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FILE NO. S-1234

SCHOOLS AND SCHOOL DISTRICTS:
Eligibility of Vietnamese
and Cambodian Refugees to
Participate in Student Financial
Aid Programs of the Illinois
State Scholarship Commission

Joseph D. Boyd
Executive Director
Illinois State Scholarship Commission
102 Wilmot Road
Deerfield, Illinois 60015

Dear Mr. Boyd:

I have your letter wherein you inquire whether Vietnamese and Cambodian refugees are eligible to participate in the student financial aid programs of the Illinois State Scholarship Commission. For the reasons hereinafter stated, it is my opinion that, until they are accorded permanent resident status in the United States, the refugees are

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ineligible to participate in the scholarship program. They are, however, eligible to participate in the guarantee loan program if they are residents of the State of Illinois.

Eligibility of persons to participate in the scholarship program is determined under section 30-15.5 of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1975, ch. 122, par. 30-15.5) which provides, in pertinent part, as follows:

"(a) An applicant is eligible for the award of a first-year scholarship under the provisions of the Higher Education Student Assistance Law when the Commission finds:

(1) that he is a resident of this State and a citizen or permanent resident of the United States;

* * *

"

(Emphasis added.)

Under the above provision both residence in Illinois and citizenship or permanent residence status in the United States are required. Thus, a refugee, although a resident of the State of Illinois, is not eligible to participate in the scholarship program until he obtains the status of a permanent resident under the immigration and naturalization laws of the United States.

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Eligibility to participate in the guarantee program is determined under section 30-15.10 of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1975, ch. 122, par. 30-15.10) which provides, in pertinent part, as follows:

"The Commission shall have the following powers in furtherance of a guarantee loan program:

1. To guarantee the loan of money, upon such terms and conditions as the Commission may prescribe, to residents of this State who are attending or plan to attend institutions of higher education in this State or elsewhere, to citizens or permanent residents of the United States who are attending or plan to attend institutions of higher learning in this State, and to assist them in meeting their expenses of higher education. * * * (Emphasis added.)

Thus, a person wishing to participate in the loan program is required to be either an Illinois resident or a citizen or permanent resident of the United States attending or planning to attend an Illinois institution of higher learning.

Residence in Illinois is a matter of State determination, and a "resident" has been defined by the Illinois Supreme Court as one who is physically present within the State with the intention to remain. (Hughes v. Illinois Public Aid Commission (1954), 2 Ill. 2d 374, 380; Routt v. Barrett (1947),

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396 Ill. 322, 344.) The terms "citizen" and "permanent resident of the United States", however, relate to matters of Federal determination, and it is apparent that the General Assembly intended these terms to refer to the status of citizenship or permanent residency as determined under the immigration and naturalization laws of the United States.

Upon entry into the United States, the Vietnamese and Cambodian refugees were not designated as permanent residents, and the Immigration and Naturalization Service has confirmed that they are not, at this time, eligible to obtain reclassification to that status. Therefore, it is my opinion that the Vietnamese and Cambodian refugees are ineligible to participate in the Illinois State scholarship program until such time as they are accorded permanent resident status in the United States. If they are residents of Illinois, the refugees are eligible to participate in the Illinois guarantee loan program.

Very truly yours,

A T T O R N E Y G E N E R A L