

CHAPTER 6

RIGHTS AND RESPONSIBILITIES

The September 11, 2001 attacks in New York City and Washington brought about significant changes in many aspects of life in the United States. Two general changes are especially important for Chinese and other foreign students.

First, *it became vital for foreign students to learn about and abide by the government's regulations* (usually called “immigration regulations”) regarding students from other countries.

Second, *the legal situation of foreigners in the United States continues in flux*. Laws, regulations, and the authorities' interpretations continued to change well after September 11, leaving some matters related to foreign students unclear.

Both of these important points will be mentioned again in this discussion of foreign students.

- 6.1 Basic Background Information
- 6.2 Your Legal Rights
- 6.3 Your Responsibilities

6.1 Basic Background Information

Under the “division of power” system in the United States there are *different levels of law and law enforcement*. Some laws and law-enforcement agencies are at the *federal or national* level. Some are at the *state* level. (Examples of the 50 states that comprise the United States are Texas, California, and Florida.) Still others are at the *county or local* level.

Immigration laws come mainly under the jurisdiction of the Department of Homeland Security, which was formed following the September 11 attacks.

Law at all these levels are expected to be in agreement with the U.S. Constitution, which is the foundational document for all American government.

Americans say they operate under the “*rule of law*.” Laws, rules, and regulations presumably apply equally to everyone, whatever their position in the society. The general idea is that everyone must obey laws and regulations, without exceptions based on wealth, “connections,” or political or social position. Chinese may also say they operate under a rule of law, but they also have the idea that there is a “back door” way to virtually any objective. Americans do not have the “back door” idea in the way Chinese do.

Lawyers play a major role in U.S. society, which places great emphasis on written laws, rules, regulations, and procedures. Students may need a lawyer if they encounter legal problems.

6.2 Your Legal Rights

You have rights given to you by your university or college, and rights given to you by the U.S. constitution. To find out about your rights as a student, read your student handbook. There may be more than one if you are a graduate student. Be sure to read them all so you know your rights.

The September 11, 2001 attacks produced new governmental laws, regulations, and interpretations intended to protect the “security” of U.S. citizens. Some of these measures are controversial, and several years will pass before the questions about them are resolved.

Of course many of these measures affect people from other countries, since those who carried out the 2001 attacks were all from other countries. So people in the United States from other countries, including students, face some restrictions and requirements that did not exist before the attacks. Many of those restrictions and requirements apply only or mainly to people from “predominantly Muslim” countries, so they do not affect Chinese citizens. Some of the restrictions relate to specified fields of study, and in some cases those do affect Chinese citizens.

Beneath all this, Chinese and other foreign students still enjoy certain “*constitutional rights*” in the United States. This is because the rights listed in the Constitution are for “people” in the United States, not just for U.S. citizens. The rights include:

- freedom of expression (in speech and writing)
- freedom of assembly (that is, to meet with other people without restrictions except those related to safety)
- freedom of religion
- freedom from unreasonable searches of themselves or their property

Foreign citizens in the United States *can own houses*. Foreign students and some other categories of foreign citizens in the United States *cannot legally own guns*.

6.3 Your Responsibilities

The U.S. legal system is based on the idea that people are responsible for knowing about and abiding by the laws and regulations that affect them. To say, “I didn’t know about that” or “no one told me that” is *not* an excuse for violating the law.

So *Chinese and other foreign students are responsible for knowing about and adhering to many laws and regulations*. This section discusses four areas of law and regulation of special importance to foreign students:

- 6.3.1 Maintaining your Immigration Status
- 6.3.2 Abiding by Leases and Contracts
- 6.3.3 Owning and Driving an Automobile
- 6.3.4 Attending to Certain Family Matters

6.3.1 Maintaining your Immigration Status

Following the September 11, 2001 attacks in New York and Washington, the federal government took major steps to establish an “electronic monitoring system” to collect and “track” information about foreign students and scholars and their dependents in the United States.

That monitoring program is named the Student-Exchange Visitor Information System, usually called SEVIS.

SEVIS is expected to be evolving over a period of years. Essentially, though, it requires colleges and universities to issue I-20 and DS-2019 forms through the nationwide SEVIS database. Then the schools must send reports to that database whenever their students, visiting scholars, or dependents experience certain changes in their situations.

To avoid difficulties with the immigration authorities—difficulties that could result in deportation from the United States—Chinese students should know about these topics:

- 6.3.1.1 Matters That are Restricted or Required
- 6.3.1.2 Sources of Information
- 6.3.1.3 Sources of Information and Misinformation

6.3.1.1 Matters That are Restricted or Required

The details may change, but Chinese students should be aware of the aspects of their stays in the United States that are subject to restrictions and reporting. *When you arrive at your school you should get up-to-date information from your foreign-student office about these regulations and you should arrange to receive advisories of any changes that affect you.*

As an F-1 or J-1 student in the United States (that is, as a student whose immigration status in the U.S. is based on a Form I-20 or DS-2019) you must:

- *carry your Form I-94 (which you obtain upon arrival at the United States) with you.* (This requirement also applies to any dependents aged 18 or more)
- *enroll full time as a student. Any exceptions need to be approved in advance by the appropriate school official*
- *obtain authorization in advance for any employment that requires an authorization*

- *report any change in your address* to the appropriate school office within 30 days of moving

Certain students from specified “predominantly Muslim” countries face additional requirements that entail personal visits to a government office.

If you want to leave and re-enter the United States, you need to *be sure all your travel documents are in order* to enable you to return to the country.

6.3.1.2 Sources of Information

In a fluid situation such as the one surrounding SEVIS (the electronic tracking system), information and interpretations change and vary. It is not always possible to get clear, definite answers to reasonable questions. For foreign students, four sources of information about immigration regulations are:

1. *Your international-student office.* Remaining informed about ever-changing immigration laws, regulations, procedures, and interpretations is a very difficult task. Some international student offices do a better job of it than others. Even so, your ISO is the place to look first for this information.
2. *The federal government’s SEVIS web site.* The federal government maintains a comprehensive web site with information about immigration law, regulations, and procedures. You can find it at www.immigration.gov/graphics/index.htm.
3. *The Federal Register.* Changes in federal regulations first appear in print in a daily publication called the *Federal Register*, which you can read on-line at www.gpoaccess.gov/cfr/index.html.
4. *The web site of NAFSA: Association of International Educators.* NAFSA is a national organization of college and university personnel in the field of international educational exchange. *NAFSA’s web site*, at www.nafsa.org, provides information and guidance for school officials who must work with SEVIS and the government’s foreign-student regulations. (Note that NAFSA is *not in a position to answer individual students’ questions*. NAFSA serves people employed or volunteering in the international-education field.)

6.3.1.3 Sources of Information and Misinformation

In addition to the four sources of information listed above, there are other places where foreign students and scholars turn to learn about immigration matters.

One of those places is the *mass media*—television networks, radio stations, newspapers, and magazines. *Immigration information from these sources is almost always incorrect.* It is almost always incomplete, over-simplified, inaccurate, and/or misleading. You should not base any immigration-related decisions on mass-media reports.

Students often get immigration information from their *friends*. Sometimes this information is accurate but sometimes it is not. Sometimes friends' situations are different in some small but important way, so their information is not correct for someone else. You should not base any immigration-related decisions on advice from friends.

Some *Chinese-language publications* in the United States print immigration-related information. It may or may not be reliable; certainly it will not take into account any particular school's interpretation of laws, regulations, or procedures.

Before you pay the often high cost of an *immigration lawyer*, be sure you actually need one. Some immigration-related forms have clear, complete instructions and can be completed without a lawyer's help. If you do want or need a lawyer, make sure the lawyer specializes in immigration law *and* has a good record of performance in the immigration-law area. Most lawyers have no training in the very specialized area of immigration law. And many who call themselves immigration attorneys are not well trained or reliable. If you need an immigration lawyer, choose one carefully.

6.3.2 Abiding by Leases and Contracts

Most foreign students in the United States need to sign a *lease* when they rent a room, apartment, or on-campus housing of any kind. A lease is a written agreement between a tenant and landlord, describing each one's rights and responsibilities. It is a *binding legal document*. Among other things, a lease makes the tenant responsible for (a) minimal care of the rented property and (b) paying monthly rent for a specified period of time. A lease also specifies the landlord's responsibilities for maintaining the housing unit. (If a landlord is not meeting his or her responsibilities, you can speak with someone in your international-student or dean-of-students to find help with the problem. For instance, some cities have a housing inspection program that will send an inspector to investigate your unit and then intervene with the landlord.)

A lease *may or may not* contain provisions concerning its early termination.

You should *avoid signing any lease, not even a lease for college or university housing, that binds you to conditions that might not be acceptable to you.*

In general, any "contract" or other document you sign in relation to a purchase, rental, or other business transaction is *binding* and can be enforced through the court system. *Before you sign any contract or other written agreement, be sure you understand what it says and be sure you are prepared to fulfill any obligations it places on you.* You may want to have an American friend or acquaintance look over any lease or contract you are considering signing.

6.3.3 Owning and Driving an Automobile

Many Chinese students go to the United States without knowing how to drive a car. Once in the U.S., many of them buy cars. Perhaps as a result of their inexperience as drivers and their unfamiliarity with local driving laws and practices, they are involved in a noticeable number of traffic accidents.

If you want to drive a car in the United States, you will need to obtain a “*driver’s license*.” Doing so entails a written (or computer-based) test on driving laws and usually an actual driving-skills test as well. Driving laws and driver’s licenses are under the jurisdiction of each state, so there is some variation. If you change your residence from one state to another, you will need to obtain a driver’s license from the new state.

To become a safe driver, you will want to study not just the traffic laws but also the *customs* that drivers follow in the area where you live.

If you buy a car in the United States, you must “*register*” it with the proper authorities, usually through the courthouse of the county in which you live.

Your International Student Office can give you information about automobile registration and driver’s licenses.

Some states require car owners to have “*automobile insurance*” to cover costs from any accidents in which the car is involved. Even if a state does not require them to do so, wise drivers will get insurance. This helps them avoid having to pay the entire cost of an accident, which may be a very significant amount.

6.3.4 Attending to Certain Family Matters

Some Chinese students in the United States find themselves in trouble with authorities for following certain family-related practices that are acceptable in China but are illegal in the United States.

Laws regarding family life vary from state to state, but there are some common elements of which students from China (and other countries) should be aware.

Supervising and disciplining children. Most states require that young children have adult supervision at *all* times and that children not be physically or emotionally abused. Leaving a young child “unattended” in an apartment, playground, park, or elsewhere can result in trouble with the police and perhaps with child welfare authorities. In addition, hitting or emotionally abusing a child can lead to trouble with authorities. Teachers and doctors, for instance, are required by law to report children who have bruises that indicate abuse.

So it is important to assure that an adult is always present to supervise and protect young children and that children are never abused.

Treatment of spouse. Most states will jail a husband or wife (or boyfriend or girlfriend) who physically injures his or her spouse or romantic partner. The result is embarrassment and legal expense. To avoid these undesirable outcomes, spouses need to handle their disagreements in ways other than physical attacks on each other.

Sensible students will *make sure they buy health insurance for their dependents.* Governmental regulations require dependents in J-2 status to have health insurance, but dependents in F-2 status should have insurance also. Otherwise they may be responsible for paying medical bills that amount to dozens of thousands of dollars.