

MATTER OF PENINSULA SCHOOL, LTD.

Petition for Approval of School

SFR 214.293

Decided by Regional Commissioner November 22, 1965

Application by a private elementary school in California for approval for attendance by nonimmigrant students in accordance with section 101(a) (15) (F), Immigration and Nationality Act, as amended, is denied for failure to establish that the school facilities satisfy local fire and safety requirements.

Discussion: This case comes forward on appeal from the decision of the District Director, San Francisco who denied the application on July 15, 1965.

The petitioning school is a private, independent, parent-owned, incorporated, elementary school established in 1925 and located in Menlo Park, San Mateo County, California. It holds classes five days a week during a regular school term and has an average of 190 students and 25 instructors. The school curriculum is the same as that generally found in public elementary schools but with more emphasis on freedom of self expression, learning by doing and experimenting with new approaches to, and new techniques in, the learning process.

The school is seeking approval for the acceptance of nonimmigrant foreign students and has filed Form I-17, "Petition for Approval of School for Nonimmigrant Students." Students may transfer from the petitioning school to public schools and vice versa. Upon completion of the elementary curriculum the students are accepted at local high schools.

The Executive Secretary of the Accrediting Commission for Secondary Schools, Western Association Schools and Colleges, Burlingame, California by letter to the San Francisco office on July 7, 1965 advised as follows:

The Peninsula School, Ltd., Menlo Park, California is not accredited by this Association nor by the University of California. Since the State Department of Education of California does not provide accrediting services for secondary

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schools, we must, therefore, assume that the Peninsula School, Ltd., is not accredited by any recognized accrediting agency.

8 CFR 214.3(c) states that the United States Office of Education has recognized as established institutions of learning (eligible for the enrollment of foreign students) the following types of schools:

1. A school owned or operated as a public educational institution by the United States or a State or a political subdivision thereof.
2. A school listed in the current United States Office of Education publication, "Accredited Higher Institutions" or "Education Directory, Part 3, Higher Education."
3. A secondary school operated by or as a part of an institution of higher learning listed in the current United States Office of Education publications named in (2) above and further provides as follows:

Before a decision is made on a petition filed by any other school, the United States Office of Education shall be consulted by the District Director to determine whether the petitioner is an established institution of learning or other recognized place of study, is operating a bona fide school, and has the necessary facilities, personnel, and finances to instruct in recognized courses.

The United States Office of Education was consulted by the District Director, San Francisco and upon review of the petition and supporting documents the United States Office of Education on January 22, 1965 advised: "On the basis of information contained in the file, the Office of Education recommends that the Attorney General delay approval of the petition pending receipt of evidence that the facilities satisfy safety regulations and that attendance at such school satisfies compulsory attendance requirements of the State."

The San Francisco office subsequently contacted the Field Representative, Department of Education, Bureau of Readjustment Education, State of California, Sacramento, California who stated that attendance at schools such as the subject school, Peninsula School, Ltd., meets compulsory education requirements of the State of California.

The Fire Marshal, Menlo Park Fire Protection District, was interviewed by an officer of this Service on May 20, 1965 at which time he advised that of eight buildings on the school campus only the two newer buildings are approved as safe. None of the others are approved. The Superintendent, Building Inspection Division, County of San Mateo, Redwood City, California, was also interviewed on May 20, 1965. He stated that of the eight buildings only the two newer buildings meet the building code requirements, three others did not while he was uncertain whether the remaining three met the "earthquake protection" requirements.

Under the circumstances the petition may not be approved and the appeal must be dismissed. The denial of the petition will be

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without prejudice. At such time as evidence is presented to establish that the school facilities satisfy the fire and safety requirements the petitioner may request reopening and reconsideration of his petition. The District Director is hereby authorized to consider such additional evidence when presented and reconsider the petition.

ORDER: It is ordered that the appeal be and the same is hereby dismissed.

It is further ordered that the dismissal of the appeal be without prejudice to reopening and reconsideration by the District Director upon presentation of evidence that the fire and safety regulations have been met.