



NEWS RELEASE

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FACT SHEET STUDENT AND EXCHANGE VISITOR INFORMATION SYSTEM (SEVIS)

Final Rule Implementing SEVIS

[INS 2185-02; RIN 1115-AF55]

Tightening and Improving Procedures for Foreign Students Visiting the United States

HIGHLIGHTS

- **Updating Records on Foreign Students and Exchange Visitors Within Our Borders.** Congress requires the Department of Justice and the Immigration and Naturalization Service (INS) to maintain updated information on approximately one million non-immigrant foreign students and exchange visitors during the course of their stay in the United States each year.
- **Providing Enhanced Capabilities.** Implementation of the "Student and Exchange Visitor Information System" (SEVIS) revises and enhances the process by which foreign students and exchange visitors gain admission to the United States. SEVIS increases the ability of the INS to maintain up-to-date information on foreign students and exchange visitors in order to ensure that they arrive in the United States, show up and register at the school or exchange program, and properly maintain their status during their stay. SEVIS provides a proper balance between openness to international students and exchange visitors, and our nation's security interest in knowing who has come into our country.
- **The Law.** SEVIS implements section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996. IIRIRA requires the INS to collect current information on an ongoing basis from schools and exchange programs relating to non-immigrant foreign students and exchange visitors during the course of their stay in the United States. In addition, the USA PATRIOT Act amended section 641 to require full implementation of SEVIS prior to January 1, 2003. In addition, the Enhanced Border Security and Visa Entry Reform Act of 2002 adds to and clarifies the requirement to collect information, as well as requires an educational institution to report any failure of an alien to enroll no later than 30 days after registration deadline.

IMPROVED MEASURES TO MAINTAIN UPDATED INFORMATION

- **Schools Will Be Required to Report a Student's Failure to Enroll.** Currently, problems arise when a foreign student arrives in the United States and fails to report to his or her school. Individuals who never intended to attend school in the United States could obtain a student visa, enter the country, and then disappear without ever being reported as a "no-show." Before SEVIS, schools did not have an obligation to report individuals' failure to actually enroll in the school. Schools often assumed that a student who failed to appear might have chosen to attend a different school and often have not reported a student's failure to register for classes.
 - **SEVIS Will Resolve This Problem.** Schools will now be notified when a student has entered using his I-20 form, thus putting the school on notice that the individual is supposed to be destined for that campus. The school is then required by these regulations - through SEVIS - to advise the INS within 30 days of the school's registration date whether or not the student has registered for classes. SEVIS sends a notification to the designated school officer if he or she forgets to do so.
- **SEVIS Progresses to an Internet-Based System.** SEVIS will enable schools to electronically transmit current data to INS and the Department of State throughout the student's stay. When a student falls out of status, INS will be informed and able to take appropriate action.
- **Other Improvements:**
 - **Timely Information on Students' Presence.** Because schools will be required to update SEVIS on a regular basis, INS will receive timely information as to whether students are fulfilling school requirements in their course of study. INS will know when students enter the country but fail to enroll at the school they are supposed to attend, or if students drop out of their programs. This process will help the INS identify those foreign students and exchange visitors who do not comply with the requirements under the law.
 - **Timely Information of Key Changes.** SEVIS will be constantly updated with other important changes, including a student's change of address or name, or any change in the student's field of study.
 - **Improves the Student Process.** Because SEVIS automates the process of notifying the INS of the occurrence of certain events, some filings can be eliminated (Form I-538). It will no longer be necessary to file forms and applications when an F-1 student changes or extends a program. Instead, INS will be automatically notified through SEVIS of these events.

- **Better Control over Schools' Participation in the Foreign Student Program.** Because schools must individually enroll in SEVIS, as well as be reviewed and re-certified for participation in the foreign student program, INS will be able to better monitor compliance with schools' obligations under the program.
- **A Better Database.** SEVIS will maintain comprehensive data that will enable the INS to better identify trends and patterns to assist in planning and analyzing risks.

DETAILS OF FINAL RULE

- **Proposed Rule:** On May 16, 2002, the INS published a proposed rule in the Federal Register at 64 FR 34862, seeking comments on regulations intended to implement the electronic collection and reporting process mandated under section 641 of the IIRIRA. Specifically, the regulation sought to improve the collection of information on non-immigrant students by establishing real-time updates of student information. The rule also proposed to establish additional reporting requirements imposed by the USA PATRIOT Act and the Enhanced Border Security Act.
- **Final Rule:** Although the final regulations remained largely unchanged from the proposed rule, the final rule implementing SEVIS addresses and/or clarifies the following issues:

Compliance Date

- The mandatory compliance date for all authorized schools to utilize SEVIS remains January 30, 2003.
- After January 30, 2003, schools must issue SEVIS Forms I-20 to all new students. In addition, schools must issue SEVIS Forms I-20 to current students who need a new Form I-20 because of a reportable event.
- Non-SEVIS Forms I-20 issued prior to January 30, 2003, will continue to be valid documents until August 1, 2003.
- Schools will be afforded a transition period in order to enter their current students into SEVIS. Schools will have until August 1, 2003 to enter records for all their current F-1 or M-1 non-immigrants students in SEVIS, and to report their enrollment.

SEVIS Reporting Requirements

- No later than 30 days following the deadline for registering for classes, the school is required to report that the student failed to register. Furthermore, during each term or session, and no

later than 30 days after the deadline for registering for classes, schools are required to report the following registration information:

- Whether the student has enrolled at the school, dropped below a full course of study without prior authorization by the DSO, or failed to enroll;
 - The current address of each enrolled student; and,
 - The start date of the student's next session, term, semester, trimester, or quarter.
- Within 21 days of a change of any information, schools will be required to report the following information:
 - Any student who has failed to maintain status or complete his or her program;
 - A change of the student's or dependent's legal name or U.S. address;
 - Any student who has graduated early or prior to the program end date;
 - Any disciplinary action taken by the school against the student as a result of the student being convicted of a crime; and,
 - Any other notification request made by SEVIS with respect to the current status of the student.

Dependent (F-2 and M-2) SEVIS Form I-20

- The process by which dependents of F-1 or M-1 students are to be issued SEVIS Form I-20 is now codified in the final rule.
- Additionally, prior to August 1, 2003, if exigent circumstances can be demonstrated, the INS will allow dependents to enter the United States with a copy of the principal F-1 or M-1 SEVIS Form I-20.

School Officials

- Each school or campus will be allotted one position for the Principal Designated School Official (PDSO), and up to nine positions for Designated School Officials (DSO).
- The support position, the Administrative School Official (ASO), addressed in the proposed rule is eliminated.

- As stated in the proposed rule and retained in the final rule, all PDSO and DSOs must be either United States Citizens or Legal Permanent Residents (LPR).

Reduced Course Load

- In the case of an illness or medical condition, an F-1 student may be authorized to reduce course load for a period not to exceed 12 months in aggregate.
- Although a student may be authorized for up to 12 total months of a reduced course load in the case of an illness or medical condition, a DSO must re-authorize the reduction each term or session, and must update this authorization in SEVIS.
- The 12-month limit on the authorization to reduce course load for illness or medical condition is applied per each particular program level. If the student completes one program, and advances to a different program level, the DSO may authorize another reduction in course load.
- The INS will allow DSOs to accept medical documentation provided by licensed medical doctors, doctors of osteopathy, or licensed clinical psychologists to substantiate a student's reason for dropping below a full course of study for illness or medical condition.

Transfers

- The final rule clarifies that a foreign student may not remain in the United States between programs if the student will not resume classes within 5 months of transferring out of the current school, or within 5 months of the program completion date as indicated on the Form I-20 issued by the current school, whichever date is earlier.
- This final rule does not place any limit on the number of schools to which a transferring F-1 or M-1 student may apply. The transferring student may apply to and be accepted by any number of INS-authorized schools. The rule restricts the number of SEVIS Forms I-20 that may be issued to a transferring student. The student must first select one school to which he or she is transferring.

On-line and distance education courses

- The INS clarifies that it will allow elementary and secondary students to count distance education and on-line courses in their determination of a full course of study.

Optional Practical Training (OPT)

- Time spent studying abroad may count toward the one full academic year requirement, but the student must have spent at least one full academic term in a full course of study in the United States prior to going abroad to study.
- The school who recommends a foreign student for optional practical training remains responsible for maintaining the student's records in SEVIS during the time that training is authorized.

Reinstatement

- The INS has added a provision to allow for a student's record to be administratively corrected in situations where the error in question resulted from potential technological errors or errors on the part of SEVIS.
- The rule provides that circumstances beyond the control of the foreign student might include inadvertence, oversight, or neglect on the part of the DSO, but do not include instances where a pattern of repeated violations or where a willful failure on the part of the student resulted in the need for reinstatement.
- The rule provides for a rebuttable presumption that a student who has been out of status for more than 5 months is ineligible for reinstatement, unless the student can provide a substantial reason for the delay and an explanation of how the student filed the request for reinstatement.

Dependent Study

- The rule allows an F-2 or M-2 dependent enrolled in a full course of study prior to January 1, 2003 to continue their studies provided they apply for a change of status to F-1 or M-1 within 90 days of publication of this rule.

Reporting current name and address

- This rule clarifies that in cases where the mailing and physical address of the foreign student are not the same, the school will be required to report both the current mailing and current physical address in SEVIS.

Family Educational Rights and Privacy Act

- The final rule clarifies that the Commissioner is waiving certain requirements imposed by the Family Educational Rights and Privacy Act (FERPA). Generally, FERPA restricts the ability of an educational agency or institution that accepts certain Federal funding to disclose personal information contained in a student's educational

record. In accordance with section 641(c)(2) of IIRIRA, however, the Commissioner is permitted to waive FERPA to the extent necessary to implement SEVIS.

Employment

- The INS has added language to the final rule incorporating procedures for the endorsement in SEVIS of employment authorization, based on severe economic hardship and internships with an international organization.
- The INS also clarifies that an F-1 student is permitted to begin on-campus employment prior to the start of classes. However, the DSO is not permitted to indicate a program start date more than 30 days prior to the start of classes for the purpose of on-campus employment.