



Frequently Asked Questions (FAQs) Regarding Enrollment of Non- immigrant Foreign Students

April 2016

Note: This document addresses students with F-1 visas, with J-1 visas, and foreign students living with their parents within the district. Students with F-1 visas or with J-1 visas are non-immigrant students; that is, students who are not residents of the United States and who are in this country temporarily. If a student who is not a citizen of the United States nevertheless lives in Iowa with his or her parents, the school district of residence is required to provide a tuition-free education to that student. This is true even if the parents of the student are in this country illegally. See Supreme Court's 1982 decision in *Plyler v. Doe*, 457 U.S. 202, 102 S.Ct. 2382, 72 L.Ed.2d 786 (1982).

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Introduction

The questions and answers in this document deal exclusively with non-immigrant students; that is, students who are not residents of the United States and who are in this country temporarily. If a student who is not a citizen of the United States nevertheless lives in Iowa with his or her parents, the school district of residence is required to provide a tuition-free education to that student. This is true even if the parents of the student are in this country illegally. See Supreme Court's 1982 decision in *Plyler v. Doe*, 457 U.S. 202, 102 S.Ct. 2382, 72 L.Ed.2d 786 (1982).

Definitions

- 1. Question:** What is the difference between a non-immigrant foreign student and a non-immigrant foreign exchange student?

Answer: A foreign exchange student is one who is sponsored by a program designated by the United States Department of State, Exchange Visitor Program and Designation Staff. These students generally are in the U.S. on a J-1 visa.

Students whose residences are in another country who attend school in the U.S. and are not sponsored by an exchange program usually are here on an F-1 visa.

Certified Enrollment

- 1. Question:** May a district count foreign exchange students in its certified enrollment count?

Answer: No. A district may not include any foreign exchange program students in its certified enrollment count. No students on J-1 visas or F-1 visas can be included in the count.

Open Enrollment

- 1. Question:** If a foreign student or foreign exchange student desires to attend a district other than the district in which the host family resides, may the student use open enrollment?

Answer: No. Foreign exchange students are non-residents; therefore, it is not appropriate to use open enrollment. No district may receive state monies for the student, so there is no need to insist upon open enrollment. The student may attend any district that will agree to enroll him or her. In the case of an F-1 visa holder, the student must pay tuition to any district of attendance.

Tuition and School Fees

- 1. Question:** If a school district enrolls a non-resident foreign student, may the district charge tuition to that student?

Answer: A district that enrolls a non-exchange foreign student (one with an F-1 visa) is required by federal law to charge tuition. P.L. 104-208, Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

A district that enrolls a foreign exchange student (one with a J-1 visa) may charge tuition. However, the district may waive collection of tuition for students on J-1 visas based on the "nonresident children ... residing temporarily" in the district language of Iowa Code section 282.1. (Waiving tuition does not allow the district to count the student as a resident student for purposes of state foundation aid.)

- 2. Question:** May a district waive school fees on non-resident foreign students?

Answer: A district may not waive school fees on a non-exchange foreign student (one with an F-1 visa).

A district that enrolls a foreign exchange student (one with a J-1 visa) will use the host family's information to determine if a full or partial waiver applies. If not, the student will be charged school fees the same as a resident student would be charged.

If a student who is not a citizen of the United States lives in Iowa with his or her parents, the school district will use the family's information to determine if a full or partial waiver applies. If not, the student will be charged school fees the same as a resident student would be charged.

Athletic Eligibility

- 1. Question:** What are the rules about participation in interscholastic athletics for foreign and foreign exchange students and where are those rules?

Answer: Iowa Code section 256.46 states that a foreign exchange student is immediately eligible to participate in interscholastic athletics if the student is enrolled in an Iowa school or school district and is otherwise eligible to participate (i.e., age, academics, good conduct, and in possession of an appropriate physical examination) UNLESS the student is in the U.S. primarily for purposes of participating in athletics. A 2006 amendment to the law added the requirement that a foreign exchange student who attends school "for primarily athletic purposes" is also subject to the 90 school days of ineligibility to participate at the varsity level. Only those students here on J-1 visas are foreign exchange students. This is not true of a non-exchange foreign student.

If a non-exchange foreign student (typically on an F1 visa) is in a school or school district without his or her family, the student is ineligible to compete in interscholastic athletics for 90 consecutive school days. See also 281- Iowa Administrative Code 36.15(3). The 90 day period

of ineligibility applies only to interscholastic sports. It does not apply to interscholastic speech or music competitions.

Visas

1. Question: What types of visas are available for foreign students?

Answer: Under the Immigration and Nationality Act [8 U.S.C. section 1101], foreign students qualify for either an F1 visa or a J1 visa.

The J1 visa is the more common classification for foreign exchange students at the secondary level. This visa is for a resident of a foreign country who intends to return to his or her country and who is a bona fide student who is coming temporarily to the U.S. as a participant in a program designated by the Director of the United States Information Agency for the purpose of studying. J1 visas expire after one year.

An F1 visa is given to a resident of a foreign country who intends to return to his or her country and who is a bona fide student who seeks to enter the U.S. temporarily and solely for the purpose of studying in an elementary, secondary, or postsecondary institution pre-approved by the United States Department of Homeland Security (DHS) - but is not sponsored by an exchange program.

SEVIS and Homeland Security

1. Question: What is required of a school before it may accept a foreign exchange student (J-1 visa holder)?

Answer: There is no registration requirement for accepting a J-1 visa holder, such as the SEVIS registration requirement regarding acceptance of F-1 visa holders. To enroll a J-1 visa holder, all that is required is that the school be a public school district or an accredited nonpublic school.

2. Question: What is SEVIS and what is its importance?

Answer: The acronym SEVIS stands for Student Exchange Visitor and Information System.

Prior to 2001, only post-secondary institutions were required to register with SEVIS as a condition of enrolling foreign students. However, the Patriot Act now requires any school district or accredited nonpublic school to register before the school may enroll a non-exchange foreign student. If a school or school district only accepts students from BONA FIDE recognized exchange programs, it is NOT required to register with SEVIS. But because there is no exchange program with respect to F-1 visa holders, the school becomes the "sponsor" in the eyes of the federal government and must be registered. Registration with SEVIS is not inexpensive; it costs the district about \$600 every other year. More information about SEVIS should be sought on their [website](#).

3. Question: What should a district or school do if it is contacted by an exchange program that it suspects may not be legitimate?

Answer: The school or district should consult the Advisory List produced annually by the Council on Standards for International Educational Travel (CSIET) on their [website](#).

4. Question: Is a school district required to enroll a non-exchange foreign student (F-1 visa holder) who lives with a family in the district?

Answer: No. There is no requirement that a district enroll a non-exchange foreign student living with a family in the district. And the district is prohibited from enrolling non-exchange foreign students unless it is registered with the Student and Exchange Visitor Information System (SEVIS).

5. Question: What is the website of the U.S. Citizenship and Immigration Services Bureau of the Department of Homeland Security?

Answer: The U.S. Citizenship and Immigration Services Bureau of the Department of Homeland Security regulates all matters regarding non-immigrant students. For information, visit its [website](#).