

## TITLE 20: DEPARTMENT OF COMMERCE

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History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: Section 702 of the Consolidated Natural Resources Act of 2008 (PL 110-229, codified at 48 U.S.C. § 1806) removed the CNMI's authority to create and manage its own immigration laws. On March 22, 2010, the Governor signed PL 17-1, removing all references to immigration and deportation functions from the Commonwealth Code. These regulations have not been amended, but portions of the regulations pertaining to immigration are superseded by 48 U.S.C. § 1806.

Part 001 -      General Provisions

#### **§ 20-30.5-001 Purpose**

- (a)      Replacement. The regulations in this subchapter shall replace in their entirety those immigration regulations with respect to foreign students previously adopted.
- (b)      Separation of functions. These regulations shall separate the functions relating to the entry and exit of foreign students from other immigration functions.
- (c)      Implementation of immigration regulations as applied to foreign students.

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- (1) These regulations implement the regulations issued by the Division of Immigration, § 5-40.3-240(h), pertaining to foreign students, which provides as follows:

An alien who presents a certificate of admission to an educational institution or school established by Commonwealth law or licensed to operate by the Department of Commerce and who meets the other applicable immigration requirements in these regulations may be issued a Foreign Student Entry Permit. An alien who is a holder of this class of entry permit may enter and remain in the Commonwealth as long as the alien is qualified to study and is a full-time student in the Commonwealth, and the educational institution or school remains qualified under Commonwealth law or a certification issued by the Department of Commerce.

This class of entry permit does not include enrollees or students in preschool or kindergarten programs.

A holder of this class of entry permit may not work or be employed in the Commonwealth except for participation in an on-campus work-study program intended to defray the cost of tuition or living expenses; work for a licensed business not more than 10 hours a week in the student's field of study; or participation in paid activities constituting academic research or training in the student's field of study.

- (2) These regulations also implement § 5-40.3-255 of the regulations issued by the Division of Immigration which provides as follows:

The annual registration for foreign students (entry permit class 240 (h))... is the responsibility of the Department of Commerce.

- (3) These regulations also implement § 5-40.3-260 of the regulations issued by the Division of Immigration which provides as follows:

Entry permits may be renewed or extended only pursuant to the provisions of these Regulations.... [R]enewals or extensions for foreign students.... are the responsibility of the Department of Commerce. A one-time extension of up to six months may be made available for persons holding valid permits who are eligible for a two-year permit upon payment of the entry permit fee and qualification pursuant to these regulations.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Division of Immigration regulations referenced here were repealed in 32 Com. Reg. 30094 (Apr. 19, 2010).

### § 20-30.5-005 Definitions

For the purposes of this subchapter, the following definitions shall apply:

- (a) "Alien" means a person who is not a citizen or national or permanent resident (green card holder) of the United States;

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- (b) “Class” means one of the nonimmigrant alien entry classes defined in the regulations issued by the Division of Immigration, § 5-40.3-240, Entry Permit Classes;
- (c) “Commonwealth” means the Commonwealth of the Northern Mariana Islands;
- (d) “Department” means the Department of Commerce of the Commonwealth of the Northern Mariana Islands;
- (e) “Director of Immigration” means the Director of Immigration, who is the official in charge of the Division of Immigration, and who is responsible to the Attorney General;
- (f) “Division of Immigration” means the Division of Immigration which is responsible for all Commonwealth immigration functions, including all entry and exit of vessels and aircraft and all entry, exit, repatriation, and deportation of persons;
- (g) “Educational institution” means an academic or vocational school that has an established course of study leading to a degree or certificate of completion and includes the Northern Marianas College and other post-secondary schools, elementary and secondary schools, language schools, religious schools, vocational schools, sports schools, and professional training programs;
- (h) “Entry” means entry into the Commonwealth by air or by sea at an authorized port of entry;
- (i) “Entry permit” means documentation authorizing the entry into and the continued presence of a nonimmigrant alien in the Commonwealth. The entry permit is issued for purposes of providing entry to and exit from the Commonwealth for qualified persons, as long as the person remains qualified under the particular requirements applicable to each class of entry permit as provided in the regulations issued by the Division of Immigration, Part 5-40.3-230;
- (j) "Exit" means exit from the Commonwealth by air or by sea;
- (k) “Foreign Student Entry Permit” means an entry permit issued by the Division of Immigration after certification by the Secretary of Commerce that the foreign student and the educational institution the foreign student intends to attend are qualified under these regulations;
- (l) "Immediate relative" means a legally recognized spouse, a dependent child under the age of twenty-one (21) years, whether natural or adopted before the age of eighteen (18) years, a stepchild if the marriage that created the stepchild relationship took place before the child's eighteenth birthday, a disabled dependent child of any age whether natural or adopted before the age of eighteen (18) years, a parent, whether natural or adoptive, if the adoption took place before the child's eighteenth birthday;
- (m) “Nonimmigrant” means an alien who enters the Commonwealth pursuant to an entry permit issued by the Division of Immigration while having a domicile or citizenship or nationality in a foreign country that the alien has no intention of abandoning, so indicated by any

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response made by the alien in applying for entry to the Commonwealth or so indicated by the entry class of the permit issued by the Division of Immigration;

(n) “Passport” means a travel document issued by the country of citizenship or nationality of a person that shows the bearer’s origin, identity and nationality;

(o) “Regulation” means a regulation promulgated by the Secretary of Commerce pursuant to law and in compliance with 1 CMC § 9901 et seq.;

(p) “Secretary” means the Secretary of Commerce of the Commonwealth of the Northern Mariana Islands.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Division of Immigration was eliminated by PL 17-1 (Mar. 22, 2010). The Division of Immigration regulations referenced here were repealed in 32 Com. Reg. 30094 (Apr. 19, 2010). The Commission corrected the spelling of “vessels” in subsection (f) pursuant to 1 CMC § 3806(g).

### § 20-30.5-010 Service of Process

(a) Service on the Department. Service of process on or service of any notice to the Department or its officials or employees is effective only if made upon the Secretary by personal service or by U.S. mail addressed to the Secretary at the Department.

(b) Service by the Department.

(1) Service on an educational institution: Service of process or service of any notice may be made by the Department by personal service on or service by U.S. mail addressed to the person who is the institution’s agent for the service of process, the person who signed the application, or any of the officers, directors, or managers (including principals) of the institution.

(2) Service on an individual: Service of process or service of any notice may be made by the Department by personal service on or service by U.S. mail addressed to the individual. Service by U.S. mail may be addressed to the individual at the address in the files of the Department and is effective upon deposit in the U.S. mail..

(3) Service by publication: Service or process or service of any notice may be made by the Department for any purpose, at the discretion of the Secretary, by publication by publishing a suitable notice once in each of two successive weeks in an English-language newspaper of daily (weekday) general circulation in the Commonwealth and is effective upon first publication.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

### § 20-30.5-015 Fees

(a) Application fee. Each applicant for a Foreign Student Entry Permit shall pay an application fee of \$250.00 at the time of application.

(b) Renewal fee. Each applicant for renewal of a Foreign Student Entry permit shall pay a renewal fee of \$100.00 at the time of renewal.

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- (c) Annual registration fee. Each holder of a Foreign Student Entry Permit shall pay an annual registration fee of \$25.00 at the time of registration.
- (d) Sponsor fee. The sponsor of an alien applying for a Foreign Student Entry Permit shall pay a sponsor fee of \$100 to cover the costs of examination of the qualifications of the sponsor.
- (e) Certification fee. An educational institution seeking certification to enroll foreign students shall pay a fee of \$250.00 at the time of application for certification.
- (f) Appeal fee. A person filing an appeal with the Secretary shall pay an appeal fee of \$50.00 at the time of filing of the notice of appeal.
- (g) Payment of fees. Fees shall be paid by check or money order made out to the Commonwealth Treasury. Fees are non-refundable. Checks may be made out to the Commonwealth Treasury.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Commission inserted a period at the end of subsection (f) pursuant to 1 CMC § 3806(g).

### **Part 100 Eligibility of Students**

#### **§ 20-30.5-101 Academic Students from Abroad**

- (a) Applications for Foreign Student Entry Permit.
  - (1) The immigration class for foreign students is 240(h). See regulations issued by the Division of Immigration, § 5-40.3-240(h).
  - (2) Applications for entry permits shall be made on forms provided by the Secretary and signed by the applicant. If the student is a minor under the age of eighteen (18) years, the application shall also be signed by the parent or legal guardian of the minor. Information and supporting documentation for an application is submitted under penalty of perjury.
  - (3) Applications shall be for full-time study by the applicant at a qualified educational institution within the Commonwealth. Applications shall be signed by a responsible official of the educational institution that has admitted the student, affirming the admission and intent to comply with all applicable regulations.
  - (4) Applications shall be accompanied by the fee required under § 20-30.5-015(a)
  - (5) Applications shall be signed by the sponsor of the foreign student and shall be accompanied by the receipt for payment of the sponsor fee required under § 20-30.5-015(d)
  - (6) Applications for a two-year permit will be accepted, at the discretion of the Secretary, upon the Secretary's finding that a two-year permit is in the interests of the Commonwealth.
  - (7) Applications shall not be accepted from aliens present in the Commonwealth whose presence is permitted solely because they have a pending labor, immigration or legal matter. However, once said matter is decided, settled, or dismissed, the alien may apply for an entry permit, renewal or change of status if the alien prevailed in the matter.

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(b) Qualified student. An alien applying for a foreign student entry permit is qualified if the following requirements are met:

(1) The applicant shall provide the biographical information required by the Secretary. A form is provided for this purpose by the Department.

(2) The applicant may be of any age, but shall not be below the sufficient age to qualify for elementary school. Applications are not accepted for kindergarten or pre-kindergarten education. If the alien is under the age of eighteen (18) years, the applicant shall have a parent or legal guardian who resides in the Commonwealth. An alien parent who seeks to reside in the Commonwealth for this purpose is required to qualify for an Immediate Relative Entry Permit pursuant to § 20-30.5-205 and remain in the Commonwealth while the alien student is in the Commonwealth.

(3) The applicant shall have academic qualifications sufficient for the type of program for which the student seeks to enroll in the Commonwealth. Transcripts, degrees, and other evidence of academic qualifications shall be submitted in support of the application.

(4) The applicant shall provide documentation as required by the Secretary including a copy of a valid passport, a color photo, an original or certified copy of a birth certificate, and, if the alien is over the age of eighteen (18), a police clearance reflecting the applicant's criminal record.

(5) The applicant shall provide proof that sufficient funds are or will be available from an identified and reliable financial source to defray educational, living, and medical expenses for the applicant during the period of anticipated study. Proof may be offered in the form of a letter from the person who will be responsible for supporting the applicant while in the Commonwealth stating the commitment to be financially responsible for the applicant, salary statements or bank statements showing financial ability to support the applicant, proof of student loans or grants, proof of medical insurance, or other information that establishes proof of the necessary financial capability.

(c) Qualified educational institution.

(1) An applicant for a foreign student entry permit shall have applied and been admitted to a qualified educational institution in the Commonwealth. A qualified educational institution is one that has been licensed by the Secretary of Commerce or established by Commonwealth law and that meets the requirements of § 20-30.5-401 of these regulations.

(2) An official of a qualified educational institution shall sign the application for a Foreign Student Entry Permit certifying admission to the institution, payment by the foreign student or suitable arrangements for payment of tuition and fees for the school year immediately following admission, and the capability and intention of the institution to comply with these regulations in connection with the foreign student's presence in the Commonwealth.

(d) Qualified sponsor. An applicant for a foreign student entry permit shall have a qualified sponsor who is an individual person who meets the applicable statutory and regulatory requirements. The qualified sponsor must sign the application for a Foreign Student Entry Permit.

(1) A sponsor of a foreign student has obligations and responsibilities that continue throughout the time the foreign student is within the Commonwealth. A sponsor has responsibility for providing adequate living quarters, living expenses, medical care, tuition, and all other expenses for the foreign student. Each person seeking to sponsor a foreign student must

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maintain residence within the Commonwealth, provided however, this requirement does not apply to a sponsor who is out of the Commonwealth on orders from any branch of the military service of the United States or a National Guard of any State, or Reserve Unit, but who entered the service from the Commonwealth and who intends to return to the Commonwealth upon completion of the tour of duty. Sponsors living outside the Commonwealth do not qualify.

(2) A sponsor of a foreign student may be an official or affiliate of a qualified educational institution. In all cases, an individual person must be responsible for the well-being of the foreign student while in the Commonwealth, however the qualified educational institution's financial capability and student boarding arrangements may be offered in support of the sponsor's qualifications.

(3) The Secretary may refuse to allow a person to be a sponsor if that person fails to comply with Commonwealth immigration laws, sponsors a person who violates those laws, or otherwise fails to meet and maintain the qualifications of a sponsor as stated by law or these regulations. The burden is at all times on the sponsor to prove eligibility and qualifications to become or continue being a sponsor.

(4) The Secretary may refuse to allow a person to be a sponsor if that person has been barred from employing foreign national workers in the Commonwealth.

(5) The Secretary may refuse to allow a person who is not a parent of the applicant to act as a sponsor if that person fails to demonstrate sufficient income to ensure that all expenses of the applicant (together with any other aliens sponsored) will be paid and the applicant does not become a burden on the public services of the Commonwealth. To be eligible as a non-parent sponsor of an alien applying for a Foreign Student Entry Permit, the sponsor must demonstrate income over the immediately preceding four months at a rate that will provide a gross annual income of at least \$20,000.00 or the sponsor must demonstrate an average bank balance of \$3,000 for the immediately preceding three months. The Secretary may waive this income requirement in the interests of the Commonwealth.

(6) The Secretary may refuse to allow a parent to be a sponsor of a child who is an alien applying to be a foreign student if the parent-sponsor fails to demonstrate income over the immediately preceding four months at a rate that will provide a gross annual income totaling 40 hours per week for 52 weeks at the prevailing minimum wage. The Secretary may waive this income requirement in the interests of the Commonwealth.

(e) Health certificate. An alien applying for a Foreign Student Entry Permit shall be in good health.

(1) A foreign student entering the Commonwealth, or a person entering the Commonwealth as a member of the immediate family of a foreign student, shall have in his or her possession a certificate of freedom from communicable disease. This certificate shall have been executed not more than thirty (30) days prior to the date of entry into the Commonwealth in a jurisdiction and by an authority on the approved list established pursuant to 3 CMC § 4802.

(2) The Secretary may require a foreign student admitted to the Commonwealth, or a person admitted to the Commonwealth as a member of the immediate family of a foreign student, to undergo a physical examination in the Commonwealth performed by any medical physician licensed to practice general medicine in the Commonwealth by the Commonwealth Medical

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Professional Licensing Board within ten (10) business days after entry into the Commonwealth. The cost of a physical examination of a foreign student shall be paid by the foreign student.

(3) A person subject to physical examination pursuant to subsection (b) of this section shall surrender his or her certificate of freedom from communicable disease to the examining physician or other designated person at the time of the examination. Within ten (10) business days after the examination, the examining physician shall transmit the certificate to the Secretary together with a finding as to whether there is any medical reason that the person should not be permitted to remain in the Commonwealth. This finding shall be based on the medical probability that any disease, whether or not communicable, or any disability or any other medical condition would result in significant danger to the health of the inhabitants of the Commonwealth or the need for prolonged medical care or treatment while in the Commonwealth.

(4) Upon receiving notice that there is a medical reason that any foreign student or member of the immediate family of a foreign student should not be permitted to remain in the Commonwealth, the Secretary shall notify the educational institution and the foreign student, or immediate family member, and the affected person shall immediately surrender his or her entry permit to the Secretary for appropriate action. The Secretary shall transmit a copy of all relevant documents to the Commonwealth immigration authority, and the foreign student or family member shall be repatriated. Repatriation shall take place at the earliest date on which it is medically safe for the affected person to travel.

(f) Other entry requirements. An alien seeking to enter the Commonwealth as a foreign student must meet the basic entry requirements set out in the regulations issued by the Immigration Division, see NMI Administrative Code § 5-40.3-200, including a valid passport, documentation if a minor child is traveling to the Commonwealth unaccompanied by a parent, a landing card, and examination by an immigration inspector upon entry.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Commission added a period at the end of subsection (b)(4) pursuant to 1 CMC § 3806(g). The Commission corrected capitalization and punctuation in the titles of subsections (a) through (e) pursuant to 1 CMC § 3806(f) and (g). The Division of Immigration was eliminated by PL 17-1 (Mar. 22, 2010). The Division of Immigration regulations referenced here were repealed in 32 Com. Reg. 30094 (Apr. 19, 2010).

### **§ 20-30.5-105 Vocational Students from Abroad**

[RESERVED]

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

### **§ 20-30.5-110 Minor Children of Aliens Legally in the Commonwealth**

(a) Status. An alien minor under the age of eighteen (18) who is the child of an alien parent residing legally in the Commonwealth as the holder of a permit under immigration classes 240(f) (diplomat), 240(g)(foreign investor), 240(k) (foreign worker), 240(1) (religious leader), 240(m) (missionary), 240(n) (long-term business person), 240(o) (retiree investor), 240(t) (FAS citizen), may be granted an entry permit as a foreign student.



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- (b) Medical insurance. The alien parent who sponsors the alien minor must provide evidence of medical insurance for the alien minor or financial security acceptable to the Secretary sufficient to cover \$3,000 in medical expenses.
- (c) Cash bond. The alien parent who sponsors the alien minor must post a cash bond in the amount of \$750 with the Commonwealth Treasury. The Attorney General shall have the right to reimbursement from the cash bond for any expense incurred by the Commonwealth as a result of the presence of the minor alien or for the repatriation of the minor alien if necessary. Unless forfeited pursuant to these regulations, a cash bond shall expire upon satisfactory final departure of the alien minor or upon other regularization of the alien minor's immigration status. Any amounts outstanding shall be returned to the alien parent within thirty (30) days.
- (d) Affidavit. The alien parent who sponsors the alien minor must provide a sworn affidavit with respect to the living arrangements for the alien minor and the financial capability to meet the living costs, tuition, and other expenses of the alien minor.
- (e) Term. The Foreign Student Entry Permit granted to an alien minor who is the child of an alien parent lawfully in the Commonwealth shall be valid while the parent holds legal immigration status in the Commonwealth and for a period after the expiration of the parent's legal status not to exceed thirty (30) days after the end of the school year in which the parent's legal status expired.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

### § 20-30.5-115 Transfers

- (a) Transfer to a qualified educational institution. A student attending a qualified educational institution under a Foreign Student Entry Permit may transfer to another qualified educational institution without exiting the Commonwealth by filing with the Secretary the documentation of admission.
- (b) Transfer in the event of disqualification. In the event that the certification of the educational institution to enroll foreign students is revoked by the Secretary, the holder of a Foreign Student Entry Permit shall have thirty (30) days to enroll in another qualified educational institution or otherwise regularize his or her immigration status to an appropriate classification.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

### § 20-30.5-120 Employment

- (a) General. Nothing in these regulations shall authorize the holder of a Foreign Student Entry Permit to be employed in the Commonwealth except as provided in these regulations.
- (b) Permitted employment.
- (1) Work study programs. The holder of a Foreign Student Entry Permit may work in an on-campus work/study program sponsored and regulated by the educational institution attended by the student and intended to defray the cost of tuition or living expenses.

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- (2) Internships. The holder of a Foreign Student Entry Permit may work in an internship program in the private sector in the student's field of study not more than 20 hours a week.
- (3) Academic research and training. The holder of a Foreign Student Entry Permit may work in paid activities focused on academic research or training provided that the activity must be related to the student's primary field of education.
- (4) Part-time employment. The holder of a Foreign Student Entry permit may work part-time in the private sector not more than 10 hours a week in a job registered with the Department of Labor as a part-time job.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Commission added a period after the phrase "Permitted employment" in subsection (b) and corrected the colons after the first sentences in subsections (b)(1) through (b)(4) to periods pursuant to 1 CMC § 3806(g).

### **Part 200 - Eligibility of Immediate Relatives of Foreign Students**

#### **§ 20-30.5-201 Credentials of Immediate Relatives of Foreign Students**

- (a) A parent or step-parent of a foreign student shall produce birth certificates or adoption certifications to demonstrate the relationship.
- (b) A spouse to whom a foreign student is legally married shall produce marriage certificates or records to demonstrate the relationship.
- (c) A minor child who is the natural or adopted son or daughter of a foreign student, who is under the age of eighteen (18) years and a dependent of the foreign student shall produce birth certificates or adoption records to demonstrate the relationship.
- (d) A dependent child of any age who is the natural or adopted son or daughter of a foreign student and who is disabled and by reason of disability is a dependent of the foreign student shall produce birth certificates or adoption records to demonstrate the relationship and medical certification as to the disability.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Commission redesignated subsections (d) through (g) as subsections (a) through (d) pursuant to 1 CMC § 3806(a).

#### **§ 20-30.5-205 Entry Permits for Immediate Relatives of Foreign Students**

- (a) Entry permit. Immediate relatives of persons granted a Foreign Student Entry Permit may be granted an entry permit as an Immediate Relative of an Alien by the Director of Immigration. upon the recommendation of the Secretary.
- (b) Requirements.
  - (1) A parent who seeks entry as an immediate relative of a student must post a cash bond in the amount of twice the cost of return travel to the point of origin at the time of application. If the

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parent is the sponsor of the foreign student, the parent must meet the requirements set out in § 20-30.5-101(d).

(2) A foreign student who seeks entry for a spouse or child must post a cash bond in the amount of twice the cost of return travel to the point of origin at the time of application, medical insurance or a substitute acceptable to the Secretary to ensure that the dependent of the foreign student does not become a burden on the Commonwealth, and proof that sufficient funds are available from an identified and reliable source to defray living expenses for the dependent during the term of the student's Foreign Student Entry Permit.

(c) Term. The entry permit of the immediate relative shall remain valid only while the Foreign Student Entry Permit upon which the immediate relative's permit is based remains valid.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Commission added a period at the end of subsection (b) pursuant to 1 CMC § 3806(g). The position of Director of Immigration was eliminated by PL 17-1 (Mar. 22, 2010).

### **Part 300 - Issuance and Revocation of Entry Permits**

#### **§ 20-30.5-301 Issuance of Permits**

(a) Entry permit required. Every foreign student admitted to the Commonwealth for purposes of study at a qualified educational institution must have an entry permit issued by the Commonwealth immigration authority. The entry permit is issued when the Commonwealth immigration authority receives notification from the Secretary that a foreign student is qualified to study in the Commonwealth and other immigration requirements are satisfied. The entry permit is delivered to the foreign student after the student arrives in the Commonwealth when the student registers with the Department. The entry permit remains valid so long as the foreign student is engaged in study under an approved program at a qualified educational institution and registers annually with the Department.

(b) Term. The term of an entry permit is one year. An entry permit may be issued for a two year term at the discretion of the Secretary and the payment of the required fee.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Commonwealth immigration authority was eliminated by PL 17-1 (Mar. 22, 2010).

#### **§ 20-30.5-305 Extension and Renewal of Permits**

(a) Extension and renewal of permits. Entry permits may be extended or renewed upon annual registration with the Department on or prior to the date of expiration of the entry permit so long as the requirements with respect to the qualified student, qualified educational institution, and qualified sponsor continue to be met.

(b) Limitation. The term of an extension or renewal may not exceed the length of time required to complete the degree or training program plus a reasonable time for participation in graduation ceremonies and arrangements for repatriation.

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History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Commission added a period to the end of subsection (a) pursuant to 1 CMC § 3806(g).

### § 20-30.5-310 Denial of Application

- (a) Written denial. The denial of an application for a Foreign Student Entry Permit shall be in writing, shall state the grounds for the denial with specificity, and shall be signed by the Secretary. The denial shall be served on the applicant within 60 days of the date of receipt of the application. The denial shall be transmitted to the Director of Immigration.
- (b) Grounds for denial. The grounds for denial of an application are:
- (1) Failure to meet qualifications;
  - (2) Failure to be admitted to a qualified educational institution;
  - (3) Failure to provide a qualified sponsor;
  - (4) A false statement made on an application or in supporting documentation;
  - (5) The entry of the student is not in the interest of the Commonwealth.
- (c) Notice of right to appeal. Each denial of an application shall contain a notice of the right to appeal and a reference to the section of these regulations governing appeals.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The position of Director of Immigration was eliminated by PL 17-1 (Mar. 22, 2010). The Commission added a period after the phrase "Grounds for denial" in subsection (b) pursuant to 1 CMC § 3806(g).

### § 20-30.5-315 Revocation of Permits

- (a) Written revocation. The revocation of a Foreign Student Entry Permit shall be in writing, shall state the grounds for revocation with specificity, and shall be signed by the Secretary. The revocation shall be served on the foreign student and shall become effective upon service. The revocation shall be transmitted to the Director of Immigration.
- (b) Grounds for revocation. The grounds for revocation of a Foreign Student Entry Permit are:
- (1) Any ground on which the application could have been denied;
  - (2) Any material change in circumstances affecting the qualification of the foreign student, the student's sponsor, or the educational institution attended by the student;
  - (3) Any false statement made to the Department or knowing violation of a requirement for foreign student status;
  - (4) Conviction of a crime;
  - (5) The sponsor is no longer qualified;
  - (6) Failure to maintain status as a full-time student as that status is defined by the qualified educational institution for the program in which the foreign student is enrolled and approved by the Secretary at the time of the issuance of the entry permit;
  - (7) Employment not permitted by these regulations.

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(c) Notice of right to appeal. Each denial of an application\* shall contain a notice of the right to appeal and a reference to the section of these regulations governing appeals.

\* So in original.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The position of Director of Immigration was eliminated by PL 17-1 (Mar. 22, 2010). The Commission added a period after the phrase "Grounds for revocation" in subsection (b) pursuant to 1 CMC § 3806(g).

### **Part 400 - Eligibility of Educational Institutions**

#### **§ 20-30.5-401 Issuance of Certification**

(a) Requirement of certification. Each educational institution that enrolls a student who is a holder of a Foreign Student Entry Permit must be certified by the Secretary before such enrollment. The certification reflects only the institution's authorization to accept foreign students who are present in the Commonwealth or seeking entry to the Commonwealth under a Foreign Student Entry Permit. The approval or denial of certification by the Secretary has no effect on the institution's accreditation by the Board of Regents or other academic or vocational accrediting authority.

(b) Application for certification. Each educational institution seeking certification by the Secretary shall file a letter application that includes the following information:

- (1) The name and address of the educational institution;
- (2) The name and title of the person authorized to apply for certification;
- (3) The number of years the educational institution has operated in the Commonwealth;
- (4) The affiliations, if any that the educational institution has with educational entities in the Commonwealth, and any accreditation by accrediting authorities within the Commonwealth;
- (5) The affiliations, if any, that the educational institution has with educational entities outside the Commonwealth, and any accreditations by accrediting authorities outside the Commonwealth;
- (6) The total number of students enrolled in each of the past five years;
- (7) The total number of faculty members and administrators employed in each of the past five years;
- (8) The curriculum or program of study offered by the institution and the degrees or certifications of completion awarded by the institution, attaching supporting documentation of catalogs, bulletins, websites or other announcements as to the curriculum or program of study offered;
- (9) The size of the physical facilities occupied by the educational institution;
- (10) The health facilities or capabilities provided by the institution for the protection of students;
- (11) Copies of the advertising directed at students during the past year;
- (12) The institution's legal status as a corporation, LLC, partnership, or individual proprietorship attaching supporting documentation with respect to legal status such as articles of incorporation and business license;
- (13) The institution's tax status as for-profit or non-profit;

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(14) A copy of audited financial statements prepared by a U.S. Certified Public Accountant within the prior 12 months;

(15) The name and address of the person who is the institution's agent for the service of process.

(c) Foreign Student Education Oversight Panel. Upon receipt of an application for certification as a qualified educational institution, the Secretary shall convene and chair an oversight panel comprised of at least one representative from each of the following: the Northern Marianas College, the Department of Commerce, the Saipan Chamber of Commerce, the Public School System, and the community at large. The oversight panel will advise the Secretary with respect to the issuance of a certification for the applying educational institution. The Secretary may waive the convening of an oversight panel if the educational institution is in good standing with a nationally recognized accrediting body. The Secretary may also convene an oversight panel for an annual review of each qualified educational institution to assure that the requirements for certification continue to be met or for a special review of a qualifying educational institution that loses its accreditation by a nationally recognized accrediting body.

(d) Statements made under penalty of perjury. Statements made in an application for certification are representations to the Commonwealth government that are made under penalty of perjury.

(e) Issuance of certification. The Secretary's certification will be evidenced by a document naming the educational institution. Certifications remain in effect until revoked by the Secretary.

(f) Conditional certification. The Secretary may issue conditional certifications where it is in the interest of the Commonwealth to do so. Any conditions on certification must be evidenced on the certification document.

(g) Change of circumstance. Any material change in any of the facts presented to the Secretary in the application for certification must be reported to the Secretary within 90 days of the occurrence of the change. Changes in enrollment must be reported annually in January of each year.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Commission added a period after the phrase "Application for certification" in subsection (b) and changed the period at the end of subsection (b)(13) to a semicolon pursuant to 1 CMC § 3806(g).

### **§ 20-30.5-405 Denial of Certification**

(a) Denial in writing. The denial of a certification shall be in writing, shall state the grounds for revocation with specificity, and shall be signed by the Secretary. The denial shall be served on the educational institution and shall become effective upon service.

(b) Grounds for denial of certification. The grounds for denial of certification are:

(1) Any failure to meet the requirements for the qualification of the educational institution;

(2) Any false statement made to the Department;

(3) False or materially misleading statements in advertising directed at students.

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(c) Notice of right to appeal. Each denial of an application shall contain a notice of the right to appeal and a reference to the section of these regulations governing appeals.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The position of Director of Immigration was eliminated by PL 17-1 (Mar. 22, 2010). The Commission added a period after the phrase "Grounds for denial of certification" in subsection (b) pursuant to 1 CMC § 3806(g).

### § 20-30.5-410 Revocation of Certification

(a) Revocation of certification. The Secretary may revoke the certification of an educational institution by written notice at any time, such revocation to become effective 30 days after service of the notice on the educational institution.

(b) Grounds for revocation. The Secretary shall state each of the grounds for revocation of certification in the written notice issued with respect to the revocation. The grounds are:

- (1) A false statement of a material fact made in any application or supplementary documentation provided to the Department;
- (2) A change in circumstance with respect to any material qualification of the institution or a foreign student not reported to the Department in a timely manner;
- (3) Unhealthful or unsafe conditions at the physical facilities used by the institution or other conditions substantially detrimental to the well-being of students enrolled at the institution;
- (4) Failure to keep records as required;
- (5) Failure to comply with a request for inspection;
- (6) False or misleading statements or representations in advertising;
- (7) A material failure to comply with the Department's regulations;
- (8) Change of ownership without prior approval of the Secretary;
- (9) Insolvency or lack of sufficient financial resources to support reasonable operations of the educational institution;
- (10) Cessation of the business.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Commission added a period after the phrase "Grounds for revocation" in subsection (b) pursuant to 1 CMC § 3806(g).

### § 20-30.5-415 Record-Keeping and Reporting

(a) Records with respect to foreign students. The educational institution shall maintain the following records during a foreign student's enrollment and for at least two years after termination of the student's enrollment:

- (1) Photocopy of the foreign student's passport;
- (2) Photocopy of the foreign student's entry permit;
- (3) A current address and description of the place where the student physically resides;
- (4) Date of first enrollment as a student;
- (5) Degree program and field of study;

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- (6) Academic status in each term while enrolled and credits or courses completed;
  - (7) Payment of tuition and fees;
  - (8) Date of termination of enrollment as a student.
- (b) Availability. All records maintained by the educational institution with respect to any foreign student shall be made available to the Secretary upon request.
- (c) Reporting. The educational institution shall report to the Department of Commerce as follows:
- (1) Report on completion: The institution shall report within 30 days when a foreign student who has been accepted by the institution has completed the course of study for which the student was accepted. The institution shall report, in each such case, whether the student will no longer be attending the institution.
  - (2) Report on enrollment: The institution shall report at the beginning of each term or session whether each foreign student who has been accepted by the institution (and as to whom no report on completion has been submitted) is still enrolled and whether the student is enrolled as a full-time or part-time status.
  - (3) Report on status: The institution shall report within 30 days when a foreign student who has been accepted by the institution and is still enrolled has failed to complete a program of study within the time typically required to complete that program, and the reason for any extension of time granted by the institution to complete the program.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

Commission Comment: The Commission added a period after the phrase “with respect to foreign students” in subsection (a) and after the word “reporting” in subsection (c) pursuant to 1 CMC § 3806(g).

### **§ 20-30.5-420 Inspections**

The Secretary or a duly authorized agent may inspect the physical premises of the educational institution and its records at any time during normal business hours upon reasonable notice to the institution.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

## **Part 500 - Appeals**

### **§ 20-30.5-501 Commencing an Appeal**

- (a) Commencing an appeal. An appeal is commenced by filing a notice of appeal on the standard form provided by the Department and payment of the fee required in §20-30.5-015(f) of these regulations. A notice of appeal must be filed within fifteen (15) days of service of the decision on the party who is appealing.
- (b) Content of notice. The notice of appeal shall state the reasons for the appeal and shall be supported by a statement of facts and supporting documentation setting forth the grounds for contesting the decision.



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History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

### **§ 20-30.5-505 Hearings on Appeal**

(a) Hearing officer. The Secretary shall appoint a hearing officer to decide the appeal and prepare an opinion. The hearing officer may decide the appeal on the written submissions of the appellant and the government which shall be made on a schedule prescribed by the hearing officer. The hearing officer may order a hearing on the record, however no hearing or oral argument on an appeal is required. The hearing officer shall notify the appellant of the time and place for any hearing on the appeal and shall not schedule the hearing with less than fifteen (15) days notice or change a hearing date with less than fifteen (15) days notice.

(b) Proceedings. In a review on appeal, the hearing officer may restrict review to the existing record, supplement the record with new evidence, or hear the matter de novo pursuant to 1 CMC §§ 9109 and 9110. Upon completion of review, the hearing officer shall affirm, reverse, or modify the findings, decision, or order of the Department. The hearing officer's decision shall constitute final agency action for purposes of judicial review.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

### **§ 20-30.5-510 Judicial Review**

Judicial review of a final agency action is authorized after exhaustion of all administrative remedies and shall be initiated within thirty (30) days of the final action. Judicial review shall be pursuant to 1 CMC § 9112. Appeal from a final action by the agency shall be directly to the Commonwealth Superior Court.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).