

Foreign Students' Eligibility for Enrollment - 22 Pa. Code §11.11(d)

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PURPOSE

This BEC provides guidance regarding a student's immigration status and enrollment in Pennsylvania public schools and federal law requirements for F1 Visa students. It replaces the Foreign Student BEC and reflects current requirements of 22 Pa. Code and the Supreme Court's decision in Plyler v. Doe, 457 U.S. 202(1982). This BEC exists to ensure that public schools do not wrongfully prohibit enrollment of students because of a child's immigration status.

IMMIGRATION STATUS

22 Pa. Code § 11.11(d), prohibits school districts from making inquiries related to a student's immigration status for enrollment purposes. 22 Pa. Code § 11.11(d) specifically states:

- "A child's right to be admitted to school may not be conditioned on the child's immigration status."
- "A school may not inquire regarding the immigration status of a student as part of the admissions process."

Pursuant to the regulation, school districts may not ask any questions related to a student's immigration status or lawful presence in the United States in order to determine admission of a student in the public schools of this Commonwealth.

PLYLER V. DOE

The U.S. Supreme Court in Plyler v. Doe, 457 U.S. 202 (1982), addressed the issue of the enrollment of undocumented children in public schools. In Plyler, the Supreme Court held that it is unconstitutional to deny free public education to children who are not legally admitted into or otherwise legally present in the United States.

Pursuant to the Plyler decision, a child who may be undocumented or otherwise unlawfully present in the United States, shall be admitted into Pennsylvania public schools as long as they meet the state law enrollment requirements that apply to all children in Pennsylvania as set forth in the Enrollment of Student's BEC found at: (http://www.education.state.pa.us/portal/server.pt/community/basic_education_circulars/7497)

FOREIGN STUDENTS HOLDING F1 VISAS

Foreign visiting or exchange students holding valid F1 Visas who are enrolled in participating Pennsylvania public schools must comply with federal law regarding tuition payment as required in 22 Pa. Code § 11.11(d) which states that state regulation "does not relieve a student who has obtained an F-1 Visa from the obligation to pay tuition under federal law."

Pursuant to Federal law subsection 8 U.S.C.A § 1184(m)(1), foreign students may no longer obtain status as non-immigrants under section 1101(a)(15)(F)(i), (iii) of the Immigration and Naturalization Act for the purpose of studying at public elementary schools or in publicly funded adult education programs. Subsection 1184(m)(1) of the amended Act does still permit a foreign student to obtain an F-1 visa for the purpose of studying in a public secondary school but requires the student to demonstrate that he or she has paid the school district the full, unsubsidized per capita cost of the education that he or she will receive as long as the aggregate period of such status at such a school does not exceed 12 months. Therefore, students who participate in the F-1 Visa program are required to pay tuition to the sponsoring district pursuant to Federal law.

In order to be issued an F-1 Visa, students must be part of the Student and Exchange Visitor Program(SEVP) and enroll in a participating SEVP school. Students with F-1 visas are part of the Student and Exchange Visitor Information System (SEVIS). The SEVIS system tracks and monitors schools and programs, students and exchange visitors throughout their participation in the U.S. education system. Districts interested in participating in SEVP can contact U.S. Citizen and Immigration Services or visit the website at (<http://visanowonline.com/Free-Immigration-Assessment.html?gclid=CKGmqvm8o6YCFUdN4AodiAedoQ>) to find out more information about SEVP and its requirements.

REFERENCES:

Pennsylvania Code

22 PA Code § 11.11

(<http://www.pacode.com/secure/data/022/chapter11/s11.11.html>)

Federal Statutes

8 U.S.C.A. §1101(a)(15)(F)(i), (J)

8 U.S.C.A. §1184(m) Title III of U.S.C.A. Supp.

Federal Regulations

8 C.F.R. 214(b)(7)

Other

Plyler v. Doe, 457 U.S. 202 (1982).

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