2000, the district director sent notice of his intent to deny the Petition for Approval of School for Attendance by Nonimmigrant Students (Form I-17) dated March 8, 2000 for [REDACTED] and withdraw previous approval for the attendance of students under section 101(a)(15)(M) of the Act at [REDACTED]. The branch campuses of [REDACTED]

On appeal, counsel states that the improper actions of the Service gave rise to understandable confusion on the part of [REDACTED] officials regarding the school's status and obligations under the applicable statutes and regulations. Counsel also requested oral argument. However, oral argument is not an issue in this case since it is being remanded for the review of all evidence and entry of a new decision. Additional evidence has been submitted with the appeal.

[REDACTED] initially operated under the name of [REDACTED] with branch campuses located in [REDACTED]

[REDACTED] Form I-17 was filed on or about July 10, 1985. It was approved for the acceptance of nonimmigrant students under section 101(a)(15)(M) of the Act in the same year for vocational and technical training with no degree availability. The actual approval date is illegible.

The change of the school's name to [REDACTED] and continuation of approval for attendance by M-1 students was filed on or about May 30, 1995 and approved on November 24, 1995. The school continued to engage in vocational or technical education and had added language training and higher education (associate degree programs) to its curriculum. The branch campuses listed on the School System Attachment (Form I-17B) were located at [REDACTED]

[REDACTED] was accredited by the Southern Association of Colleges and Schools, which is a nationally recognized accrediting agency, until December 31, 1995.

On or about January 23, 1997, ILS submitted Form I-17 requesting approval for attendance by F-1 students, in addition to its pre-existing approval of M-1 students. The Service altered this

petition by crossing out the F-1 classification, and thereafter, did not consider [redacted] for attendance of F-1 students. Moreover, the Service inadvertently approved this petition on May 15, 1997 for continuation of attendance by M-1 students without evidence of [redacted] accreditation being extended after December 31, 1995. Since the request for F-1 students was not considered, a revised petition was submitted by [redacted] or about July 8, 1997. This petition was never adjudicated. Absent a notification of denial, [redacted] alleges it had permission for the attendance of F-1 students and began issuing Form I-20 A-B/I-20ID, (Certificate of Eligibility for Nonimmigrant (F-1) Student Status) for F-1 students to attend its school. However, in a letter dated August 14, 1997, the Service informed [redacted] its F program would require accreditation, which it did not have at the time. [redacted] claimed it never received this letter.

[redacted] still desired to pursue its request for the attendance of F-1 students. Therefore, on or about March 8, 2000, another revised petition was submitted from [redacted] seeking approval for the attendance of F-1 and M-1 students at its school. In a sworn affidavit dated May 24, 2000, [redacted] is stated by its president, [redacted] to be the main campus, with its current branch campuses located in [redacted]. He also states that by submitting Form I-17 on or about May 30, 1995, it reported the institution's change of name to [redacted] and sought incorporation of its branch campuses under its M-1 approval. However, Form I-17, dated May 30, 1995, shows the school's name as [redacted].

The petition Form I-17, dated March 8, 2000 was stamped denied by the Atlanta district office on April 26, 2000. In his decision dated April 26, 2000, the district director states that the letter serves as notice of intention to withdraw approval for attendance of students under section 101(a)(15)(M) of the Act at [redacted] and to deny the petition by [redacted] dated March 8, 2000 for the attendance of F-1 and M-1 students. The letter then gives the petitioner 30 days from the date of the notice in which to submit evidence setting forth reasons why the approval should not be withdrawn.

The regulations at 8 C.F.R. 214.4(g) state that:

The decision of the district director shall be in writing and shall include a discussion of the evidence and findings as to withdrawal. The decision shall contain an order either withdrawing approval or granting continued approval. The written decision shall be served upon the school or school system, together with the notice of the right to appeal pursuant to part 103 of this chapter.

A final decision discussing the evidence and the issues at hand was never rendered by the district director. The record of proceeding contains only one decision discussing the district director's

intent to deny the petition for school approval of [REDACTED] and his intent to withdraw the previous approval of attendance of M-1 students at [REDACTED]. Consequently, this case must be remanded to allow the district director an opportunity to review the entire record of proceeding and render a decision as to the eligibility of attendance of M-1 and F-1 students at [REDACTED] and its branch campuses. A separate petition should have been filed for the branch campus in [REDACTED] since it is located within the jurisdiction of a different district director. It appears that the [REDACTED] was never advised that this branch campus is under the jurisdiction of the district director in New Orleans, La. 8 C.F.R. 100.4(b)(28) and 8 C.F.R. 214.3.

The regulations at 8 C.F.R. 214.3 must be followed when adjudicating a petition for the approval of a school to accept nonimmigrant students. Further, the petitioning institution should be informed of any supporting documents required and should be given an opportunity to submit such documents.

Further, the district director must determine if the withdrawal of the previous approval of M-1 students to attend ILS is warranted considering the evidence presented in this case. The regulations at 8 C.F.R. 214.4 must be followed when intending to withdraw a school approval that was previously granted. The petitioning institution should be given an opportunity to submit documentary evidence setting forth the reasons why the approval should not be withdrawn and the school may request an interview before the district director in support of its written answer. Until a final decision is rendered by the district director, the petitioning institution is still approved for the attendance of M-1 students at ILS.

ORDER: The district director's decision dated April 26, 2000 is withdrawn. The matter is remanded for further action and consideration consistent with the above discussion and entry of a new decision which, if adverse to the petitioner, is to be certified to the Associate Commissioner for Examinations for review.