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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:

Office: HOUSTON

Date:

JAN 15 2010

[redacted] consolidated herein]

MSC 02 073 61092

IN RE: Applicant:

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. You no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case. If your appeal was sustained or remanded for further action, you will be contacted.

Perry J. Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the director in Houston, Texas. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application because the applicant failed to establish that she satisfied the “basic citizenship skills” required under section 1104(c)(2)(E) of the LIFE Act.

On appeal the applicant submits documentation from Houston Community College and asserts that she is enrolled “in a continuing effort to learn more English and the history and government of the United States.” The applicant further asserts that she believes that she has met the requirement under 8 C.F.R. § 245a.17(3).

Under section 1104(c)(2)(E)(i) of the LIFE Act, regarding basic citizenship skills, an applicant for permanent resident status must demonstrate that he or she:

- (I) meets the requirements of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States); or
- (II) is satisfactorily pursuing a course of study (recognized by the [Secretary of Homeland Security]) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

Under section 1104(c)(2)(E)(ii) of the LIFE Act, the Secretary of Homeland Security may waive all or part of the above requirements for aliens who are at least 65 years of age or who are developmentally disabled. *See also* 8 C.F.R. § 245a.17(c).

An applicant may establish that he or she has met the requirements of section 312(a) of the Immigration and Nationality Act (Act) by demonstrating an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language, and by demonstrating a knowledge and understanding of the fundamentals of the history and of the principles and form of government of the United States. *See* 8 C.F.R. § 245a.17(a)(1) and 8 C.F.R. §§ 312.1 – 312.3.

An applicant may also establish that he or she has met the requirements of section 1104(c)(2)(E)(i) of the LIFE Act by providing a high school diploma or general educational development diploma (GED) from a school in the United States. *See* 8 C.F.R. § 245a.17(a)(2). The high school or GED diploma may be submitted either at the time of filing the Form I-485 LIFE Act application, subsequent to filing the application but prior to the interview, or at the time of the interview. *Id.*

Finally, an applicant may establish that he or she has met the requirements of section 1104(c)(2)(E)(i) of the LIFE Act by establishing that:

He or she has attended, or is attending, a state recognized, accredited learning institution in the United States, and that institution certifies such attendance. The course of study at such learning institution must be for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) and the curriculum must include at least 40 hours of instruction in English and United States history and government. The applicant may submit certification on letterhead stationery from a state recognized, accredited learning institution either at the time of filing Form I-485, subsequent to filing the application but prior to the interview, or at the time of the interview (the applicant's name and A-number must appear on any such evidence submitted).

8 C.F.R. § 245a.17(a)(3).

An applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the initial LIFE interview shall be afforded a second opportunity after six months (or earlier at the request of the applicant) to pass the required tests or to submit the evidence described above. *See* 8 C.F.R. § 245a.17(b).

The applicant, a native of Honduras who claims to have resided in the United States since July 1981, filed her Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act, on December 12, 2001.

On September 22, 2003, the applicant was interviewed for LIFE legalization. She failed to demonstrate a basic understanding of ordinary English and a basic knowledge of U.S. history and government during the examination portion of the interview. The applicant was given 6 months to prepare for her second and final interview. The applicant was scheduled for a second and final interview on October 13, 2004.

At her second interview for LIFE legalization, on October 13, 2004, the applicant failed the test of her ordinary English language ability and basic knowledge of United States history and government for the second and final time.

On appeal, counsel contends that the applicant has satisfied the "basic citizenship skills" required under section 1104(c)(2)(E) of the LIFE Act. Counsel states that the applicant is enrolled at Houston Community College, a state recognized learning institution. With the appeal, counsel submits:

- A Certificate of Completion, dated October 18, 2003, issued by the Houston Community College System, Northeast. The certificate indicates that it was issued to the applicant for satisfactory completion of "Citizenship Preparation 18 hours;"

A Certificate of Completion, dated January 30, 2004, issued by the Houston Community College System, Northeast. The certificate indicates that it was issued to the applicant for satisfactory completion of "ESL 1-English As a Second Language 4.8 CEU's;"

- A letter form [REDACTED] of Contract Training and Continuing Education at the Houston Community College System, Northeast, dated November 4, 2003, indicating that the college is a State accredited learning institution and that the applicant "is currently registered in an attending the Houston Community College-Northeast program for preparation for the examination for Permanent Residency."

The applicant has not satisfied the basic citizenship skills requirement for LIFE legalization as set forth in the regulations. She did not pass an examination of basic English language ability and knowledge of U.S. history and government, in accordance with 8 C.F.R. § 245a.17(a)(1). She did not provide a high school diploma or GED from a school in the United States, in accordance with 8 C.F.R. § 245a.17(a)(2). Nor did the applicant establish at the time of her second interview on October 13, 2003, that she had attended, or was attending, a state recognized, accredited learning institution in the United States, following a course of study which spans one academic year and that includes 40 hours of instruction in English and United States history and government, in accordance with 8 C.F.R. § 245a.17(a)(3).

The documents submitted by the applicant from North Harris College do not comport with the regulatory requirements as set forth at 8 C.F.R. § 245a.17(a)(3). While the letter from [REDACTED] Director of Contract Training and Continuing Education at the Houston Community College System, shows that Houston Community College System, Northeast is an accredited institution, and attests that the applicant is registered at the institution, the letter is not accompanied by the applicant's school records or any other documentation from the school to show that the course(s) offered by the Houston Community College System satisfies the "basic citizenship skills" requirement as required under 8 C.F.R. § 245a.17(a)(3). The applicant did not submit any documentation to show that she is pursuing or has completed a course of study which spans one academic year and that includes 40 hours of instruction in English and United States history and government, in accordance with 8 C.F.R. § 245a.17(a)(3).

The certificate of completion submitted by the applicant from the Houston Community College, Northeast indicates that it was issued to the applicant for satisfactory completion of "Citizenship Preparation 18 hours" and "ESL 1-English As a Second Language 4.8 CEU's." However, the applicant has not provided evidence that she has attended or is attending a course of study at the institution for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) as required under the provisions of 8 C.F.R. § 245a.17(a)(3). Furthermore, while one of the certificates of completion was issued to the applicant on October 18, 2003, the letter from [REDACTED], dated November 4, 2003, states that the applicant "is currently registered in and attending the Houston Community College-Northeast." It is highly

unlikely that the applicant would have been issued a Certificate of Completion when she has not completed her course of studies. Thus, the certificate issued on October 18, 2003, is suspect.

It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application.

The applicant did not submit the required certification before or at her second interview, which is a mandatory timeframe and clearly stated in the regulation at 8 C.F.R. § 245a.17(a)(3). Thus, the applicant has failed to satisfy the "basic citizenship skills" requirement.

The applicant is not 65 years old or older and there is no evidence in the record that she is developmentally disabled. Thus, the applicant does not qualify for either of the exceptions listed in the section 1104(c)(2)(E)(ii) of the LIFE Act.

The applicant has failed to demonstrate that she has met the basic citizenship skills requirement as described at 1104(c)(2)(E) of the LIFE Act. Accordingly, the AAO will not disturb the director's decision that the applicant is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

For the reasons discussed above, the appeal will be dismissed, and the application denied.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.