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## FOREIGN STUDENTS ENROLLED IN PUBLIC SCHOOL DISTRICTS

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Every child residing in Michigan is entitled to a free public education without regard to immigration status of the child or the child's parents. In *Plyler v Doe*, 457 U.S. 202 (1982), the U.S. Supreme Court ruled that the U.S. Constitution prohibits states from denying equal access to public elementary and secondary schools to undocumented school-age children. A school district should determine whether a student is a resident of the school district without regard to the student's visa status. As a result of the Supreme Court decision, public schools MAY NOT:

- Deny admission to a student on the basis of undocumented status.
- Treat students differently to determine residency.
- Require students or parents to disclose or document their immigration status.
- Make inquiries of students or parents that may expose their undocumented status.

### **Student and Exchange Visitor Information System (SEVIS)**

The federal *Illegal Immigration Reform and Immigrant Responsibility Act*, the *USA Patriot Act* and the *Enhanced Border Security and Visa Entry Reform Act* established new legal requirements for admitting nonimmigrant students and exchange visitors to the United States and tracking them while they are here. School districts are required to provide information on international students and exchange visitors in the Student and Exchange Visitor Information System (SEVIS). For questions regarding SEVIS requirements, please contact the SEVIS Help Desk at 1-800-892-4829 or the Student Exchange Visitor Program at 1-202-305-2346. For questions regarding Reinstatement of Student Status please contact the United States Citizenship and Immigration Services (USCIS), Department of Homeland Security at 1-810-982-0493, email [CHARLES.May@dhs.gov](mailto:CHARLES.May@dhs.gov) or [www.ice.gov](http://www.ice.gov).

Please note that SEVIS is a federal requirement that has no impact on pupil accounting issues. All foreign students residing in the district are considered **residents** and are entitled to enroll in the district (*Plyler v. Doe*). A resident student that has met the age requirements and has not obtained a high school diploma may be counted in membership for purposes of state aid and cannot be denied a right to attend the resident district. The FTE for foreign students and migrant students are calculated in the same manner as all other students.

### **Nonimmigrant Students**

A nonimmigrant is someone admitted to the U.S. temporarily for a specific purpose. The length of stay varies from months to years. Visas in this group include the following categories:

- F-1 Student Visa
- J-1 Foreign Exchange Student Visa
- Other various classifications of workers, entertainers and athletes, representatives of foreign governments, employees of international organizations, etc., and their spouses and children.

### ***F-1 Student Visa***

The F-1 student visa includes academic students in colleges, universities, seminaries, conservatories, academic high schools, other academic institutions, and in language training. School districts become aware of these students during the visa application process.

- A foreign student residing in the district is considered a **resident** and is entitled to enroll in the district (*Plyler v. Doe*). The student must meet the same residency requirements as any other student entering the school system. The student must either have a parent or guardian (or the student, if at least 18 years old) living in the district or must be living with a relative for the purpose of a suitable home to be considered a resident.
- The school district would determine the rate of tuition (full unsubsidized per capita cost) to be charged and provide a receipt upon payment by the student prior to the student's issuance of a visa.
- The school district, upon request, should issue the Form I-20AB, Certificate of Eligibility for Nonimmigrant Student Status.
- The aggregate period of the visa status at a school may not exceed 12 months.
- The student may attend grade 9, 10, 11, or 12.
- A resident student may be counted in membership for purposes of state aid.
- A student with a high school diploma, or its equivalent, may NOT be counted in membership for state aid purposes.<sup>1</sup>

Note: Students visiting the district for a short time during the count period (such as three weeks) may not be claimed for full membership.

### ***J-1 Foreign Exchange Student Visa***

Foreign students issued a J-1 exchange student visa are sponsored by a formal student exchange program. The purpose is to improve the foreign student's knowledge of American culture and language through active participation in family, school and community life.

- Attorney General Opinion No. 6316, states that "a foreign exchange student is a **resident** of the school district in which the host family with whom the student lives is resident and the student may attend the public school thereof without payment of tuition."
- A resident student may be counted in membership for purposes of state aid.

Additional information is available at [www.exchanges.state.gov](http://www.exchanges.state.gov).

### **Immigrant Students**

Individuals admitted to the U.S. as immigrants are lawful permanent residents. They are usually in possession of an Alien Registration Card, Form I-551, commonly referred to as a "green card."

- A student's immigration status is not a permissible basis for denying admission to a public school (*Plyler v. Doe*). The student must meet the same residency requirements as any other student entering the school system. The student must either have a parent or guardian (or the student, if at least 18 years old) living in the district or must be living with a relative for the purpose of a suitable home to be considered a resident.

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<sup>1</sup> A high school diploma or its equivalent (e.g., a secondary school completion certificate) is considered a high school diploma regardless of the country in which it was obtained.

- Tuition may not be charged.
- A resident student may be counted in membership for purposes of state aid.
- A student with a high school diploma, or its equivalent, may NOT be counted in membership for state aid purposes.

### **Migrant Students**

All migrant students residing in the district are considered residents and are entitled to enroll in the district without regard to immigration status of the child or the child's parents (*Plyler v Doe*).

- A migrant student must meet the same residency requirements as any other student entering the school system. The student must either have a parent or guardian (or the student, if at least 18 years old) living in the district or must be living with a relative for the purpose of a suitable home to be considered a resident.
- Tuition may not be charged.
- A resident student may be counted in membership for state aid purposes.
- A student with a high school diploma, or its equivalent, may NOT be counted in membership for state aid purposes.

### **All Other Foreign Students**

The foreign students in this "all other" category are those students who may be living in the district but are not participating in a formal program nor have they been issued an F-1 Visa to attend a school in the United States. There are a variety of other types of visas that may be issued to this group of students or they may be undocumented immigrants (a person who has entered the U.S. illegally).

- A foreign student residing in the district is considered a **resident** and is entitled to enroll in the district (*Plyler v. Doe*). The student must meet the same residency requirements as any other student entering the school system. The student must either have a parent or guardian (or the student, if at least 18 years old) living in the district or must be living with a relative for the purpose of a suitable home to be considered a resident.
- Tuition may not be charged.
- A resident student may be counted in membership for state aid purposes.
- A student with a high school diploma, or its equivalent, may NOT be counted in membership for state aid purposes.