

FOREIGN STUDENTS ENROLLED IN PUBLIC SCHOOL DISTRICTS

Introduction

Every child residing in Michigan is entitled to a free public education without regard to immigration status. 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 resident student who 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.

A school district should determine whether a student is a resident of the school district without regard to the student's immigration status. As a result of the Supreme Court decision, public schools may not:

- Deny admission to a student based on undocumented status or immigration 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.

School interactions, processes, and procedures must not expose an enrolling student's documentation status or in any way discourage enrollment or full participation in the school community (referred to as creating a "chilling" effect).

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 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).

Please note that SEVIS is a federal requirement that has no impact on pupil accounting issues.

Visa Students

In general, a citizen of a foreign country who wants to enter the United States must first obtain a visa from the United States. Nonimmigrant visas for individuals who come to the United States for public secondary school study include the following:

1) F-1 Visa

A foreign student residing in a school district is considered a resident of the district and, as held in *Plyler, supra*, is entitled to enroll in the district. The student must meet the same residency requirements as any other student. Unless the student is at least 18 years of age, to be considered a resident, he or she must either have a parent or guardian living in the district or be living with a relative for the purpose of having a suitable home.

The F-1 visa process requires the payment of tuition. The school district determines the amount of tuition (full unsubsidized per capita cost) and provides a receipt upon payment prior to issuance of the visa to the student.

The school district, upon request, issues Form I-20, Certificate of Eligibility for Nonimmigrant Student Status.

The aggregate period of the visa status at the school may not exceed 12 months.

The student may attend grade 9, 10, 11, or 12.

A student with a high school diploma or its equivalent may not be counted in membership for state aid purposes.

A student visiting the district for a short time during the count period may not be claimed for full membership.

2) J-1 Exchange Visitor 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 (September 25, 1985), 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 the payment of tuition."

A resident student holding a J-1 visa 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.

Additional information is available at www.exchanges.state.gov.

All Other Foreign Students

The foreign students in this category are those who live in the district but are not participating in a formal exchange program and do not hold F-1 visas to attend 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 a school district is considered a resident of the district and, as held in *Plyler, supra*, is entitled to enroll in the district. The student must meet the same residency requirements as any other student. Unless the student is at least 18 years of age or is an unaccompanied youth, to be considered a resident, he or she must either have a parent or guardian living in the district or be living with a relative for the purpose of having a suitable home.

Tuition may not be charged to these resident students.

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.