

Student Visa Review

LEGAL RIGHTS



By Atty. Johnson Lazaro

THE terrorists who perpetrated the tragic events of 9/11 entered the U.S. on student visas. Because of this, issuance of student visas became highly scrutinized and restricted. U.S. government agencies, including the CIA, FBI, and NSA have consulted in an extensive and ongoing review of visa issuing procedures. In short, obtaining a student visa became very difficult. However as we enter 2007, the good news is, as long as one clears the security checks, student visa issuance may now be "a piece of cake."

According to the State Department, over eight million records from the FBI's National Crime Information Center (NCIC) have been incorporated into the Consular Lookout and Support System (CLASS) name check database, more than doubling the records on file to 18 million. No doubt, the government went all out to insure that any one who enters the U.S. with a student visa is clean and safe.

You can apply for a student visa abroad or when in the U.S. The requirements are still stringent but doable. The student must have a foreign residence. The consul must know that the student does not intend to stay in the U.S. The student must maintain a full course of study - can't play hooky. He or she would not be allowed to work. In fact, the consul would ask about your finances as a student. Can you

prove that you have available funds to sustain your stay and your studies in the U.S.? Foreign students don't get a break in tuition.

Attending public schools is not usually allowed for foreign students but there are some exceptions. The bar does not apply to post-secondary schools such as public community or junior colleges which receive public funds, but charge full nonresident tuition to foreign students. Check out the school that you intend to attend and see if they have a good track record of accepting foreign students. Usually there would be a staff member in that school in charge of processing student visas.

After 9/11 there were rumors that tourists in the U.S. would no longer be allowed to change status to a student. Not true. It may be a bit difficult to do so but again absolutely possible. You can't start school prior to changing your status. If you do, your application for a student visa will likely be denied. In addition there are those who fear not being allowed to return if they visit their home country on a student visa. The good news is the State Department is working with many consulates abroad to insure that legitimate student visa holders are able to return to the U.S. after a visit abroad.

Now let's talk about work. Generally, foreign students are not allowed to work during the course of their studies. But like everything in life, there are exceptions. A student may obtain work authorization where there is severe economic hardship caused by unforeseen circumstances

beyond the student's control. This sounds simple but not easy to get. You really have to prove hardship beyond your control. Immigration will look for supporting documentations. If you work on-campus the rules will be relaxed. Also, we have seen some students from the Philippines allowed to work off-campus. But this will be very limited. Working as part of practical training related to studies will be allowed as long as guidelines are followed. The student should be able to obtain a social security card while working.

Finally, students must maintain immigration status. Don't risk being subject to deportation. If you're not sure about the regulations be sure to speak with the foreign student advisor in your school or see an immigration attorney. Sometimes it's easy to forget the rules. For instance, a student who drops below a full course of study without prior approval is considered out of status. Comply with rules and keep in contact with your school officials.

Atty. Lazaro represents immigrants in all Federal Courts in the United States. Lazaro and Associates specializes in difficult immigration cases as well as business immigration and family unification. The firm's offices are located in San Francisco and Fremont/Union City in California, and in Makati, Philippines, with tel. (415) 278-9577, e-mail Law@LazaroLaw.com, and website at www.LazaroLaw.com. This article should not be taken as legal advice for any individual case or situation. The information is intended to be general and should not be relied upon for any specific situation. This is not meant to create a lawyer-client relationship.

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