michigan high school athletic association

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TO: Superintendents, Principals and Athletic Directors of MHSAA Member High Schools

FROM: John E. Roberts, Executive Director

DATE: March 31, 2014

SUBJECT: **International Student Enrollment and Athletic Eligibility**

The purposes of this communication are two:

1. To provide a reminder of Federal regulations that have existed for many years but are inconsistently enforced by Federal agencies with respect to enrollment by international students in US secondary schools.

2. To provide an alert to changes in *MHSAA Handbook* regulations regarding the interscholastic athletic eligibility of international students.

Existing Federal Law

It is well known that J-1 visas are issued for a single year, while F-1 visas may be for multiple years. What is often overlooked are Federal regulations that (1) limit those F-1 students to one year of enrollment at any and all public schools in the US, and (2) require the public school to be fully reimbursed for the cost of educating that F-1 student.

See "**A**" for the Federal government's description of the governing laws (source is US Department of State).

Bottom line: If there was an F-1 visa student in attendance at your public school this school year, it is almost certain that student cannot be in attendance at any public school in the US next school year.

Changing MHSAA Regulations

Statewide high school associations across the US are attempting to get ahead of or a handle on the exploding number of F-1 visa students flocking to secondary schools in this country. The MHSAA's effort, adopted by the Representative Council on March 21, 2014, is enclosed as Appendix "**B**."

Key changes (applicable to international students not enrolled [attending classes] in an MHSAA member school during the 2013-14 school year) include:

- The automatic exception which allows immediate eligibility for first-time-ever 9th-graders (Exception 10) does not apply to international students.
- Only those international students (J-1 or F-1) enrolled under Transfer Rule Exception 1, 2, 3, 5, 8, 12 or 13, or placed through an MHSAA "Approved International Student Program," can have varsity eligibility.
- Those international students who are placed through an MHSAA Approved International Student Program are immediately eligible for one academic year and then ineligible for one academic year ("Play One, Wait One").
- Other international students have no varsity eligibility. After the normal (approximately one semester) waiting period for transfer students, local schools may provide those students subvarsity eligibility, regardless of grade level and previous sports experience and without MHSAA Executive Committee approval.

Please refer to the enclosures and the actual *MHSAA Handbook* when the 2014-15 edition is distributed to schools in June. Any international student who is new to your school in 2014-15 is subject to these revised regulations and interpretations.

JER/ky

Enclosures

Foreign Students in Public Schools

A

Overview

There are limitations and requirements related to foreign (F-1) students attending public secondary/high schools (grades nine through twelve), under U.S. law. Student F-1 visas cannot be issued to persons seeking to enter the United States in order to attend a public primary/elementary school or a publicly funded adult education program.

Dependents of a nonimmigrant visa holder of any type, including F-1, are not prohibited from attendance at either a public primary school, an adult education program, or another public educational institution, as appropriate.

Requirements List

- Secondary school attendance is limited to twelve months.
- F-1 secondary school students are required to pay the school the full cost of education by repaying the school system for the full, unsubsidized, per capita cost of providing the education to him or her.
- F-1 students are prohibited from attending public elementary schools or publicly-funded adult education programs.

Restrictions are for F-1 Students Only

The following restrictions apply to foreign students who are:

- Students in F-1 status who need an I-20 to study in the United States;
- Students in F-1 status in public schools who leave the United States and want to return to continue their studies; and
- Students in F-1 status who want to transfer from a private school or program into a public school or program.

The following restrictions do not apply to foreign students who are:

- Students in another visa status (i.e., J-2, L-1, M-2, or G-4) or
- Students in F-1 status who attend private schools or private training or language programs.

How is the 12 month attendance limit applied?

The length of study indicated on the Form I-20 must be limited to 12 months. It should be noted that public secondary attendance in a status other than F-1 does not count against the 12-month limit. For example, if you were the child of an A-2 visa holder previously attending secondary school, this would not count toward the 12 month limit.

Students Must Pay the Costs of Secondary School Education

Foreign students who want to attend public secondary school (high school) must pay the full cost of education. This amount is listed under "tuition" on the student's Form I-20. If the Form I-20 does not include the cost of tuition, the student must have a notarized statement, signed by the designated school official (DSO) who signed the Form I-20, stating the full cost of tuition and that the student paid the tuition in full. The full, unsubsidized per capita (for each student) cost of education is the cost of providing education to each student in the school district where the public school is located. Costs normally range between $3,000 and $10,000. The student secondary school cost reimbursement requirement is mandatory and school systems cannot waive the reimbursement requirement.

Can our school waive the tuition requirement for a high school student?

No. The law does not allow a student in F-1 status to attend public secondary school without paying tuition. The student must pay the full, unsubsidized per capita (for each student) cost of education in all cases.

Does the Section 625 of the law affect all foreign students?

No. The law affects only students in F-1 status, or applicants for F-1 visas, who plan to attend public schools or publicly funded adult education. The law does not affect other students, such as children of exchange visitors, diplomats or foreign workers.

How does the law affect F-1 students in private schools?

Students who attend private schools or privately funded adult education or language programs are not affected by the law. However, if a private school student wants to transfer to a public school or a publicly funded adult education or language program, he or she must follow the requirements of Section 625 of Public Law 104-208.

Can adult education programs issue I-20s if we charge full tuition?

The law prohibits the issuance of F-1 visas to attend publicly funded adult education programs. Publicly funded adult education is defined as: *"Education, training or English as second language programs operated by, through, or for a local public school district, system, agency or authority, regardless of whether such a program charges fees or tuition."* Programs under this definition cannot accept students in F-1 status, even if tuition is charged.

Can organizations or individuals sponsor an F-1 student to attend public secondary school?

Yes. Nothing in the law prevents an organization or an individual from paying the full tuition costs for the student. However, the payment cannot come from public funds. The student must still show that he or she has sufficient funds to cover education and living expenses while in the United States.

Can students come to live with U.S. citizen relatives while attending public school?

Foreign students may come to the United States to live with U.S. citizen relatives while attending public school. The child is limited to twelve months of study in secondary school (high school). The child may not study in elementary school. It should be noted however, that the student's status as a resident of the school district and the fact that the U.S. citizen has paid local property/school taxes is irrelevant and does not fulfill the cost reimbursement requirement of Section 214(m) of the Immigration and Nationality Act (INA). Therefore, the full tuition costs must be paid to the school or school district.

Additional Web Resources

For more information about studying in the United States, you may also visit the student visa webpage and www.ice.gov/sevis.

References - U.S. Law

See INA 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) and INA 214(m) (8 U.S.C. 1184(m))

MODIFIED INTERNATIONAL STUDENT RULES
Adopted March 21, 2014. Effective August 1, 2014

B

(Changes do not apply to students who were enrolled in an MHSAA member school during the 2013-14 school year.)

Regulation I, Section 9(A) – Modify Exception 4 (which permits immediate eligibility under the Transfer Regulation for a limited time) to read: "An international student on either a J-1 or F-1 visa is placed in a residence in a public high school district or school service area by an MHSAA Approved International Student Program (see Interpretation 83). Compliance with Interpretations 83-88 is required."

2014-15 *Handbook* Interpretations:

83. Approved International Student Programs are those which have been accepted for listing by the Council on Standards for International Educational Travel and the MHSAA for the current school year. Programs not listed by CSIET may be included after they have been reviewed and approved by the MHSAA (see MHSAA.com for criteria and forms).

84. To be immediately eligible for interscholastic athletics, an international student, including a 9th-grader enrolling for the first time, must either (a) qualify under Exception 1, 2, 3, 5, 8, 12 or 13, or (b) have a current J-1 or F-1 visa and be enrolled through an MHSAA Approved International Student Program, and in both cases be eligible under all MHSAA Regulations.

    a. Eligibility for an international student under Exception 1, 2, 3, 5, 8, 12 or 13 is immediate and not time-limited under Interpretation 84 or level-limited under Interpretation 86. Interpretation 62 (residency) applies.

    b. Eligibility through an MHSAA Approved International Student Program is for a maximum of the first two consecutive semesters or three consecutive trimesters at any secondary school in the United States, after which the student is ineligible for interscholastic athletic competition at any MHSAA member school for the next academic year (next two consecutive semesters or next three consecutive trimesters). No exceptions to the Transfer Regulation apply during that academic year of ineligibility (Exception [4]).

        Note: If, after or during the academic year of ineligibility, the student transfers to an MHSAA member school from another school, the Transfer Regulation applies. All other eligibility and contest regulations apply to these students.

85. International students who are not required by Federal law to have either a J-1 or F-1 visa are not subject to Interpretation 84 but are subject to all other aspects of the Transfer Regulation. Unless an exception and applicable interpretation are met, these students are not immediately eligible under Section 9. After a period of ineligibility, these students are eligible as any other transfer student would become.

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86. Except as indicated in Interpretation 85, an international student who is not enrolled through an MHSAA Approved International Student Program is not eligible for interscholastic athletics at the varsity level or in MHSAA tournaments for the duration of his or her enrollment in an MHSAA member school. After complying with the period of ineligibility of Section 9(D), a member school may determine that an international student may participate at the subvarsity level only without meeting the elements of subvarsity waivers (9th or 10th grade and no prior athletic participation). After the period of ineligibility, that international student would be eligible by rule at the subvarsity level only; no waiver is necessary.

87. International students who are enrolled in a school under an agreement between that school's governing body and an entity in another country are not exempt from Interpretation 84.

88. International students who are provided housing free of charge or at a cost by a school or school district are not exempt from Interpretation 84 nor can they become eligible under Exception 13 unless their school of enrollment qualifies as a boarding school under Exception 13 and Interpretation 94 and an Educational Transfer Form is completed.