REPORT TO THE CONGRESS

Better Controls Needed To Prevent Foreign Students From Violating The Conditions Of Their Entry And Stay While In The United States

Department of Justice
Department of State

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This is our report on the need for better controls on foreign students.

Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of the report are being sent to the Director, Office of Management and Budget; the Attorney General; and the Secretary of State.

Comptroller General
of the United States

Contents

ABBREVIATIONS

GAO	General Accounting Office
INS	Immigration and Naturalization Service
USIS	United States Information Service

use the training desired by the alien in his home country as an aid in determining the alien's intentions to depart from the United States is impractical and would result in needless delays in the adjudication process. Such an inquiry, however, could be made by the Service when aliens are interviewed for change to student status and should not cause a delay unless the alien does not have an acceptable answer. The Department of State said it is contemplating revising its instructions to its consular officers to implement the recommendation.

The Department of State agreed that an information retrieval system designed to present hard statistics on violators of student status by country of origin could provide a useful basis for evaluating the effectiveness of the present screening procedures and perhaps for formulating more efficient selection criteria.

According to the Department of Justice, criticism of the Service's present practices of not creating file records for each student case, not interviewing applicants for student status, not performing onsite investigation of approved schools, and not following up on school reports points out the effects of an acute shortage of officers and clerks.

The Department of Justice said it was not intending to sidestep the issues in the report and, as additional manpower becomes available or priorities change, the Service will make every effort to attack more aggressively the problems highlighted in the report. Although the Service may be unable to implement all of GAO's recommendations because of manpower constraints, the severity of foreign student status and school violations dictates that the Service take more corrective action, even if only on a limited basis.

MATTERS FOR CONSIDERATION BY THE CONGRESS

If the Congress wishes to eliminate the preferential treatment involving prospective immigrants from the same country, the Congress should impose a mandatory waiting period for foreign students before allowing them to acquire immigrant status if grounds for such status were acquired while in an illegal status.

CHAPTER 1

INTRODUCTION

The Immigration and Nationality Act (8 U.S.C. 1101) sets forth conditions for admission and stay of immigrant and nonimmigrant aliens. Immigrants are aliens admitted for permanent residence. Nonimmigrants are aliens admitted for temporary periods for such purposes as business, pleasure, study, or work. During fiscal year 1974 about 7 million nonimmigrants entered the United States and about 395,000 aliens obtained permanent residence.

The act provides admission for two classifications of nonimmigrants to study. One is the exchange student or visitor who is admitted as a participant in a program designated by the Secretary of State for the purpose of teaching, instructing, lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training. The other is the alien admitted solely to pursue a full course of study at a school he chooses and which has been approved by the Attorney General. The latter nonimmigrant alien is commonly classified as a "foreign student" and is the subject of this report.

American consulates have issued about 362,000 foreign student visas since the beginning of fiscal year 1969. Some aliens who enter the United States with visas for business or pleasure change their status to that of foreign student while in the United States.

Immigration and Naturalization Service (INS) records show that at least 222,000 foreign students were in the country as of December 1974.

An alien accorded foreign student status must

--have a residence in a foreign country which he has no intention of abandoning,

--be a bona fide student qualified to pursue a full course of study, and

--intend to enter the United States temporarily and solely to pursue a course of study.

By permitting aliens to study in this country, the Congress recognized the ultimate benefits accruing to the United States when the aliens complete their studies and depart from the United States and spread a better understanding of this country. The Congress also recognized, however, a need to maintain strict controls over the admission of students to insure that aliens did not use student status to accomplish illegal immigration.

In 1950 the Senate Committee on the Judiciary, in a report on the immigration and naturalization system, said:

> " * * * It is the opinion of the subcommittee [Special Subcommittee to Investigate Immigration and Naturalization] that there should be no relaxation of the immigration laws which would open the door to permanent residence for student aliens."

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> " * * * The significance of the fact that some cases are under investigation is that some students do violate their status, and as long as there is the potential problem that foreign students may violate their status, however small the group involved, the subcommittee believes that the maintenance of a system of strict controls by the Immigration and Naturalization Service is necessary. Any laxity in the treatment of one group of nonimmigrants may not only provide an attractive loophole for aliens desiring to enter this country illegally, but also tend to undermine the controls over the whole nonimmigrant class."

The Immigration and Nationality Act does not prohibit foreign students from legally obtaining immigrant status (permanent residence) if they are eligible. About 22 percent of the 50,265 nonimmigrant aliens adjusting their status to permanent residents in fiscal year 1974 were foreign students.

We reviewed the controls established to insure that aliens admitted as foreign students or acquiring such status after entry abide by the conditions of their entry and stay. (See p. 5 for scope of review.)

APPROVING SCHOOLS

The act requires that a school seeking approval from the Attorney General to admit foreign students be an established institution of learning or other recognized place of study. The Attorney General has delegated authority for approving schools to the Commissioner of INS.

INS must consult with the Office of Education, Department of Health, Education, and Welfare, for advice on whether the petitioning school meets the above criterion. School approvals continue indefinitely. An approved school is to promptly report to the Attorney General students who terminate their attendance. Schools which INS has approved include colleges, public schools, vocational schools, and English language schools. In the New York and Los Angeles INS districts, where our review was made, there were about 1,400 approved schools and school systems.

OBTAINING AND MAINTAINING STUDENT STATUS

After obtaining a certificate of eligibility from an approved school, a nonimmigrant may apply for a student visa at an American consulate in his country. An alien in the United States in another nonimmigrant classification (such as a visitor for pleasure) may apply at an INS district office for a change to student status.

Federal regulations implementing the Immigration and Nationality Act require that a foreign student be scholastically qualified, have adequate English language proficiency, and have financial resources to cover his education and living expenses without having to seek employment.

A student is usually admitted for up to 1 year. For a longer course of study, he must apply to INS each year for an extension of stay. He must also obtain INS approval to transfer from one approved school to another. To be granted an extension of stay or a school transfer, an alien must show that he has maintained his status as a bona fide student pursuing a full course of study.

EMPLOYMENT

Because a foreign student must be enrolled in a full course of study, he is not generally allowed to accept full-time employment while in the United States. INS may authorize the student to work part time if an unforeseen need arises. Under certain conditions INS may also authorize practical training employment. During fiscal year 1974 INS authorized part time work or practical training for 38,147 foreign students.

INS has allowed school officials to grant permission to some foreign students to work full time during the summer. About 17,500 students were granted permission to work during the summer of 1973. For the summer of 1974, INS required that permission for summer employment be obtained directly from INS district offices rather than from school officials.

Many foreign students work without INS permission. A consultant to the Department of Labor estimated in 1971 that about one-half to two-thirds of the foreign students in the country were working or had worked.

VIOLATIONS

INS is responsible for locating and expelling illegal aliens--those who violate the conditions of their admission or stay. During fiscal year 1974 INS located about 788,000 illegal aliens. About 8,100 were foreign students and about 2,400 of these illegal students were required to depart. The remaining students were restored to status, adjusted to another status, or filed petitions for permanent residence. INS records show that, of the 222,000 foreign students in the United States as of December 1974, about 42 percent were in an illegal status because of overstaying their period of admission. In 1948 it was estimated that only about 2 percent of foreign students were in an illegal status.

INS does not require a student to depart on a first violation of status if the violation consists solely of accepting unauthorized employment. INS warns the student and if a later violation is detected the student is generally allowed to depart voluntarily.

The chart on the following page shows the number of student visas issued, illegal students located, and students required to depart for fiscal years 1969-74.

SCOPE OF REVIEW

We reviewed the provisions of the Immigration and Nationality Act prescribing conditions for entry and stay of foreign students. We examined the policies, procedures, and practices at American consulates for issuing visas to foreign students. We also reviewed INS policies, procedures, and practices in approving schools for attendance by foreign students, determining whether students maintain their status, and expelling those failing to maintain their status. We inquired into the Department of Health, Education, and Welfare's role in consulting with INS on approval of schools.

Many records examined did not lend themselves to scientific sampling techniques. Therefore, for the most part, the cases examined were selected on a judgmental rather than a scientific basis.

We made our review at the Department of State headquarters and the INS central office and American consulates in Tehran, Iran; Karachi, Pakistan; Bangkok, Thailand; Rio de Janeiro, Brazil; Bogota, Colombia; Lima, Peru; and Caracas, Venezuela. We also worked at INS district offices in New York and Los Angeles and at 15 approved schools in these INS districts. (See app. III.)

This is the third in a series of reports[1] on INS and the alien problem.

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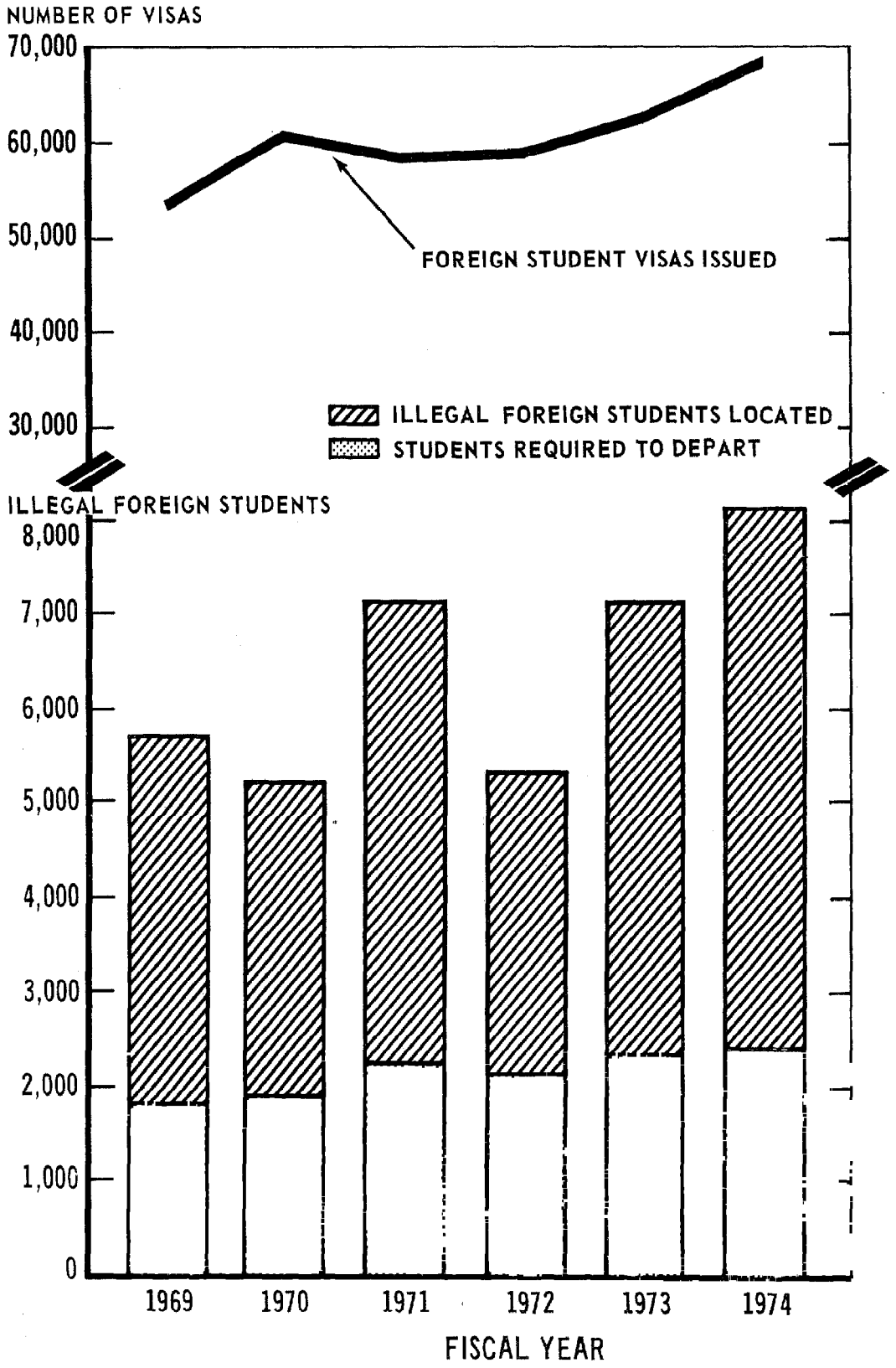
[1] "More Needs to be Done to Reduce the Number and Adverse Impact of Illegal Aliens in the United States" (B-125051, July 31, 1973).

"Need for Improvements in Management Activities of the Immigration and Naturalization Service" (B-125051, Aug. 14, 1973).

NUMBER OF STUDENT VISAS ISSUED, ILLEGAL STUDENTS LOCATED, AND STUDENTS REQUIRED TO DEPART



CHAPTER 2

FOREIGN STUDENT VIOLATIONS

INS records show that many foreign students violate their status by not enrolling in school, not completing their studies, not returning to their native countries, or working without permission. The number of such violations indicates that students are using student status in conjunction with other legislation to obtain permanent resident status on a preferential basis.

STUDENTS FAILING TO REGISTER OR TERMINATING BEFORE COMPLETING STUDIES

Approved schools must report to INS those students who fail to register, terminate attendance, carry less than a full course of study, or attend classes less than required. About 22,000 such school reports are on file and scheduled for investigation in the New York and Los Angeles district offices. The majority of these reports are about 2 years old and are in the New York office. INS does not prepare nationwide statistics on such reports and, because of manpower limitations and the low priority given to student violations, INS rarely investigates these reports.

The number of foreign student violations, as discussed in this chapter, shows a need for substantially strengthened controls.

The need for (1) periodic compliance reviews of schools is discussed in chapter 3, (2) more selective granting of student status is discussed in chapter 4, and (3) improvements in revalidating students' status is discussed in chapter 5.

INS officials in the Los Angeles district said that the investigation of foreign student violations is given a low priority because other types of cases constitute a greater threat to the Nation's welfare. The Assistant Regional Commissioner for Investigations in the INS southwest region said that foreign students are generally given every consideration before deportation is recommended, and he believes investigators avoid working on foreign student

cases because they are not as likely to be deported as other illegal aliens.

According to an INS official in the New York district office, students are difficult to locate and when located many have acquired permanent resident status by marrying a citizen. New York district office officials investigated 108 students in June 1972, and in 86 cases they could not tell whether the students had left the country.

New York district

About 20,000 of the school reports were in the New York district. Our analysis of 1,340 of those received during September and October 1972 showed that 533 students (or 40 percent) failed to register within 60 days of the school registration date; 400 (or 30 percent) terminated attendance before completing their studies; and 52 (or 4 percent) carried less than a full course of study, did not attend classes regularly, or failed to pay tuition. The remaining 355 students (or 26 percent) terminated attendance after completing the semester.

Eighty-six percent of the 933 students who never registered or who terminated attendance before completing their studies were attending or were to enroll in vocational, English language, or public schools.

We selected 50 students who had been admitted to study in New York and had received extensions of stay from INS. A records check by INS with the Social Security Administration showed that 13 students had social security accounts and had worked without permission. In another test of 23 students attending a vocational school in New York, 18 had worked without permission. Officials at eight schools in New York said that most foreign students work regardless of whether permission is granted.

Los Angeles district

In the Los Angeles district about 2,000 school reports were pending INS investigation as of January 1973. Other school reports were on file in this district but were not scheduled for investigation. Analysis of a sample of 100

reports (50 were pending investigation) showed that 26 students did not enroll in school and 45 terminated attendance before completing their studies. The remaining 29 students had either graduated, transferred to other schools, or terminated attendance after completing the semester. Of the 71 students who never enrolled in school or terminated attendance before completing their studies, 37 were attending or were supposed to have attended vocational, English language, or public schools.

We sent questionnaires to schools inquiring about the status of 50 other students who were either admitted as students or adjusted to student status between July and December 1972. We received responses on 47 students showing that 4 never enrolled in classes and 12 withdrew before completing their studies. Of the 12 students who withdrew, 8 withdrew within 6 months of enrollment.

Although the problem of students violating their status appears to be more prevalent among those destined for vocational, business, and language schools than among those destined for academic or public institutions of learning, we could not make such a comparison because many of the records we examined did not lend themselves to scientific sampling techniques.

According to the Department of Justice (see app. I), INS has long recognized that abuses of the foreign student status were more prevalent among students intending to enroll in vocational, business, and language schools than among students intending to enroll in academic institutions. The Department commented that INS advocated legislation (H.R. 14831, 92d Cong.) which, if enacted, would have limited foreign student status to students intending to enroll in colleges, universities, seminaries, conservatories, academic high schools, or elementary schools. Students intending to enroll in vocational, business, and language schools under the proposed legislation would have been classified as temporary visitors.

The Department said that, under the temporary visitor classification, the vocational school student would have been admitted for a shorter time and would not have been eligible to work. We doubt whether the proposed legislation

would deter these students from seeking employment, because many students now apprehended are working in violation of their status. Further, an INS memorandum regarding the proposed legislation indicated that vocational and technical schools would not be approved for student attendance under this amendment.

The Department of State (see app. II) believed the problems described in the report were more frequent among students attending vocational schools than among those attending institutions of higher learning. In addition, the Department of State said, and we agree, that elementary and secondary school students would rarely fall within the areas of principal concern of this report.

However, foreign students attending elementary and secondary schools have a significant economic impact on local school jurisdictions. For example, during calendar year 1972 about 4,000 nonimmigrant alien students were issued certificates of eligibility to attend New York City's public elementary, junior high, and senior high schools. The estimated annual cost to taxpayers for educating these aliens is about $3.2 million.

INS FOLLOWUP ON ARAB STUDENTS

As part of a program for monitoring nonimmigrants from Arab countries, INS maintained statistics on its investigations of Arab students. This data included both foreign students and exchange visitors. INS attempted to locate and determine the status of these students. The investigator responsible for this project in Los Angeles told us that his experience indicated that the number of Arab students found out-of-status would be considerably lower than most other nationalities, especially Asians.

New York district

From September 1972 through March 1973, INS investigated 326 Arab students. INS could not locate 154 students; the investigation procedures included checking the last known addresses, checking records at the Social Security Administration, and sending letters to the aliens' foreign addresses. Of the 172 students who were located, 15

were in violation of their status. Each of these 15 students was either required to depart or issued an order to show cause.

Los Angeles district

From October 1972 to June 1973, INS investigated 250 Arab students and located 225. INS found that 35 of the students located were in violation of their status. Our analysis of 23 of these cases for which records were available showed that 18 students had violated their status within 6 months of entering the country. Of the 35 students found out-of-status, 28 were issued orders to show cause, 2 were granted voluntary departure, 4 were restored to status, and 1 had no record of action having been taken.

APPREHENDED STUDENTS

Our analysis of 121 apprehension reports on students during fiscal year 1973 in the New York and Los Angeles districts showed that these students had been in the United States an average of about 30 months. Eighty-eight students were working when apprehended, and 69 were not attending school.

Our analysis of all 58 student apprehensions in January and February 1973 in the Los Angeles district showed that 20 students were employed in unskilled jobs, 12 in semiskilled jobs, 5 in professional jobs, and 3 were self-employed. Of the 63 student apprehensions analyzed in the New York district, 48 students were employed. Available data on those students follows.

Occupation	Number		Average weekly salary
	Students	Salaries known	
Factory worker	15	11	$ 82
Mechanic	2	1	130
Office worker	6	4	120
Restaurant worker	4	1	150
Packer	3	3	90

Occupation	Number		Average weekly salary
	Students	Salaries known	
Clerk	2	-	-
Salesman	2	2	83
Miscellaneous	7	6	115
Occupation not known	7	-	-
Total	48	28	$100

The following case histories of apprehended students describe how they violated their student status.

--A 25-year-old alien from Jordan entered as a foreign student in April 1970. In September 1970 he entered a 2-year community college and completed 25 of 63 units of course work in which he had enrolled. He withdrew from school in May 1972, reenrolled in September, and withdrew again within 2 weeks. Correspondence from the school indicated excessive absence, language difficulty, and subject difficulty as reasons the student dropped, or was dropped from, classes. Although the student (1) enrolled in a full study program for only two of four semesters, (2) did not complete a full program, (3) withdrew from school 3 months after the start of his fourth semester, and (4) enrolled the following semester but withdrew from school after less than 2 weeks, the school issued him a certificate of eligibility to resume classes in February 1973. INS located the student in October 1972 and determined him to to be in violation of his status for working full time and not attending school. He was ordered to appear for a hearing in January 1973 but the hearing was not held until March. From January 1972 until December 1972, he worked in a gasoline service station from 30 to 54 hours a week. In January 1973 he was hired as a janitor for an automobile manufacturer and was advanced a week later to stock

picker. In February 1973 he was fired because the reason he gave for not reporting to work was unacceptable. On March 7, 1973, the student was granted voluntary departure and on June 6, 1973, he departed.

--A citizen of Taiwan entered the United States in September 1966 as a student to remain until September 1967. He attended a university in Illinois for undergraduate work in chemistry from September 1966 to July 1967, when he transferred to a university in Kansas. He attended this school from October 1967 to December 1969 and received a bachelor's degree. He then transferred to a university in Michigan where he did graduate work from September 1970 to April 1971. He then went to New York City where he violated his status as a student by working in a restaurant until he was apprehended by INS in October 1972. In December 1972 he married a lawful permanent resident. His petition for adjustment of status to permanent resident was pending in August 1973.

--A 29-year-old citizen of Jordan entered as a foreign student in May 1972 to enroll in a Los Angeles area university and reside with his sister. He never enrolled in school. When apprehended by INS in November 1972, he was the owner of a gasoline service dealership. He told the INS investigator that he intended to study electrical engineering but did not enroll because he could not afford the tuition. In October 1972 he married a lawful permanent resident of the United States. His petition for adjustment of status to permanent resident was pending in August 1973.

--A 25-year-old citizen from Lebanon entered as a foreign student in November 1970 to attend a private English language school. After attending school for 1 week, he dropped out, still owing tuition. In April 1971, with INS approval, he transferred to a tuition-free public adult school in which English was taught. In December 1971 he transferred, with approval, to a 2-year community college. He was dropped in June 1972 by the college for failure to pay tuition. INS apprehended him in March 1973.

He had remained in the United States about 4 months longer than authorized. In addition, INS found that he had worked for three different employers from December 1970 to November 1972. In March 1973, shortly after his apprehension, he married a U.S. citizen. In April 1973 he was granted voluntary departure and departed.

--A 24-year-old citizen of Guyana entered in February 1969 to attend a vocational school until November 1969. Although he did not enroll at the intended school, INS approved his transfer in July 1969 to another vocational school. In August 1969 the second school notified INS that the student had been dropped from its rolls because of poor attendance. He worked at a factory earning about $100 weekly until apprehended by INS in October 1972--almost 3 years after his authorized period of stay had expired. He was ordered to report ready for deportation on April 26, 1973. He never reported and his present whereabouts is unknown.

About 22 percent of the nonimmigrant aliens who legally adjusted their status to permanent residents in fiscal year 1974 were in student status. Many of these students obtained the grounds for permanent resident status while in violation of their nonimmigrant status. For example, in many cases the basis for permanent resident status is acquired by marrying a U.S. citizen. Students acquiring the grounds for status as permanent residents by this means are not subject to the established numerical immigrant visa limitations, and immigrant visas are considered immediately available to them. These students, therefore, obtain an advantage over other aliens desiring permanent residency even though the grounds for such status have been acquired while in an illegal status.

CONCLUSIONS

School reports, apprehension reports, and the results of INS' followup on Arab students indicate that many foreign students are using their status to gain entry and prolong their stay in the United States rather than pursue courses of study. Many students fail to comply with the

terms of their entry; about 42 percent of the 222,000 foreign students in the United States are in illegal status because of overstaying their period of admission. About 22 percent of the nonimmigrant aliens who legally adjusted their status to permanent residents in fiscal year 1974 were in student status.

We believe that foreign student status has become a method for many aliens to gain entry into the United States for purposes of acquiring, on a preferential basis, permanent resident status under other provisions of the Immigration and Nationality Act. We further believe that the inequity of this practice could be eliminated or at least discouraged by imposing a mandatory waiting period before allowing foreign students to acquire immigrant status if grounds for such status were acquired while in an illegal status.

To minimize abuses of the foreign student status, controls should be strengthened by monitoring the students and the participating schools more closely; by developing better procedures for screening applicants for student status, both stateside and abroad; and by improving procedures for reviewing students' requests for transfers, extensions of stay, and permission to accept employment. (See chs. 3, 4, and 5.)

AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice (see app. I) said:

--As long as the law provides a means for various classes of nonimmigrants, such as foreign students, to proceed to the United States and provides administrative means for them to acquire lawful permanent resident status within the United States, appreciable numbers will come ostensibly as nonimmigrants and attempt to acquire permanent resident status.

--Once nonimmigrants acquire equities, such as marriage to a U.S. citizen, it may be difficult for INS to deny an application for permanent resident status as a matter of discretion because the alien is statutorily qualified.

--Certain aspects of a mandatory waiting period needed clarification, such as when the waiting period should begin.

--A policy requiring the student to depart for the mandatory waiting period could possibly be in conflict with the history of the Immigration and Nationality Act as it pertains to foreign exchange students.

--Although the Congress has enacted legislation making certain nonimmigrants, such as exchange aliens, ineligible to acquire permanent resident status except under special circumstances, the Congress has never enacted such legislation for nonimmigrant students.

The Department of State said:

--If a mandatory waiting period provision was enacted, it could prove virtually unadministrable both because of its scope and because of its inevitable vagueness.

--The cases most easily identifiable would be those involving marriage to American citizens, the very cases in which the alien's equities are the strongest and the concomitant harm to the interests of an American citizen would produce the most vocal expressions of public concern.

--In other cases of students' application for adjustment to permanent resident status, the coincidence between the acquisition of grounds for preferred position under the Immigration and Nationality Act and the timeframe of violation of student status could be tenuous and difficult to prove.

--A mandatory waiting period might well be viewed as punitive, because it imposes a penalty of "banishment" for a certain time on persons otherwise qualified to remain in the United States for, in the general case, accepting unauthorized employment.

--The legal fights, especially in cases involving the very direct interests of American citizens, would be legion.

Neither Department's comments dispute our conclusion that foreign student status has become a method for many aliens to gain entry into the United States for purposes of acquiring, on a preferential basis, permanent resident status under other provisions of the act. In fact, the Department of Justice concurred in our conclusion and stated that the same comment could be made, in varying degrees, about most classes of nonimmigrants. Although both Departments question administrative aspects of a mandatory waiting period, a problem inherent in implementing any legislation, neither offered a solution.

We do not believe a mandatory waiting period conflicts with the act as it pertains to exchange aliens. The waiting period would pertain only to those students who acquire the grounds for immigrant status while in violation of their nonimmigrant status.

We believe that foreign students and other nonimmigrants should not be permitted to violate the immigration system and derive benefits from their illegal acts while bona fide immigrants and nonimmigrants are denied early admission or are otherwise disadvantaged.

MATTER FOR CONSIDERATION BY THE CONGRESS

If the Congress wishes to eliminate preferential treatment involving prospective immigrants from the same country, the Congress should impose a mandatory waiting period for foreign students before allowing them to acquire immigrant status if grounds for such status were acquired while in an illegal status.

CHAPTER 3

NEED FOR PERIODIC COMPLIANCE REVIEWS OF SCHOOLS

For INS to exercise control over foreign students, it must be able to identify schools which fail to meet their responsibilities. INS procedures require district offices to review from time to time approved schools to determine whether they are continuing to meet the eligibility requirements and whether they are complying with their reporting responsibilities. This, however, is seldom done because of manpower shortages. We believe that, as a result of INS' failure to make periodic onsite school compliance reviews, many schools are not fulfilling their responsibilities for assessing aliens' qualifications and reporting in accordance with Federal regulations.

A major problem in determining whether schools comply with their responsibilities is the lack of criteria on what constitutes a full course of study in such schools.

Also, some school officials are not certain about their responsibilities for certifying the full-time status of students in conjunction with requests for permission to transfer to other schools, extend their stay in the country, or accept employment. Consequently, the certifications are of limited value to INS in its adjudications of such requests.

SCHOOLS' RESPONSIBILITY FOR ASSESSING QUALIFICATIONS AND REPORTING STUDENTS

Federal regulations require approved schools to assess each student's admission qualifications before issuing a certificate of eligibility (INS Form I-20). Each school is supposed to determine an alien's scholastic qualifications, English language proficiency, and financial capability. American consulates and INS accept the certificate of eligibility as evidence that the alien applying for student status has been accepted by an approved school.

After a student enters the country, the school is required by Federal regulations to report to INS if he

--fails to personally register within 60 days of the school registration date,

--carries less than a full course of study or attends classes less than expected, or

--terminates attendance either before or upon completion of the semester.

The regulations do not, however, define a full course of study.

A school's approval is subject to withdrawal if a school fails to submit the required reports or issues certificates of eligibility to students lacking scholastic, financial, or language requirements.

APPROVED SCHOOLS

INS-approved schools range from 4-year colleges to vocational schools offering instruction in such areas as business, hair grooming, floral design, piano tuning, gardening, dress design, professional makeup, and personality development.

In the Los Angeles and New York districts more than 1,400 schools have been approved, as follows:

	Los Angeles	New York
Colleges and universities	114	76
Elementary, secondary, and adult schools and seminaries	263	322
Vocational and trade schools	215	420
	592	818

We reviewed the practices of six INS-approved schools in New York (two colleges and four vocational schools) and nine INS-approved schools in Los Angeles (two colleges, three vocational schools, and four English language schools). We selected schools which INS officials knew had large foreign student enrollments. INS records do not show the number of foreign students enrolled at each school. We also selected various types of schools which foreign students attend.

Assessing student qualifications

Although the catalogs of four schools in the Los Angeles area contained a requirement that an alien furnish grade transcripts before being accepted for admission, only two schools were actually getting such transcripts before issuing certificates of eligibility. Also one public adult English school in Los Angeles routinely issued certificates of eligibility to anyone who professed to be acting as a representative of an alien applying for admission. Neither the applicant's qualifications nor the identity of the representative was thoroughly examined.

None of the nine schools visited in the Los Angeles area had established English language proficiency as an admission requirement. Three of the five schools that do not specialize in teaching English language have established their own English language courses. Administrators at each school expressed the opinion that, because the school had English language instruction available, English proficiency was not necessary for admission. Approximately 90 percent of the foreign students attending two of these three schools have been required to take English language instruction before being allowed to begin their planned courses of study. Officials at both schools stated that the level of their English instruction is geared to the intermediate level of comprehension. Students whose English proficiency test results indicate a lower than intermediate level of comprehension are placed in the English language program even though the school recognizes that the students may have to repeat the English course because of inability to comprehend the material.

Besides delaying the start of their education, in some cases for two or three terms, foreign students who are required to take English instruction are charged additional tuition fees of from $164 to $533 per term for the English language courses. Students are not advised of the extra fee until they enroll.

Several school administrators in Los Angeles believed that American consulates were totally responsible for insuring that a student's English language proficiency was adequate to pursue a full course of study.

In the New York district both colleges visited had established minimum scholastic and English language requirements for admission. One vocational school required a minimum of 2 years of high school and a certificate of proficiency in English. Two vocational schools had no scholastic requirements for admission, although both required that aliens take an English language test after they arrived at the school. These schools gave the test to determine whether the students needed an English language course before starting their business courses. These schools have their own English language courses. An official at another vocational school in New York said that it admits anyone regardless of scholastic qualifications. The official also said that there was no English language proficiency requirement because most of the foreign students were from English-speaking countries of Africa and the West Indies. We noted, however, that the school has students from Colombia, Thailand, Venezuela, Peru, and India.

Reporting student attendance

Of the 15 schools visited in Los Angeles and New York, only the 4 colleges did not have specific attendance requirements. Also:

--One school did not maintain attendance records even though it had a minimum attendance standard.

--Twenty-eight of 35 foreign students enrolled at another school had unsatisfactory attendance records. Although the school's attendance standard was 80 percent, these 28 students had an average attendance of about 65 percent and none had been reported to INS. The school administrator ignored his reporting responsibility because he did not want to lose paying customers.

--More than 200 of the approximate foreign student enrollment of 400 at a public adult school had less than satisfactory attendance for the first 5 months of the 1972-73 academic year and none had been reported to INS. Seventy-five students did not attend at all during January 1973.

--Of 20 students at a secretarial and business school, 7 had more than 4 absences per month, which was unacceptable attendance. None of these students had been reported.

--One business school's attendance records were kept so poorly that it was not possible to determine students' actual attendance. The administrator said INS had rarely visited the school to check on school practices. He also said he was not familiar with all INS regulations concerning foreign students.

--Four schools had no system for identifying students who did not register within 60 days of the school's registration date. This resulted in long delays in reporting students who did not enroll.

Reporting students not taking full courses of study

Because Federal regulations do not define a full course of study, schools normally define their own full-course requirement. Many colleges require 12 semester hours as a full course of undergraduate study; however, vocational schools offer a variety of curriculums, some of which require only a few hours of class attendance each week. In January 1970 the New York district office reported that the lack of a definition of full course of study was a problem and suggested that INS adopt a minimum standard of credit hours for vocational schools. The report said that

> "The crux of the difficulty appears to be in the interpretion [sic] to be given the 'full course of study' required by law, * * * many schools in this district appear to set quite lax standards for the schedules of classes which they will certify as full courses of study. For example, a course of study meeting as little as two evenings per week for a total of six hours weekly has been certified by the school as constituting a full course of study. Moreover, many schools fail to indicate the student's schedule of classes on the form I-20, so that this Service remains unaware that a student may be attending classes on a part-time or evening basis and that this may not constitute a 'realistic appraisal' of a bona fide student program."

INS proposed an amendment to the Federal regulations defining a full course of study in vocational schools as 25 hours of school attendance each week if classroom instruction constituted the dominant part of the studies or 30 hours if shop or laboratory work constituted the dominant part. Classes scheduled to begin at 6 p.m. or later were not to be considered in the fulfillment of the hours limit unless the student was also enrolled as a day student, the subjects taken were directly related to his course of study, and they were not offered or available in earlier classes.

INS abandoned the effort to define a full course of study after receiving written objections to the proposed regulations from interested schools and school associations. A recognized accrediting agency for vocational schools objected to the proposed regulations because it did not believe the Federal Government should interfere in matters of educational policy which have always been within the powers of the States. It also pointed out that a full course, from an educational standpoint, depends on course content and quality of instruction and time is not a controlling factor. The agency suggested that a solution to the problem may be found through public hearings and discussions.

In New York, of 123 students sampled at 6 schools, 23 were behind the normal schedule for completing their courses of study and 18 were taking only 1 or 2 subjects during a semester. None of the 18 students who were not enrolled in a full course of study were reported to INS. The 18 students who had taken 2 or less subjects during 1 or more of the 7-week semesters did so as follows:

Students	Semesters when 2 or less subjects were taken
2	8
4	5
2	4
3	3
3	2
3	1
1	(a)
Total 18	

[a]Student told INS investigator that he took only 7 subjects in 13 semesters covering 6 years.

In the Los Angeles district only one of the nine schools has been routinely reviewing the academic achievement of each foreign student to monitor progress toward stated educational objectives. At one school, students had attended in excess of the time normally required to complete their courses of study. For example, two students enrolled in 16-week courses had been in attendance for 48 weeks and 60 weeks.

At one college a student's attendance had been insufficient to achieve course credit for the first eight quarters of enrollment over 2 years; however, the school had classified him as being enrolled in a full course of study.

OTHER SCHOOL PRACTICES

Two schools in the Los Angeles district have helped foreign students obtain high-interest-rate personal loans upon their arrival at the school even though the students were supposed to have established their financial capability before the Department of State or INS granted them student status. We believe such high-interest loans are an incentive for students to work in violation of their status in an effort to effect early loan repayment.

SCHOOLS UNCERTAIN AS TO RESPONSIBILITY FOR CERTIFYING STUDENT REQUESTS

INS regulations and instructions require that permission for a student to transfer to another school, extend his stay, or accept part-time employment be granted only if the applicant establishes that he was taking a full course of study at an INS-approved school. Therefore, INS requires each student to obtain a certification from the school showing that he is or was taking a full course of study. However, some school officials are uncertain about what they are certifying on the requests.

According to Los Angeles district office officials, the school's certification is evidence to them that the student is or was a full-time student. However, in our discussion with officials at three Los Angeles schools, we found that different schools' certifications may have different meanings. For example:

--An official of a public adult school was certifying the bona fide status of the student (taking into account attendance and scholastic achievement), but another certifying official at the same school considered only whether the student was enrolled and attended the school.

--An official at a business school said that attendance and achievement were not considered when certifying applications.

--Officials at a technical school said that, if a student's attendance and achievement have been unsatisfactory, they will note this on the application.

CONCLUSIONS

Some approved schools are issuing certificates of eligibility to aliens without assessing their qualifications and are not reporting to INS those students not meeting the schools' attendance requirements or not progressing satisfactorily toward their educational goals.

The requirement for schools to report students not pursuing full courses of study or to certify that they are taking full courses is meaningless as far as vocational schools are concerned because there is no definition of a full course of study. Without such a definition, foreign students can indefinitely prolong their stay in the country by taking limited course work.

INS must establish a strong school compliance review program to identify those schools which fail to meet their responsibilities and, when necessary, initiate action to withdraw school approvals.

RECOMMENDATIONS

We recommend that the Attorney General instruct INS to

--institute a mandatory program and specific guidelines for making systematic onsite school compliance reviews covering the revalidation of school approvals and schools' compliance with Federal regulations;

--renew its efforts to satisfactorily define a full course of study in vocational schools by consulting with the Office of Education and interested trade schools and their associations; and

--clarify the schools' responsibilities for certifying a student's request for school transfer, extension of stay, and employment.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice stated that INS will

--shortly publish a Notice of Proposed Rule Making defining what constitutes a "full course of study" not only for vocational schools but also for other institutions of learning and

--clarify the schools' responsibilities for certifying a student's request for school transfer, extension of stay, and employment.

The Department agreed that implementing a mandatory program and specific guidelines for making systematic onsite school compliance reviews covering the revalidation of school approvals and schools' compliance with Federal regulations would be highly desirable. However, the Department said INS had not been able to perform periodic school reviews nor would it be able to increase its efforts to do so until additional investigative personnel become available. (See app. I.)

In citing insufficient personnel to implement the above recommendations as well as other recommendations in our report (see chs. 4 and 5), the Department said it was not intending to sidestep the issues of our report and, as additional manpower became available or priorities change, the Service would make every effort to attack more aggressively the problems highlighted in the report. The fact that INS has not attacked these problems more aggressively is the essence of our findings and the subject of this report. Unfortunately, the longer it takes to initiate some action, the greater resources INS will need to devote to these problems sometime in the future.

CHAPTER 4

NEED TO BE MORE SELECTIVE IN GRANTING STUDENT STATUS

The Department of State and INS need to be more selective in screening applicants to insure that only those qualified are granted student status. They also need to develop and disseminate data for use in evaluating the effectiveness of screening student applicants.

The process for granting student status has relied heavily on the admitting school's determination that the alien has adequate scholastic qualifications and English language proficiency and on affidavits of support or statements by a sponsor that he will provide for the student's financial needs. The affidavit is not binding on the sponsor; it represents only a moral obligation. An alien obtaining his student status through a visa issued at an American consulate is interviewed, giving the consular officer an opportunity to question him about his ties to his home country, his scholastic and English language capability, his intentions to seriously pursue a full course of study, and his financial capability.

INS requires no interview of an applicant changing to student status in the United States. In determining an alien's intent to depart from the United States, the Department of State and INS give little consideration to the usability of the skills he seeks to learn.

Federal regulations require that an alien seeking student status have

--a properly executed certificate of eligibility from an approved institution or other place of study showing that he has been accepted for attendance,

--sufficient funds or have made other arrangements to cover his expenses,

--sufficient scholastic preparation and knowledge of the English language to pursue a full course of study or have made arrangements to be tutored in English language, and

--an intention and ability to depart from the United States upon terminating his studies.

The consular officers and INS may require an alien to post a maintenance of status bond with INS as a condition for granting student status. INS discourages the use of bonds, however, because of the time and expense of keeping bond records and following up to determine if a bond has been breached. The Department of State discourages the use of bonds because adjusting to permanent residence does not breach the bonds; it prefers that consular officers not rely on bonds as a substitute for determining admissability.

APPLICATIONS AT SELECTED CONSULATES

We reviewed the screening procedures and practices at American consulates in Tehran, Iran; Karachi, Pakistan; Bangkok, Thailand; Rio de Janeiro, Brazil; Bogota, Colombia; Lima, Peru; and Caracas, Venezuela. During fiscal year 1974 these 7 consulates issued 15,067 student visas--about 22 percent of the 68,334 student visas issued worldwide.

Tehran

In fiscal year 1974 the consulate issued 6,033 student visas. Data was not available showing the number of student visas denied. A total of 21,900 nonimmigrant visas were issued and 1,447 were denied.

Applicants for student visas are required to present to the consular officer (1) an Iranian passport, (2) a certificate of eligibility from an approved school, (3) school records, and (4) evidence of financial support. The consular officer reviews this documentation during an interview with the applicant.

Consular officers said they considered, among other factors, whether the student planned to attend a college or a university which would offer him an education he could use effectively when he returned to Iran. Consular officers also considered whether the student's proposed course of study realistically reflected his career plans and goals.

Some students desiring admission to schools in the United States use a student placement service. This non-profit organization performs several services for its clients, including translating school records and helping students select schools. The placement service charges fees for its services and serves about 30 or 40 students a month.

Other Iranian students use private certificate-of-eligibility brokers. The private brokers provide a quick means for a student to gain admission to a school in the United States. The consular officers said there were about 16 brokers in Iran. Because many Iranians do not know the names of schools in the United States, the brokers translate the school records and apply to schools for the students. Consular officers said that brokers would get a school for anyone and charged according to the student's need. For example, a student facing the draft might have to pay $500 for a certificate of eligibility.

The officials said that the use of brokers in Iran stems from the following conditions:

--There are substantially more Iranian students than openings in Iranian schools, so it is necessary for them to study abroad. In 1972, for example, there were about 71,000 more students than openings in Iranian schools.

--Some Iranians want to avoid the draft, and students accepted into a college are exempt. Many students go to brokers because brokers can obtain acceptances for students in 20 to 40 days, whereas the student placement service takes 3 to 8 months.

--The student placement service generally will not consider for placement a student who has a grade point average below C or who has failed any school year, whereas brokers will place anyone who can pay the fees.

Financial capability

Applicants for student visas must provide proof of financial support to show that they will not have to work while going to school. Financial support can be provided through relatives who guarantee support or by documents showing that funds are deposited in a bank in the student's name. However, this is no assurance that funds will be available throughout the student's academic career or will be used to support the student.

The consular officers told us of a practice in Iran whereby, after the student is safely enrolled in a U.S. college, the father allegedly becomes ill and cannot provide monthly support. The student then has a basis to obtain INS approval for work.

The consular officers said it was very common for Iranians to borrow money for 2 or 3 days, just long enough to show proof of financial support.

From a sampling of 52 aliens issued student visas by the Tehran consulate during fiscal year 1972, 25 had, according to Social Security Administration records, worked--14 shortly after entering the United States. The majority of these students had worked two or more calendar quarters.

Academic credentials and
English language proficiency

Consular officers review each applicant's past school records to ascertain whether he is prepared to undertake the planned course of study. The certificate of eligibility is accepted as evidence that the applicant has been accepted at an approved school. In addition to a minimum high school grade average of C, the student's ranking in a national qualifying examination is also considered.

Student applicants do not always have to be proficient in English to obtain visas. The interviews are conducted in English if the applicants know enough English to answer a few simple questions, but, if not, the interviews are conducted in Farsi. If the applicant's English is very poor, he may go, as many students do, to an English language school in the

United States before pursuing his course of study. Those students who have not completed their military obligation must obtain Iranian student passports from the Iranian Ministry of Science and Higher Education. To obtain such a passport the student must pass an English examination.

Consular officials said that they would like to require some kind of measurable English proficiency before issuing a visa. They explained that the problem was determining the minimum acceptable score on each test. One consular officer suggested that it might be adequate to require just enough English proficiency so the applicant could answer simple questions about his background and college plans without resorting to Farsi.

Karachi

During fiscal year 1974 the Karachi consulate issued 853 student visas. Data was not available showing the number of student visas denied. A total of 5,177 nonimmigrant visas were issued and 789 were denied.

Applicants for student visas or their sponsors must provide (1) a statement of finances including information on assets and bank accounts, (2) a foreign exchange authorization from the State Bank of Pakistan to insure that foreign exchange may be withdrawn for the student's support, (3) a certificate of eligibility from an approved school, and (4) a Government of Pakistan passport.

A consular officer interviews all applicants to determine whether they intend to return to Pakistan after completing their studies. A consular officer told us that a student educated abroad gains an advantage over local students when applying for a job in Pakistan, but with Pakistan's high rate of unemployment a student may return and be unable to find a job.

The consular officer said that, in approving student visas, she usually did not consider whether the student could effectively use the learned skill in Pakistan or whether comparable educational facilities were available in Pakistan. She pointed out that Department of State procedures do not require this. She also said that Pakistan encourages its citizens to take employment outside the country to earn foreign exchange.

Financial capability

The consular officer generally confirms the bank balances of students and/or their sponsors. We examined 50 approved visa cases and found that the sponsors' yearly incomes ranged from about $5,000 to $50,000; most sponsors had other assets, such as buildings and land. However, the consulate did not obtain data on the sponsors' liabilities and disposable incomes. We believe that in several cases sponsors had only marginal ability to finance a student in the United States. For example, in three cases when the sponsors' annual incomes were about $5,000, $6,000, and $12,000, the students' cost for a 9-month school year was estimated to be $3,000. We found no evidence of other assets for these sponsors.

From a sample of 65 aliens issued student visas by the Karachi consulate during calendar year 1972, 41 had, according to Social Security Administration records, worked shortly after entering the United States. The majority of these students had worked two or more calendar quarters.

Academic credentials and
English language proficiency

The consular officer generally accepts the applicant's certificate of eligibility from an approved school as sufficient proof of scholastic preparation. School records are required only if, during the personal interview, the consular officer doubts the applicant's ability to succeed in his studies. In the 50 approved visas we examined, no school records were required.

The applicant's proficiency in English language is usually determined by a test administered by the United States Information Service (USIS) and by a personal interview conducted in English by the consular officer. An applicant not having an adequate knowledge of English language can obtain a waiver of this requirement if the consular officer is satisfied that special arrangements have been made for the student.

In the 50 approved visas we examined, we found English language test scores on file for 31 applicants. Of the 31, 25 had passed the test and the other 6 obtained waivers of the language requirement on the basis of the schools' intentions to teach English language. The accepting schools had shown on the certificate of eligibility for the remaining applicants that 9 were proficient in English and 10 would be provided English language courses by the schools.

Bangkok

In fiscal year 1974 the consulate issued 4,479 student visas. Data was not available on the number of student visas denied. A total of 11,890 nonimmigrant visas were issued and 1,575 were denied.

An applicant for a student visa is required to submit (1) a letter from a sponsor stating that the sponsor will take care of the alien's expenses while he is in the United States, (2) a letter from a local bank regarding the sponsor's assets, (3) a certificate of eligibility from a school in the United States showing that the applicant has been accepted for admission, and (4) a passport issued by the Royal Thai Government. The Vice Consul, who interviews the applicants, generally makes the decision to approve or deny the visa.

In Bangkok, USIS has a counseling service for Thai students wishing to study in the United States. It provides information and assistance concerning which schools will help students achieve their academic goals.

The consular officers and USIS officials said that in Thailand students can easily obtain certificates of eligibility from certain airlines, travel agencies, and businesses set up for this purpose. One student told a consular officer that he paid $500 to a travel agency to arrange everything. Consular officers also pointed out that one school in the United States issued a blank certificate to a Thai in the United States who sent it to a student in Thailand.

Financial capability

The USIS counselor estimated that 50 percent of the Thai students entering the United States cannot support themselves and must work. He said that many want to go to the United States to work for a few years, save money, and return to Thailand.

Interviews with 13 student visa applicants showed that they estimated it would take from $200 to $350 a month to live in the United States. Three of the applicants said they planned to work.

Consular officers said that the current financial requirements (letter of guarantee from a sponsor and bank statement) are not effective, pointing out that one person may sponsor many students and the student's actual resources cannot be determined from the bank statements. One consular officer explained that all students can satisfy the financial requirements because they can always find some relative to sign for them. He does not think the sponsors realize the burden of this responsibility, and there is no legal recourse against a sponsor who does not provide the support promised.

From a sample of 69 aliens issued student visas by the Bangkok consulate during fiscal year 1972, 44 had, according to Social Security Administration records, worked--38 shortly after entering the United States. Most of these students had worked two or more calendar quarters.

Academic credentials and
English language proficiency

Consular officials said that too many students get certificates of eligibility without the school knowing their academic qualifications. Consular officers do not verify a student's academic records; if the student has a certificate of eligibility from a school, they assume that he is qualified.

In our interviews with the 13 students and our later monitoring of interviews of those applicants by the Vice Consul, we found that only 3 applicants could speak English

well. Twelve applicants had not taken an English language test. When the same students were interviewed by the Vice Consul, eight of the interviews were in English, two were partially in English, and three were in Thai.

The counselor at USIS said that too many students go to the United States without being proficient in English. He also observed that students get certificates of eligibility without the school's receiving a transcript or knowing the student's level of English proficiency. During our interviews with the 13 visa applicants, we found that 12 had received their certificates of eligibility from friends or relatives in the United States and not from direct contact with the school. One consular officer stated that it is hard to refuse an applicant because of a low proficiency in English if the certificate states that the student will be tutored in English.

The Vice Consul, in interviewing student visa applicants, asked the applicants about the potential for using the intended training or education in Thailand in 6 of the 13 interviews we observed. One consular officer said that, even if the education cannot be used in Thailand, this factor alone could not be used to deny a student visa.

South American consulates

The 4 consulates we visited in South America issued 3,702 student visas during fiscal year 1974. Data was not available on the number of student visas denied. The 4 consulates issued 125,826 nonimmigrant visas and denied 27,617. Screening procedures for processing student visas were generally the same in all four consulates.

Applicants for student visas or their sponsors were required to provide one or more of the following documents as evidence of financial capability: (1) bank statements, (2) tax returns, (3) receipts of tuition payments, and (4) bank notices that parents had agreed to transfer funds to the schools. The effort made to check the authenticity of the claimed financial support varied from country to country, depending upon the experience of the interviewer.

A consular officer interviewed each applicant in Spanish or Portuguese generally to establish home ties and the applicant's intent to return to his native country after completing his studies. Each interview took about 5 minutes.

The consular officer accepted the applicant's certificate of eligibility from an approved school as sufficient proof of scholastic preparation.

The usability in his home country of the education sought by the applicant was not considered in the visa screening process.

APPLICATIONS FOR CHANGE TO STUDENT STATUS AT INS OFFICES

An alien in the United States can apply for student status at any INS district office. During fiscal year 1974 INS processed 33,114 applications for change from a certain nonimmigrant status to another; 27,774, or 84 percent, were approved and 5,340 were denied. INS does not maintain statistics on how many aliens are seeking student status. According to INS, most nonimmigrant status changes are visitors applying for student status.

We examined 100 cases in which INS had granted student status. INS adjudicated these cases between December 1972 and May 1973. We believe that in 35 cases the aliens did not provide adequate documentation to show that they had the necessary financial capability to pursue their stated educational objectives. In another 13 cases, because of the insufficiency of information on the application, we questioned whether student status should have been granted.

We discussed the 48 questionable cases with INS personnel responsible for adjudications and they generally concurred with our findings. INS officials in the Los Angeles district attributed errors in adjudications to the large volume of applications which limits the amount of time devoted to evaluating each application.

INS seldom interviews applicants for student status and makes no attempt to determine whether aliens applying for a change to student status have sufficient scholastic preparation or English language proficiency. INS considers this

the responsibility of the admitting school. INS did not require the posting of a maintenance of status bond in any of the 100 cases examined though many of the applicants had questionable financial capability.

The following are examples of adjudications we questioned.

--A visitor from Taiwan entered in June 1972, enrolled in a 2-year business course in December 1972, and applied for a change to student status later that month. INS granted student status on the basis of documents showing that a friend earning $5,000 a year and having $3,400 in savings would pay tuition and living expenses estimated by the school to be $4,600 for the 2 years.

--A visitor from Iran was granted student status to attend a public adult school. His living expenses were estimated to be $3,000 a year. The student claimed his father would provide annual support of $4,200. The application was approved on the sole basis of a letter from his father agreeing to support him while he was in the United States.

--An Ecuadorian visitor arrived in the United States in June 1971. He was granted student status in January 1973 to take a business course at a cost of about $3,500 a year for tuition and living expenses. The only support shown was three money orders the alien had totaling $580.

--A 28-year-old visitor from Japan planned to attend a private English language school for 2 years at an estimated cost of about $5,000. He was granted student status 6 months after entering the United States and 4 months after filing his application and starting school. He was granted student status on the basis of documents showing that his cousin, whose gross income in 1971 was $5,500, would pay his tuition and living expenses. The INS adjudicator pointed out that this application was approved without requiring a maintenance of status and departure bond although the sponsor's income appeared low.

CHANGES IN POLICIES AND PROCEDURES FOR SCREENING STUDENTS

In March 1973 INS revised its instructions for screening applicants for student status. The instructions emphasize the importance of a close examination of the alien's financial capability to pursue a full course of study, including an evaluation of whether a sponsor can and will furnish the funds promised in an affidavit of support.

The instructions provide some criteria for determining whether an application for change to student status should be approved. Actions to be considered as suggesting that an applicant is primarily attempting to prolong his stay include filing an application (1) after an extension of stay application has been denied, (2) to attend a vocational school to take a course of study available in his home country or unrelated to his normal occupation or prior training, or (3) to attend an English language school for avocational purposes.

The Department of Justice (see app. I) believed these revisions, together with the special emphasis now placed on requiring adequate financial evidence before applications for change to student status are approved, had eliminated many of the defects we found in our examination of applications for change to student status.

In July 1973 the Department of State revised its Foreign Affairs Manual on the screening of student visa applicants. These new instructions define the phrase "sufficient funds to cover his expenses" to mean that the alien is not likely to resort to unauthorized employment to support himself during his studies. The manual provides that the applicant establish by appropriate evidence that sufficient funds are, or will be, available to him to defray all expenses during the entire period of his study. The consular officers must also evaluate the ability and willingness of a sponsor to provide the promised financial support.

The manual also provides that, if a school's certificate of eligibility requires the alien to be proficient in English and the school has made no arrangements to provide him the necessary instruction, the consular officer must satisfy

himself that the alien has the necessary proficiency and should converse with the alien in English during the interview and, if appropriate, require the alien to read aloud and explain a passage from a book or periodical. When the alien's English proficiency appears marginal, the consular officer may require him to take a standardized proficiency test.

The manual specifies that in most cases the school accepting the student will satisfy itself concerning the student's qualifications to pursue a full course of study and that it is considered sufficient that the applicant has successfully completed a course of study equivalent to that normally required of an American student seeking enrollment at the institution at the same level.

INFORMATION SYSTEM

INS provides information to consular posts concerning student visas they have issued whenever the student is (1) excluded from applying for admission to the United States, (2) permitted to withdraw his application for admission, or (3) found to be in the United States as an overstay, or in violation of status, and is granted voluntary departure or ordered deported by the INS. However, this information covers only a small percentage of students. In addition, whenever a student applies to INS for status as a permanent resident, INS requests information about him from the consular post which issued the student visa. Also, INS and the Department of State and its consulate officers frequently correspond about some schools that may be accepting applicants of questionable qualifications and about other problems concerning students.

The present exchange of information between the Department of State and INS is beneficial; however, INS has other information which, if compiled and analyzed, would provide a better basis upon which to evaluate the effectiveness of student-screening procedures and practices. For example, if reports from approved schools on students who fail to register or who terminate attendance and data on apprehended students were added to the present exchange of information, they would be more reflective of the abuses of foreign student status and provide a more meaningful basis for evaluating the effectiveness of student-screening procedures and practices.

In addition, although INS provides some feedback to consulate posts, this information is not generally distributed to its own officers responsible for screening applicants for student status.

CONCLUSIONS

The Department of State and INS have not been selective in screening student applicants. Screening student applicants is subjective because the intentions of the alien are being evaluated. The consular officer's attitude can play a large role in determining whether to issue a student visa.

The latest revisions in screening procedures by the Department of State emphasizing a closer scrutiny of financial capability and English language proficiency should help restrict student visas to only qualified applicants.

INS guidelines have also been revised to emphasize the importance of evaluating the student's financial capability and a sponsor's intentions to live up to his pledge.

Department of State guidelines require that consular officers determine English language proficiency and make a cursory check of a student's scholastic qualifications; however, INS procedures have no such requirements. Because INS seldom interviews applicants for student status, it is unlikely that INS screening will be improved by the changes in its procedures.

The Immigration and Nationality Act does not prohibit an alien from seeking to learn a skill which has limited application in his country; it requires only that the student depart from the United States upon completing his studies. Because it is anticipated that most students will return to their country of origin, we believe inquiry should be made concerning the opportunity to use the desired training in that country as an aid in determining whether the student intends to depart from the United States.

The Department of State and INS, to have a sufficient basis for evaluating the effectiveness of their student-screening procedures and practices, need to further develop an information system. The system should include data, by

country of origin, on the number of students not registering at school, failing to complete their studies, and violating the conditions of their entry and stay. Reports INS receives from the schools and its apprehension statistics could provide a basis for developing such a system.

RECOMMENDATIONS

We recommend that the Attorney General and the Secretary of State (1) require, as part of screening procedures, that inquiry be made concerning the opportunity to use the training desired by the alien in his home country as an aid in determining the alien's intentions to depart from the United States and (2) further develop an information system using schools' reports and INS apprehension statistics to help evaluate the effectiveness of the procedures and practices for granting student status.

We also recommend that the Attorney General have INS amend its operating instructions to require

--interviews of all applicants for student status to help determine their financial capability and intentions to pursue full courses of study and return to their countries and

--an English language proficiency qualification similar to that imposed by the Department of State.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice (see app. I) agreed with the intent of our recommendations that INS (1) interview all applicants for student status and (2) institute an English language proficiency qualification similar to that imposed by the Department of State but said INS could not implement either recommendation because of insufficient personnel. (See p. 26.) The Department, however, added that INS will consider requiring student applicants whose knowledge of English is questionable to present evidence from the school they plan to attend indicating how it determined the applicant's English proficiency.

The Department believed our recommendation suggesting that inquiry be made concerning the opportunity to use the training desired by the alien in his home country as an aid in determining the alien's intentions to depart from the United States is impractical and would needlessly delay the adjudication process.

The fact that about 22 percent of the aliens adjusting their status to permanent residents in fiscal year 1974 were foreign students, coupled with the fact that over 42 percent have overstayed their period of admission, indicates the need for some type of INS action to reverse this trend. We believe that it would not be impractical to require that inquiry be made concerning the opportunity to use the training desired by the alien in his home country to help determine the alien's intentions to depart from the United States. This could be accomplished at the same time aliens are interviewed for change to student status. The Department of State (see app. II) said it was seriously considering implementing our recommendation.

The Department of State concurred in our recommendation that an information system be developed, whereas the Department of Justice stated that INS' present system provides information to consular posts.

While the present exchange of information is beneficial, we believe further development of this system is necessary for the Department of State and INS to have a sufficient basis for evaluating the effectiveness of student-screening procedures and practices.

CHAPTER 5

IMPROVEMENTS NEEDED IN REVALIDATING STUDENTS' STATUS

INS procedures and practices for granting foreign students permission to transfer schools, extend their stay in the country, and accept employment are not adequate and do not insure that a student is maintaining or intends to maintain his status.

Because of the large number of such applications and the time required to adjudicate them, INS rarely researches its files to ascertain a student's past educational goals or prior extensions of stay and school transfers. INS seldom interviews the students. Many requests in New York and Los Angeles are adjudicated by INS inspectors at the area airports and other INS stations. Because INS files are kept at the district office, these inspectors cannot research a student's file and must adjudicate the request solely on information in the application.

The files at the district office do not bring together all data on each student in one file; therefore, extensive searching is required to obtain data on a foreign student. No reviews had been made of INS-approved adjudications to determine whether they were in accordance with INS criteria.

INS officials in Los Angeles said that, because of the (1) high volume of student requests, (2) decentralization of the adjudication process, (3) lack of sufficient criteria for denying a request, and (4) lack of adequate data on a student's activities, INS is compelled to give the student the benefit of the doubt and to deny requests only in the most extreme cases.

SCHOOL TRANSFERS

Students admitted into the United States often request INS permission to transfer between schools. Generally these requests are due to (1) the student's desire to continue his education beyond his initial educational goal, (2) the unavailability of certain courses he desires at the school where he is enrolled, or (3) his desire to pursue a different course of study. During fiscal year 1974 INS

adjudicated 38,893 school and exchange program transfer applications and approved 36,712, or 94 percent.

INS regulations require that a foreign student wishing to transfer schools submit a valid certificate of eligibility completed by the new school with his transfer application.

The student may transfer only if he can establish that he (1) is a bona fide nonimmigrant student, (2) intends to take a full course of study at the school to which he is transferring, and (3) was in fact a full-time student at the school he last attended, unless failure to do so was due to circumstances beyond his control.

INS operating instructions provide that, before such applications are approved, the INS adjudicator should determine whether the student's course of study at the new school is reasonably consistent with his previously declared educational objective and whether the student has already completed the scholastic preparation necessary to attain that objective. INS instructions alert the adjudicator to the possibility that a transfer request is being sought solely to prolong a student's stay in the United States.

In addition, according to the New York and Los Angeles district offices, transfers from one trade school to another are normally not looked upon favorably unless the trade school programs relate to each other and lead to the alien's stated original educational objective. However, they stated that school transfers indicating progress toward an indicated educational objective are ordinarily approved. Also, in the New York district office, INS will not permit a student to transfer unless he attended the previous school for at least 1 month.

We reviewed 100 school transfer applications adjudicated by the Los Angeles and New York district offices from January to May 1973. Ninety-five of the 100 applications were approved. Of the 95 approved applications, 34 were not adjudicated in accordance with INS procedures or lacked sufficient information to enable the adjudicator to make a valid judgment. At our request INS officials reevaluated these 34 applications and agreed that the transfers should not have been approved. The bases upon which the 34 transfers, some of which contained more than one deficiency, should have been denied were:

	Number of deficiencies
Application did not contain school's certification or was certified by wrong school	20
Applicant did not submit sufficient information	15
Proposed course of study was not consistent with student's original educational objective	6
Student not attending full time or attended original school for less than 1 month	5
Time for course of study unreasonable--student appears to be prolonging stay	2
Total	48

Below are cases of approved school transfers which we questioned.

--A student from the West Indies entered in August 1971 to study welding at a vocational school. He graduated from that school in April 1972 after completing an auto mechanics program and 9 months later applied for and was granted permission to transfer to another vocational school to study dental technology. The student's new course of study was not consistent with his original educational objective.

--A Peruvian student entered in January 1971 and enrolled in a beauty college to study cosmetology. She completed the course and in March 1973 she was granted permission to transfer to a public adult school to study English. The application did not contain the proper school's certification that the alien had been a full-time student. In addition, the new course of study was not consistent with the student's original educational objective.

--An Indian student entered in September 1972 and enrolled at a vocational school to study data processing. In January 1973 the student requested and was granted permission to transfer to another vocational school to study plumbing. The application did not contain the school's certification that the student had been a full-time student. Also, the plumbing course was not consistent with the student's original educational objective.

No reevaluation of student's financial capability when transferring schools

If a student desires to transfer schools, INS does not reevaluate his ability to support himself even though his educational costs may increase significantly.

Because INS does not require personal interviews or maintain complete and easily accessible records on a student's history, INS adjudicates most student requests solely on the basis of information on the transfer application and the certificate of eligibility. For example, of the 50 INS-approved transfers analyzed in the Los Angeles district, 14 transfers resulted in tuition increases of $1,700 to $5,300 a year. The majority of these tuition increases ranged from $3,000 to $4,000 a year. In no case did INS officials determine whether the transfer would result in increased costs to the student or whether he could pay these additional costs.

INS instructions do not require a reevaluation of the student's financial capability when he applies to transfer schools.

EXTENSIONS OF STAY

Bona fide foreign students are permitted to remain in the United States as long as legitimately necessary to achieve their educational goals. Because INS regulations limit the period of admission of a student to 1 year, most students must apply for extensions of stay so that they can complete their courses of study.

Foreign students desiring to extend their stay must apply to INS. The application must include a certification by an appropriate school official that the student is pursuing a full course of study. If the applicant can establish that he is maintaining his status and is able and intends to continue his studies, INS will grant an extension of stay for up to 1 year.

We reviewed 100 approved extension-of-stay applications adjudicated by the INS New York and Los Angeles district offices during fiscal years 1972 and 1973. We questioned 10 of the applications, and INS officials in New York and Los Angeles reexamined them and agreed they should not have been approved.

The following three cases show that INS needs to scrutinize applications for extension of stay, including a review of the applicant's original educational objective and the reasons he has not completed his studies in the normal time.

--A citizen of Greece entered the United States in November 1967 as a visitor to stay until December 1967. He received two 6-month extensions of stay as a visitor and in November 1968 he applied for and was granted student status. He enrolled at a vocational school and was granted five 1-year extensions of stay to complete a course of study which normally takes 6 to 24 months. School records showed that the student had a history of withdrawals and had failed several courses. Although the student's current application for an extension contained the school's certification that he was attending 25 hours a week, he was actually attending only 13.

--A citizen of Ecuador entered the United States in September 1968 as a foreign student to take a 2-year course of study. In March 1973, more than 4 years after entry, he applied for and was granted permission to extend his stay at the junior college he was attending. The student stated in his application that he expected to complete his

studies by January 1975, more than 6 years after entering the 2-year course. He indicated that his departure date was unknown.

--A citizen of Guyana entered the United States in July 1968 as a student to attend a vocational school. He received one extension of stay through March 1969. In August 1969 he transferred to another vocational school and subsequently received four extensions of stay to study at this school. The student's course of study at the latest school requires less than 2 years to complete. He has now been enrolled in this school for about 4 years.

PERMISSION TO ACCEPT EMPLOYMENT

Federal regulations provide that a foreign student may not accept off-campus employment in the United States unless he applies for and obtains advance permission. If the employment is requested because of economic necessity, the student must establish that the necessity is due to unforseen circumstances arising after entry or after change to student status. In addition, an authorized school official must certify on the student's application that such employment will not interfere with the student's ability to successfully carry a full course of study. Permission to accept or continue employment may be granted for periods of not more than 12 months.

A student may obtain INS' permission to engage in employment for practical training if an authorized school official certifies that the training is consistent with the student's field of study and that this training would not be available to the student in his native country. Permission to accept employment relating to practical training may be granted in 6-month periods not to exceed an 18-month total.

In fiscal year 1974 INS adjudicated 50,753 employment requests and approved 38,147, or 75 percent. We reviewed 100 employment applications adjudicated between January and May 1973. INS approved 93 of these applications. The sample consisted of 61 applications for part-time employment and 39 applications for practical training.

Of the 93 approved employment applications, 34 did not meet INS criteria or lacked the necessary data to make a valid adjudication. INS reevaluated these applications and agreed that they should not have been approved. The bases upon which the 34 applications should have been denied are set forth below.

	Number of applications
Application lacked sufficient information to make valid adjudication	14
Applicant failed to show that financial need was due to unforeseen circumstances arising after entry	13
Practical training was not related to field of study or similar training could have been obtained in native country	5
Application lacked the school official's or student's signature	2
Total	34

INS seldom verifies the claim that financial need arose after entry. We found no instances in our sample when INS compared the source and amount of income as claimed by the student on his application for employment to the financial information on the certificate of eligibility he presented to the consular officer at the time he obtained his visa. INS operating instructions acknowledge the necessity of such comparisons, pointing out that past comparisons have shown that some students presented false documentation concerning their ability to support themselves.

Below are two cases in which permission to accept employment was granted because of an unforeseen change in financial circumstances even though the applicants did not demonstrate that such circumstances did in fact exist.

--A Colombian student entered the country in November 1972 to study English at a school for computer studies. In January 1973, 2 months later, the student requested, and INS granted, permission to accept employment based on his desire to make a voluntary contribution toward his education. The application showed that the student's sponsor could support him. The application did not demonstrate that a financial need existed due to unforeseen circumstances.

--A Guyanese student was admitted in September 1964 to study electrical engineering at a community college. The student transferred to a school to study data processing and computer programing and then to a third school to study aerospace engineering. In August 1971 he requested and was given permission to accept employment, and in January 1973 he applied for and received permission to continue employment. The applicant listed expenses of $4,100 (tuition $2,300 and living expenses $1,800). His annual support from relatives amounted to $2,600. Because the student's support from relatives exceeded the cost of his tuition and because he lived with relatives, the applicant failed to demonstrate the need for employment because of economic necessity. In addition, the student's academic history suggests that he may not be seriously pursuing his educational objective because he has been studying for approximately 9 years.

CONCLUSIONS

INS procedures and practices for adjudicating student applications for school transfers, extensions of stay, and permission to accept employment are inadequate and allow many students to stay in the United States for extended periods without seriously pursuing their declared educational goals. Close scrutiny of such applications is necessary to insure that students maintain their status.

Although the adjudication process is to a great extent subjective, INS adjudicators have not adequately considered (1) available data, such as the student's declared educational objectives, his progress in achieving these objectives,

and his financial capability when transferring schools and (2) the adjudication criteria in the regulations and the INS instructions.

Periodic reviews are needed to help insure that the adjudications conform to the criteria established in the operating instructions.

RECOMMENDATIONS

We recommend that the Attorney General require INS to:

--Provide its adjudicators with additional criteria for determining whether a student's request for transfer, extension, or employment should be approved. These criteria should focus on the student's progress in achieving his declared educational objective.

--Require that a student reestablish his financial capability to pursue a full course of study when he transfers schools and educational costs increase significantly.

--Establish a program for making reviews to determine that the adjudications are conforming to the criteria in the operating instructions.

--Develop a files system permitting INS adjudicators to readily research a student's immigration records.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice stated that INS will

--provide additional criteria to its adjudicators for determining whether a student's request for school transfer, extension of stay, or employment should be approved and

--establish a program for reviewing adjudications to determine that they are being made in accordance with operating instructions.

Although the Department agreed that it would be desirable to

--develop a files system permitting INS adjudicators to readily research a student's immigration records and

--require that a student reestablish his financial capability when he transfers schools and educational costs increase significantly,

it stated that these recommendations could not be implemented because of the shortage of clerical and officer personnel. (See p. 26.)

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

NOV 1 1974

Mr. Victor L. Lowe
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Lowe:

This letter is in response to your request for comments on the GAO draft report titled "Need for Better Controls on the Foreign Student Program."

With minor exceptions, we agree with the report and its recommendations. The Department is and has been well aware of most of the deficiencies detailed in the report. However, because of manpower shortages, the Immigration and Naturalization Service (INS) has not been able to take all the actions necessary to correct the deficiencies. Every effort is being made by INS to effectively and productively deploy its manpower to obtain the greatest payoff, and, until INS's work force is adequately increased, many of the recommendations made in the draft report cannot be accomplished. INS has requested an amendment of its fiscal year 1975 budget request which, if approved, would furnish badly needed personnel to enhance its enforcement capabilities.

The report recommends that the Attorney General and Secretary of State "require as part of screening procedures that inquiry be made concerning the opportunity to use the training desired by the alien in his home country as an aid in determining the alien's intentions to depart from the United States." We believe this recommendation is impractical and would result in needless delays in adjudicating applications for student status. Except for

extreme cases, the recommendation would require an inquiry or investigation abroad to determine whether a shortage of workers exists in the alien's home country in the field of his intended studies. Moreover, the inquiry would require an estimate of prospective job opportunities in the student's chosen field some years in the future coincident with the time he would be returning to his country.

Another GAO recommendation suggests that the Attorney General and Secretary of State develop an information system utilizing reports from schools and INS apprehension statistics to aid in evaluating the effectiveness of procedures and practices for granting student status. This [See GAO note 1, p. 62.]

Under the present system, a Notice of Visa Cancellation/Border Crossing Card Voidance (Form I-275) is prepared and sent to the consular post which issued the student visa whenever a student is (1) excluded from applying for admission to the United States, (2) permitted to withdraw his application for admission to the United States, or (3) found to be in the United States as an overstay, or in violation of status, and is granted voluntary departure or ordered deported by INS. In addition, whenever a student applies to INS for status as a permanent resident, INS requests, on Form G-325A, information about the student from the consular post which issued the student visa. Thus, consular posts which issue student visas are made aware of subsequent developments relating to students when they receive Forms I-275 and G-325A from INS.

Realistically, with its current work force, INS is in no position to consistently follow up school reports of student violators. Although investigative efficiency has been increasing in terms of the number of cases completed per investigator, INS case backlogs are growing larger because of the increased number of cases being received. The enormous illegal alien problem, coupled with the number of other high priority investigative cases and programs, precludes investigation of most low priority student violations. Our ability to follow up student violation reports in the future will depend on the number of personnel available and the assignment of investigative priorities.

A further recommendation suggests that INS institute a mandatory program and specific guidelines for making systematic on-site school compliance reviews covering revalidation of the school approvals and the schools' compliance with Federal regulations. We agree that implementation of this recommendation would be highly desirable. INS regulations provide for review of school approvals, but INS has not been able to perform regular periodic reviews because of manpower shortages. Page 34 of the draft report recognizes this personnel shortage. Currently, our investigative personnel are engaged in high priority area controlling, smuggling and prosecuting programs. If additional investigative personnel become available, or investigative priorities change, we will certainly consider carrying out this recommendation. Until then, however, we will not be able to increase our current efforts in making school compliance reviews.

[See GAO note 2, p. 62.]

[18]

The report also recommends that INS renew its efforts to find a satisfactory standard as to what constitutes a full course of study in vocational schools by consulting with the Office of Education and interested trade schools and their associations. INS has concluded that it will again publish a Notice of Proposed Rule making defining what constitutes a "full course of study" not only for vocational schools, but also for other institutions of learning. This action will be taken shortly.

Another recommendation suggests that INS clarify the schools' responsibilities for certifying a student's request for school transfer, extension of stay, and employment. INS will implement this recommendation by either amending its regulations, revising the certification on Form I-538, the Application by Nonimmigrant Student for Extension of Stay, School Transfer or Permission to Accept or Continue Employment, or both of these actions.

The report also recommends that INS interview all applicants for student status to aid in determining their financial capability and intentions to pursue a full course of study and return to their countries. Although we agree with the intent of this recommendation, INS has not imposed a mandatory interview requirement for applicants seeking a change to student status because it lacks the

manpower needed to make the interviews. With its present staff, adopting this recommendation would slow down adjudications of this type of application to the point where aliens would obtain, by default, the extended stays in this country they are requesting in their applications. In addition, other types of adjudications which are equally as important, or perhaps more urgent, would suffer from the diversion of INS's limited manpower to the interviewing of students.

Another of the recommendations suggests that INS amend its operating instructions to require an English language proficiency qualification similar to that imposed by the Department of State. Although it would be desirable to adopt this recommendation, INS does not have sufficient personnel to interview, individually, approximately 30,000 applicants a year to determine their English proficiency. Further, INS does not have educational and cultural attaches to administer English proficiency tests when doubts exist concerning a prospective student's knowledge of English. As an alternative, INS will consider requiring student applicants whose knowledge of English is questionable to present evidence from the school they plan to attend indicating how the school determined the applicant's English proficiency.

[See GAO note 1, p. 62.]

INS agrees with the recommendation that its adjudicators be provided with additional criteria for determining whether a student's request for school transfer, extension of stay or employment should be approved. This additional criteria should focus on the student's progress in achieving his declared educational objective. INS will carry out this recommendation by providing adjudicators with additional criteria in its Operations Instructions, its Immigration Inspector Handbooks, and through publication of precedent decisions dealing with adjudication of such requests.

Another of the recommendations requires that a student reestablish his financial capability to pursue a full course of study when he transfers schools and there is a significant increase in educational costs which was not considered when he was granted student status.

We believe it would be desirable to adopt this recommendation, but we feel it would not be feasible. Long delays would occur in application adjudications because of the shortage of clerical and officer personnel to obtain and review related records.

[See GAO note 1, p. 62.]

INS agrees with the recommendation that they establish a program for making reviews of adjudications to determine that such adjudications are being made in accordance with operating instructions. INS will implement this recommendation by requiring supervisory officers to make periodic spot-checks of these adjudications whenever feasible.

The final recommendation suggests that INS develop a files system which will permit INS adjudicators to readily research a student's immigration records. Until several years ago, INS opened individual file records when nonimmigrant students were admitted to the United States or when an application for change to student status was received. All applications for extension of stay, school transfers or permission to work submitted by the student were included in the student's file record after adjudication.

Because of shortages of clerical personnel to index, open, and locate related file records, and because of delays caused by routing applications to the operating unit for adjudication, INS stopped creating file records for students. In its place, a "short cut" filing method was started whereby applications submitted by students were filed after adjudication, in an alphabetical file by calendar year.

We believe it would be desirable to reinstitute the creation of individual file records and to make use of information on file relating to students before adjudicating applications submitted by students for extension of stay, school transfer or permission to engage in employment. However, until additional manpower becomes available, INS must continue to use "short cuts" to accomplish its work. Of course, in individual instances where it is evident that related file material is needed to adjudicate the case, the material will be obtained, but this will be the exception rather than the rule.

Under matters for consideration by the Congress, GAO suggests that "in order to eliminate preferential treatment between prospective immigrants from the same country, the Congress may wish to consider imposing a mandatory waiting period for foreign students before allowing them to acquire immigrant status if grounds for such status were acquired while in an illegal status." In making this suggestion, we believe GAO has in mind situations such as a student who, while in illegal status, marries a United States citizen. This marriage makes it easier for the student to acquire permanent resident status as compared with a prospective immigrant in his home country who must qualify by other means for issuance of an immigrant visa. While this report focuses solely on foreign students, this phenomenon is, of course, equally applicable to aliens who were admitted to the United States through other nonimmigrant classifications. After admission, these nonimmigrants either acquire relationships to United States citizens or to lawful permanent residents, or they acquire occupational qualifications which give them preferential treatment in obtaining immigrant visa numbers.

We believe GAO needs to clarify the point in time that the mandatory waiting period referred to in the proposal to the Congress would begin to toll. For example,

should it begin when the student marries, or should it begin when INS approves the petition filed by the United States citizen spouse on behalf of the student?

We also believe the purpose of the proposal to the Congress is obscure and needs clarification. If a student is permitted to remain in the United States during the waiting period, no purpose would seem to be served by any enforced delay in adjusting his status. Furthermore, if the purpose is to require the student's departure from the United States for the mandatory period, we believe such policy would be in conflict with the history of Section 212(e) of the Immigration and Nationality Act, as amended.

Briefly, a review of the history shows that under prior versions of that section all exchange aliens had to return to their foreign residence for 2 years before they could apply for immigrant visas or status as permanent residents. The Congress, recognizing that aliens sometimes acquire equities in the United States which merit exceptions from this 2-year rule, passed legislation which provided for certain waivers to the foreign residency requirement. A further amendment to the Act on April 7, 1970, exempted large numbers of exchange aliens from the foreign residency requirement and provided additional bases for seeking waivers from the foreign residency requirement for the benefit of those aliens still subject to it. We believe the history of this section as it pertains to exchange aliens would be in conflict with enactment of the GAO proposal.

We are also providing comments for your consideration regarding certain facts or conditions stated in the report.

[See GAO note 1, p. 62.]

[ii and 15] [See GAO note 2, p. 62.]

Page 4, first complete paragraph, first sentence, and page 32, second paragraph, first sentence. We believe the same comment could be made, in varying degrees, about most classes of nonimmigrants, including temporary visitors, temporary workers and exchange aliens. As long as the law provides a means for various classes of nonimmigrants to proceed to the United States, and provides administrative means (with requirements which are not too difficult to meet) for them to acquire lawful permanent resident status within the United States, appreciable members will come ostensibly as nonimmigrants and attempt to acquire permanent resident status. Where nonimmigrants have a status which normally permits them to remain here for a number of years, such as a student, they are more apt to acquire equities, such as United States citizen spouses. Once equities are acquired by nonimmigrants, it may be difficult for INS to deny an application for permanent resident status as a matter of discretion because the alien is statutorily qualified and the district director's decision is subject to administrative and judicial reviews. In the past, the Congress has enacted legislation making certain nonimmigrants, such as exchange aliens, ineligible to acquire permanent resident status except under special circumstances. The Congress has never enacted such legislation for nonimmigrant students.

[See GAO note 1, p. 62.]

[See GAO note 1, p. 62.]

[See GAO note 2, p. 62.]

[8]

Page 24, third paragraph. The GAO report shows that a high percentage of nonimmigrant students in or destined to enroll in "vocational, English language, or public schools" failed to enroll or terminated their attendance prematurely. INS has long recognized that abuses of the foreign student program were more prevalent among students destined to enroll in vocational, business and language schools than among students destined to enroll in academic institutions. With this in mind, INS advocated legislation restricting "F-1" student status to students destined to enroll in colleges, universities, seminaries, conservatories, academic high schools or elementary schools. Under H.R. 14831, introduced in the 92nd Congress, the vocational, business and language school student would have been classified as a temporary visitor. With such a classification, the student would have been admitted for a shorter period of time and would not have been eligible to work under any INS regulations permitting employment of F-1 students under specified circumstances. This legislation failed enactment.

[See GAO note 1]

While we are not intending to sidestep the issues of this report, we believe it dramatically points out the seriousness of our manpower needs. Criticism of our present practices of not creating file records for each student case, not interviewing applicants for student status, not performing on-site investigations of approved schools, and not following up on school reports points out the effects of an acute shortage of officers and clerks. INS currently attempts to use its limited manpower resources in a manner which concurrently accomplishes the most important tasks first and offers the greatest return for the time and money spent. As additional manpower becomes available, or priorities change, INS will make every effort to attack more aggressively the problems highlighted in the report.

We appreciate the opportunity to comment on this draft report.

Sincerely,

Glen E. Pommerening
Assistant Attorney General
for Administration

GAO notes:

1. Additional comments were considered in preparing our final report but are not reproduced here.

2. Numbers in brackets refer to pages in the final report.

DEPARTMENT OF STATE

Washington, D.C. 20520

August 23, 1974

Mr. J. K. Fasick
Director
International Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Fasick:

Enclosed are the Department of State comments on the General Accounting Office's draft report entitled, "Need for Better Controls on the Foreign Student Program". The draft report was forwarded under cover of your letter of July 17, 1974, to the Secretary of State.

Sincerely,

Richard W. Murray
Deputy Assistant Secretary
for Budget and Finance

Enclosure

Department of State Comments on
GAO DRAFT REPORT: "Need for Better Controls on the Foreign Student Program"

The Department's review of the Draft Report disclosed no findings, conclusions or recommendations which would be affected by any actions already taken by the Department. The Draft Report correctly reflects the Department's instructions to its consular officers abroad which set out the procedures and criteria to be used in issuing student visas. The Draft Report takes cognizance of the revision to the Notes to 22 CFR 41.45 dated July 1973, which were published after the inspection tours were completed, and correctly interprets their import. Some specific comments about the conclusions and recommendations included within the Draft Report are deemed to be warranted.

The Department is currently giving serious thought to implementing the recommendation of the Report that consular officers generally be instructed that the opportunity for use of an applicant's proposed training in his home country is a relevant factor to be weighed in the equation of whether the applicant has a residence abroad he has no intention of abandoning. As illustrated in the Report from interviews with consular officers in Bangkok and Tehran, many interviewing officers presently pursue such a line of inquiry with student visa applicants. The Report accurately acknowledges that utility of a particular skill at home is not, as such, among the requirements for qualification for a student visa under the Immigration and Nationality Act; a negative response could not serve to disqualify the applicant per se. We also recognize that one of the strengths of our educational system is its capacity for discovering and developing hidden potential of which the student himself may not have been aware. Moreover, the needs for skills in a particular country may change rapidly. However, the Department considers the conclusion valid that such a determination, where possible, could, in certain cases, be a persuasive indicator of the present intention of the applicant to depart permanently from the United States at the conclusion of his study. The Department feels that all consular officers should be apprised of the potential fruitfulness of this sort of inquiry and, to this end, is contemplating a revision of its instructions for appropriate cases.

The Department concurs in the conclusion that an information retrieval system designed to present hard statistical data on violators of student status by country

of origin could prove to be useful in providing a basis for evaluating the effectiveness of the present screening procedures and perhaps for formulating more efficient criteria for selection. The Department tentatively supports the ultimate development of such a system if coupled with a preliminary analysis of the feasibility of extrapolating generalized, equitable guidelines from raw data on the types and extent of status violation by nationals of particular countries.

With regard to responsibilities of schools enrolling foreign students, the Department recommends that consideration be given to suspension or revocation of authority to issue I-20's for consistent abuse in the issuance of I-20's to students who are unqualified (academically, linguistically, or financially) or consistent violations of reporting and other requirements concerning their foreign students.

[See GAO note, p. 66.]

The Department believes that the problems described by the report are much more frequent in vocational schools than in institutions of higher learning. We believe the report should make this distinction clear. Moreover, the population of 222,000 foreign students cited in the report includes students at the elementary and secondary levels as well as vocational and university students. Presumably elementary and secondary school students will rarely fall within the areas of principal concern of this report.

Finally, the Department wishes to comment that, in its view, the Draft Report's recommendation to the Congress, were it to become law, could prove to be virtually

unadministrable both because of its scope and because of the inevitable vagueness of its operative provision. As pointed out in the Report, the cases most easily identifiable would be cases involving marriage to American citizens -- the very cases in which the alien's equities are the strongest and the concommitant harm to the interests of an American citizen would produce the most vocal expressions of public concern on individual bases. In other cases of application by students for adjustment to permanent resident status the coincidence between the acquisition of grounds for a preferred position under the Immigration and Nationality Act and the time frame of violation of student status could be tenuous and difficult to prove. In addition, such a provision might well be viewed as punitive, since it imposes a penalty of "banishment" for a certain time on persons otherwise qualified to remain in the United States for, in the general case, accepting unauthorized employment. The legal fights, especially in cases involving the very direct interests of American citizens, would be legion. Although this is a decision for Congress, the Department believes its views should be available for the consideration of the Committee.

Thomas M. Recknagel
Acting Administrator
Bureau of Security and
Consular Affairs

GAO note: Additional comments were considered in preparing our final report but are not reproduced here.

SCHOOLS REVIEWED

Los Angeles:
- ELS Language Center
- Hollywood Academy
- Lynwood Adult School
- E. Manfred Evans-Cambria Community Adult School
- MTI Business College 1/
- National Technical Schools
- Sawyer College of Business
- University of Southern California
- Woodbury College

New York:
- New York Business School
- Pace College
- Queens College
- R.C.A. Institutes, Inc.
- Spanish-American Institute
- Therese Aub Secretarial/Ames Business School

1/ Name changed to Los Angeles Business College on February 28, 1973.

APPENDIX IV

PRINCIPAL OFFICIALS RESPONSIBLE FOR ADMINISTERING ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office From	To
DEPARTMENT OF JUSTICE		
ATTORNEY GENERAL:		
William B. Saxbe	Jan. 1974	Present
Robert H. Bork (acting)	Oct. 1973	Jan. 1974
Elliot L. Richardson	May 1973	Oct. 1973
Richard G. Kleindienst	Mar. 1972	May 1973
John N. Mitchell	Jan. 1969	Feb. 1972
Ramsey Clark	Oct. 1966	Jan. 1969
COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE:		
Leonard F. Chapman, Jr.	Nov. 1973	Present
James F. Greene (acting)	Apr. 1973	Nov. 1973
Raymond F. Farrell	Jan. 1962	Apr. 1973
DEPARTMENT OF STATE		
SECRETARY OF STATE:		
Henry A. Kissinger	Sept. 1973	Present
William P. Rogers	Jan. 1969	Sept. 1973
Dean Rusk	Jan. 1961	Jan. 1969

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