

relevant part of the petition, if he or she finds that:

\* \* \* \* \*

(B) *Notice and decision.* The notice of intent to revoke must contain a detailed statement of the grounds for the revocation and the time period allowed for the petitioner's rebuttal. The petitioner may submit evidence in rebuttal within 30 days of receipt of the notice. The director or the DOL Regional Administrator must consider all relevant evidence presented in deciding whether to revoke the petition in whole or in part. If the petition is revoked in part, the remainder of the petition must remain approved and a revised approval notice must be sent to the petitioner with the revocation notice.

(12) \* \* \*

(i) *Denial.* A petition (other than an H-2A petition) denied in whole or in part by the Service may be appealed under 8 CFR part 103. In the case of an H-2A petition, the appeal must be filed with DOL concurrently with the appeal of the denial of a labor certification (or if the certification was not denied, within 30 days) under the rules established by DOL in 20 CFR 655 subpart B.

\* \* \* \* \*

(13) \* \* \*

(i) \* \* \*

(A) A beneficiary may be admitted to the United States for the validity period of the petition, plus a period of up to 10 days before the validity period begins and 10 days after the validity period ends. The beneficiary may not work except during the validity period of the petition. (See paragraph (h)(5)(viii) of this section for admission and limits on admission for H-2As.)

\* \* \* \* \*

(14) *Extension of petition validity.* Except with respect to H-2A petitions, the petitioner must file a request for a petition extension on Form I-129 to extend the validity of the original petition under section 101(a)(15)(H) of the Act. Supporting evidence is not required unless requested by the director. A request for a petition extension may be filed only if the validity of the original petition has not expired. (See paragraph (h)(5)(x) of this section for extension requirements for H-2A petitions.)

\* \* \* \* \*

(16) \* \* \*

(ii) *H-2A, H-2B, and H-3 classification.* The approval of a permanent labor certification, or the filing of a preference petition for an alien currently employed by or in a training position with the same petitioner, may be a

reason, by itself, to deny a petition extension request and the alien's extension of stay.

\* \* \* \* \*

(18) *Use of approval notice, Form I-797 and DOL notification.* The Service must notify the petitioner on Form I-797 whenever a petition, an extension of a petition, or an alien's extension of stay is approved under the H classification (except with respect to H-2A). DOL must notify the petitioner as part of its certification notice whenever an H-2A petition or an extension of a petition is approved by a Regional Administrator. The beneficiary of an H petition who does not require a nonimmigrant visa may present a copy of the approval notice at a port-of-entry to facilitate entry into the United States. A beneficiary who is required to present a visa for admission and whose visa will have expired before the date of his or her intended return may use a copy of Form I-797 or DOL notification to apply for a new or revalidated visa during the validity period of the petition. The copy of Form I-797 or DOL notification must be retained by the beneficiary and presented during the validity period of the petition when re-entering the United States to resume the same employment with the same petitioner.

\* \* \* \* \*

**§ 214.3 Petitions for approval of schools.**

(a) *Filing petition*—(1) *General.* A school or school system seeking approval for attendance by nonimmigrant students under sections 101(a)(15)(F)(i) or 101 (a)(15)(M)(i) of the Act, or both, shall file a petition on Form I-17 with the district director having jurisdiction over the place in which the school or school system is located. Separate petitions are required for different schools in the same school system located within the jurisdiction of different district directors. A petition by a school system must specifically identify by name and address those schools included in the petition. The petition must also state whether the school or school system is seeking approval for attendance of nonimmigrant students under section 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act or both.

(2) *Approval for F-1 or M-1 classification, or both*—(i) *F-1 classification.* The following schools may be approved for attendance by nonimmigrant students under section 101(a)(15)(F)(i) of the Act:

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(A) A college or university, i.e., an institution of higher learning which awards recognized bachelor's, master's doctor's or professional degrees.

(B) A community college or junior college which provides instruction in the liberal arts or in the professions and which awards recognized associate degrees.

(C) A seminary.

(D) A conservatory.

(E) An academic high school.

(F) An elementary school.

(G) An institution which provides language training, instruction in the liberal arts or fine arts, instruction in the professions, or instruction or training in more than one of these disciplines.

(ii) *M-1 classification.* The following schools are considered to be vocational or nonacademic institutions and may be approved for attendance by non-immigrant students under section 101(a)(15)(M)(i) of the Act:

(A) A community college or junior college which provides vocational or technical training and which awards recognized associate degrees.

(B) A vocational high school.

(C) A school which provides vocational or nonacademic training other than language training.

(iii) *Both F-1 and M-1 classification.* A school may be approved for attendance by nonimmigrant students under both sections 101(a)(15)(F)(i) and 101(a)(15)(M)(i) of the Act if it has both instruction in the liberal arts, fine arts, language, religion, or the professions and vocational or technical training. In that case, a student whose primary intent is to pursue studies in liberal arts, fine arts, language, religion, or the professions at the school is classified as a nonimmigrant under section 101(a)(15)(F)(i) of the Act. A student whose primary intent is to pursue vocational or technical training at the school is classified as a nonimmigrant under section 101(a)(15)(M)(i) of the Act.

(iv) *English language training for a vocational student.* A student whose primary intent is to pursue vocational or technical training who takes English language training at the same school solely for the purpose of being able to understand the vocational or technical

course of study is classified as a non-immigrant under section 101(a)(15)(M)(i) of the Act.

(b) *Supporting documents.* Pursuant to sections 101(a)(15) (F) and (M) of the Immigration and Nationality Act, the Service has consulted with the Department of Education and determined that petitioning institutions must submit certain supporting documents as follows. A petitioning school or school system owned and operated as a public educational institution or system by the United States or a State or a political subdivision thereof shall submit a certification to that effect signed by the appropriate public official who shall certify that he or she is authorized to do so. A petitioning private or parochial elementary or secondary school system shall submit a certification signed by the appropriate public official who shall certify that he or she is authorized to do so to the effect that it meets the requirements of the State or local public educational system. Any other petitioning school shall submit a certification by the appropriate licensing, approving, or accrediting official who shall certify that he or she is authorized to do so to the effect that it is licensed, approved, or accredited. In lieu of such certification a school which offers courses recognized by a State-approving agency as appropriate for study for veterans under the provisions of 38 U.S.C. 3675 and 3676 may submit a statement of recognition signed by the appropriate official of the State approving agency who shall certify that he or she is authorized to do so. A charter shall not be considered a license, approval, or accreditation. A school catalogue, if one is issued, shall also be submitted with each petition. If not included in the catalogue, or if a catalogue is not issued, the school shall furnish a written statement containing information concerning the size of its physical plant, nature of its facilities for study and training, educational, vocational or professional qualifications of the teaching staff, salaries of the teachers, attendance and scholastic grading policy, amount and character of supervisory and consultative services available to students and trainees, and finances (including a certified copy of the accountant's last

statement of school's net worth, income, and expenses). Neither a catalogue nor such a written statement need be included with a petition submitted by:

(1) A school or school system owned and operated as a public educational institution or system by the United States or a State or a political subdivision thereof;

(2) A school accredited by a nationally recognized accrediting body; or

(3) A secondary school operated by or as part of a school so accredited.

(c) *Other evidence.* The Service has also consulted with the Department of Education regarding the following types of institutions and determined that they must submit additional evidence. If the petitioner is a vocational, business, or language school, or American institution of research recognized as such by the Attorney General, 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 institution of higher education and is not within the category described in paragraph (b) (1) or (2) of this section, it must submit evidence that it confers upon its graduates recognized bachelor, master, doctor, professional, or divinity degrees, or if it does not confer such degrees that its credits have been and are accepted unconditionally by at least three such institutions of higher learning. 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 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), (2), or (3) of this section.

(d) *Interview of petitioner.* An authorized representative of the petitioner shall appear in person before an immigration officer prior to the adjudication of the petition to be interviewed under oath concerning the eligibility of

the school for approval. An interview may be waived at the discretion of the district director.

(e) *Approval of petition—(1) Eligibility.* To be eligible for approval, the petitioner must establish that—

(i) It is a bona fide school;

(ii) It is an established institution of learning or other recognized place of study;

(iii) It possesses the necessary facilities, personnel, and finances to conduct instruction in recognized courses; and

(iv) It is, in fact, engaged in instruction in those courses.

(2) *General.* Upon approval of a petition, the district director shall notify the petitioner. An approved school is required to report immediately to the district director having jurisdiction over the school any material modification to its name, address or curriculum for a determination of continued eligibility for approval. The approval of a school is valid as long as the school operates in the manner represented in the petition. The approval is valid only for the type of program and student specified in the approval notice. The approval may be withdrawn in accordance with the provisions of § 214.4.

(f) *Denial of petition.* If the petition is denied, the petitioner shall be notified of the reasons therefor and of his right to appeal in accordance with the provisions of part 103 of this chapter.

(g) *Recordkeeping and reporting requirements—(1) Recordkeeping requirements.* An approved school must keep records containing certain specific information and documents relating to each F-1 or M-1 student to whom it has issued a Form I-20A or I-20M while the student is attending the school and until the school notifies the Service, in accordance with the requirements of paragraph (g)(2) of this section, that the student is not pursuing a full course of study. The school must keep a record of having complied with the reporting requirements for at least one year. If a student who is out of status is restored to status, the school the student is attending is responsible for maintaining these records following receipt of notification from the Service that the student has been restored to status. The designated school official

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must make the information and documents required by this paragraph available to and furnish them to any Service officer upon request. The information and documents which the school must keep on each student are as follows:

- (i) Name.
- (ii) Date and place of birth.
- (iii) Country of citizenship.
- (iv) Address.
- (v) Status, i.e., full-time or part-time.
- (vi) Date of commencement of studies.
- (vii) Degree program and field of study.
- (viii) Whether the student has been certified for practical training, and the beginning and end dates of certification.
- (ix) Termination date and reason, if known.
- (x) The documents referred to in paragraph (k) of this section.
- (xi) The number of credits completed each semester.
- (xii) A photocopy of the student's I-20 ID Copy.

A Service officer may request any or all of the above data on any individual student or class of students upon notice. This notice will be in writing if requested by the school. The school will have three work days to respond to any request for information concerning an individual student, and ten work days to respond to any request for information concerning a class of students. If the Service requests information on a student who is being held in custody, the school will respond orally on the same day the request for information is made, and the Service will provide a written notification that the request was made after the fact, if the school so desires. The Service will first attempt to gain information concerning a class of students from the Service's record system.

(2) *Reporting requirements.* At intervals specified by the Service but not more frequently than once a term or session, the Service's processing center shall send each school (to the address given on Form I-17 as that to which the list should be sent) a list of all F-1 and M-1 students who, according to Service records, are attending that school. A

designated school official at the school must note on the list whether or not each student on the list is pursuing a full course of study and give, in addition to the above information, the names and current addresses of all F-1 or M-1 students, or both, not listed, attending the school and other information specified by the Service as necessary to identify the students and to determine their immigration status. The designated school official must comply with the request, sign the list, state his or her title, and return the list to the Service's processing center within sixty days of the date of the request.

(h) *Review of school approvals.* The district director may periodically review the approval of a school in his or her jurisdiction for compliance with the reporting requirements of paragraph (g)(2) of this section and for continued eligibility for approval pursuant to paragraph (e) of this section. The district director shall also, upon receipt of notification, evaluate any changes made to the name, address, or curriculum of an approved school to determine if the changes have affected the school's eligibility for approval. The district director may require the school under review to furnish a currently executed Form I-17 without fee, along with supporting documents, as a petition for continuation of school approval when there is a question about whether the school still meets the eligibility requirements. If upon completion of the review, the district director finds that the approval should not be continued, he or she shall institute withdrawal proceedings in accordance with §214.4(b).

(i) *Administration of student regulations by the Immigration and Naturalization Service.* District directors in the field shall be responsible for conducting periodic reviews on the campuses under the jurisdiction of their offices to determine whether students are complying with Service regulations including keeping their passports valid for a period of six months at all times when required. Service officers shall take appropriate action regarding violations of the regulations.

(j) *Advertising.* In any advertisement, catalogue, brochure, pamphlet, literature, or other material hereafter printed or reprinted by or for an approved school, any statement which may appear in such material concerning approval for attendance by nonimmigrant students shall be limited solely to the following: This school is authorized under Federal law to enroll nonimmigrant alien students.

(k) *Issuance of Certificate of Eligibility.* A designated official of a school that has been approved for attendance by nonimmigrant students must certify Form I-20A or I-20M, but only after page 1 has been completed in full. A Form I-20A-B or I-20M-N issued by an approved school system must state which school within the system the student will attend. The form must be issued in the United States. Only a designated official shall issue a Certificate of Eligibility, Form I-20A-B or I-20M-N, to a prospective student and only after the following conditions are met:

(1) The prospective student has made a written application to the school.

(2) The written application, the student's transcripts or other records of courses taken, proof of financial responsibility for the student, and other supporting documents have been received, reviewed, and evaluated at the school's location in the United States.

(3) The appropriate school authority has determined that the prospective student's qualifications meet all standards for admission.

(4) The official responsible for admission at the school has accepted the prospective student for enrollment in a full course of study.

(l) *Designated official*—(1) *Meaning of term "designated official"*. As used in §§ 214.1(b), 214.2(f), 214.2(m), 214.4 and this section, a "designated official" or "designated school official" means a regularly employed member of the school administration whose office is located at the school and whose compensation does not come from commissions for recruitment of foreign students. An individual whose principal obligation to the school is to recruit foreign students for compensation does not qualify as a designated official. The president, owner, or head of a school or school system must designate

a designated official. The designated official may not delegate this designation to any other person. Each school or institution may have up to five designated officials at any one time. In a multi-campus institution, each campus may have up to five designated officials at any one time. In an elementary or secondary school system, however, the entire school system is limited to five designated officials at any one time.

(2) *Name, title, and sample signature.* Petitions for school approval must include the names, titles, and sample signatures of designated officials. An approved school must report to the Service office having jurisdiction over it any changes in designated officials and furnish the name, title, and sample signature of the new designated official within thirty days of each change.

(3) *Statement of designated official.* A petition for school approval must include a statement by each designated official certifying that the official has read the Service regulations relating to nonimmigrant students, namely §§ 214.1(b), 214.2(f), and 214.2(m); the Service regulations relating to change of nonimmigrant classification for students, namely §§ 248.1(c), 248.1(d), 248.3(b), and 248.3(d); the Service regulations relating to school approval, namely this section and the regulations relating to withdrawal of school approval namely, § 214.4; and affirming the official's intent to comply with these regulations. An approved school must also submit to the Service office having jurisdiction over it such a statement from any new designated official within thirty days of each change in designated official.

[30 FR 919, Jan. 29, 1965]

EDITORIAL NOTE: For Federal Register citations affecting § 214.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

#### § 214.4 Withdrawal of school approval.

(a) *General*—(1) *Withdrawal on notice.* If a school's approval is withdrawn on notice as provided in paragraphs (b), (c), (d), (e), (f), (g), (h), (i) (j), and (k) of this section, the school is not eligible to file another petition for school approval until at least one year after the