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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass Ave, 3rd Floor
Washington, D.C. 20536

[redacted]

File: LOS 214F 1901 Office: LOS ANGELES, CALIFORNIA Date: AUG 05 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

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 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. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen and reconsider. The motion will be dismissed, the previous decision of the AAO will be affirmed, and the petition will be denied.

The Form I-17 reflects that the petitioner in this matter, [redacted] established in 1998, is a private school that offers vocational or technical education. The school offers certificates of completion for its programs. The school declares an average annual enrollment of 35 students with 8 instructors. The petitioner seeks approval for attendance by M-1 nonimmigrant non-academic students. There is no indication in the record that the school has ever been approved for attendance by nonimmigrant students in the past.

On June 11, 2002, the district director denied the petition based upon the determination that the petitioner had failed to submit the evidence necessary to establish eligibility. On January 10, 2003, the AAO affirmed the decision of the district director and dismissed the appeal. On February 10, 2003, the petitioner submitted a motion to reopen and reconsider to the Bureau.

8 CFR §103.5(a)(1)(iii) lists the filing requirements for motions to reopen or reconsider. The regulation states, in pertinent part, "[a] motion shall be submitted on Form I-290A, and may be accompanied by a brief. It must be...accompanied by a nonrefundable fee as set for in § 103.7."

As the petitioner's motion was neither submitted on Form I-290A, nor accompanied by a nonrefundable fee, the motion does not meet the applicable requirements and must be dismissed pursuant to 8 CFR §103.5(a)(4).

Inasmuch as the petitioner has failed to properly comply with the filing requirements, the regulation mandates the dismissal of the motion.

ORDER: The motion is dismissed. The previous decision of the AAO is affirmed, and the petition is denied.

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