

Department of State Consular Affairs Teleconference/Meeting

NAFSA Summary of Department of State Responses

December 16, 2009

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1. Returning Students after an Absence of Five Months or More

The DOS Web site states that a visa is “required” for students returning to the U.S. after an absence of more than five months not related to their course of study, while 9 FAM 41.61 N17.4 suggest that it is “prudent” for students to apply for new visas prior to their return to the U.S.

- Are students who return to the U.S. after an absence of five months or more required to obtain a new F-1 or M-1 visa, although the original F-1/M-1 visa stamp has not expired?
- Would DOS clarify this position and update the Web site and/or the FAM so that a consistent message is provided?

NAFSA Summary of DOS Response: There is relevant guidance in the [FAQ on the travel.state.gov Web site](#) [NAFSA note: This FAQ states, “Students in or outside the U.S., who have been away from classes for more than five months, will likely need a new visa to enter the U.S.”] Information on this page references students away from classes for more than five months. Specifically, students in or outside the U.S., who have been [away from classes](#) for more than five months, will likely need a new visa to enter the U.S. The FAM also recommends it. The FAM and web FAQ are consistent. DOS is aware that NAFSA wants something more specific, but the agency can’t tell people to do something that’s not called for by law. DOS feels it’s a good idea to get a new visa based on their experience with different interpretations at the ports of entry.

[NAFSA note: The [away from classes](#) link in the FAQ, however, links to a page that states, “Students who are away from classes for more than five months will have to apply for and receive a new F-1 student visa to return to school in the United States,” which is inconsistent with the FAQ, that states only that students “will likely need” a new visa. DOS will request this page be updated.]

2. 9 FAM edits re: Cap-Gap and STEM OPT Extension

During a teleconference on May 13, 2009 with Abby Rupp, NAFSA's Travel Subcommittee sought clarification on a number of points and submitted proposed edits to the FAM section that addresses visa issuance for "STEM" and "Cap Gap" extensions. It was our understanding that the questions and proposed edits were to be discussed with SEVP and cleared by the DOS legal section. As of December 3, 2009, the FAM section in question has not been updated.

- What is the status of the NAFSA queries and the edits to the FAM?

NAFSA Summary of DOS Response: Updates to the FAM are done on an annual cycle. This information missed the cut on that last round. It is possible the changes will be made in the next update.

3. SEVIS II Implementation and Paper Documents

With NAFSA members preparing for the implementation of SEVIS II, there have been concerns expressed about SEVIS II data and how this data will be used in the visa application process. The FAM currently states that the online SEVIS record, not the paper Form I-20 or DS-2019, is the definitive record for an F, M, or J visa application. However, the Form I-20 or DS-2019 is still required. (9 FAM 41.61 N12.2, Student and Exchange Visitor System Record is the definitive record) (CT: VISA-1373; 11-09-2009)

- Once SEVIS II is implemented, will DOS rely solely on the online SEVIS record during the visa application process, thereby, eliminating the need to present a paper I-20 or DS-2019?

NAFSA Summary of DOS Response: SEVIS II is under the authority of ICE, who is still working on how they want to implement it. State Department policy is that the online SEVIS record takes precedence except in rare cases. In some rare cases, an applicant who needs to travel quickly and has already paid the SEVIS fee will arrive at a post, but the data has yet to appear in the system. Also, pilot posts using the DS-160 process even more quickly and data lag can be greater. It takes a day for both the record and fee payment to clear in SEVIS and a minimum of 3 days to show up in the DOS system.

DOS recognizes that there have been some cases where the applicants have paid the SEVIS fee and applied for the visa before the electronic record has shown up. If the FAM is satisfied, DOS can issue a visa without the electronic record in such cases. DOS believes that perhaps more public outreach is needed in order to remind applicants that any SEVIS record/transaction can take 3 days to clear. DOS is also concerned with good customer service and does not wish to delay visa processing because data is not displayed yet in SEVIS. Perhaps SEVIS II will improve the data situation.

DOS is moving toward a more paperless system, and plans to maintain the requirement that the online record is the authoritative one.

4. Best practices re: Email requests from Consular Posts

Two institutions reported receiving an e-mail from the U.S. Consulate in Harare, Zimbabwe, requesting enrollment verification for their respective international students. NAFSA members are concerned about the legitimacy of such emails.

- What is the best practice to determine if such requests are coming from a U.S. Consulate?
- What is the reason for requesting enrollment verification via email for students who are presenting valid documents at the time of the visa application? (Please see sample of email request below. Names and other biographic information have been redacted due to privacy issues.)

From: XX
Sent: Thursday, May 07, 2009 9:06 AM
To: Admissions
Subject: Student enrollment verification of XXXX

Dear Sir/Madam,

Greeting from Harare Zimbabwe! I am the Fraud Prevention Manager in the U.S. Embassy Harare and am currently carrying out a validation study of students from Zimbabwe who received student visas (F1). I need your help in confirming the enrollment status for XXXX, a Zimbabwean, DOB XXXXX, who received an F1 visa in December 2008. Can you please confirm whether he is still attending your university and whether he is in full-time or part-time status?

Validation studies are an important part of consular work and help us to improve our adjudication decisions. We take seriously our mandate to protect our borders while also recognizing the vital contribution that international students make to both our economy and to our culture. Please help us in collecting this information so that we can continue to provide excellent service not only to our applicants, but to the American people.

Sincerely,

U.S. Embassy Harare

NAFSA Summary of DOS Response: It is possible to verify if the email is indeed legitimate by checking for the state.gov domain in the email address. DOS appreciates that the institutions questioned the legitimacy of the email. As a standard quality control practice, DOS conducts validation studies to check on whether visas have been issued properly. This particular email is a non-standard visa validation. NAFSA commented that because of FERPA, an institution would have to go through normal channels before releasing this information. If information is needed that is not directory information, the institution would have to choose to release it, and the student would have to provide some kind of permission. DOS said that the privacy element should be considered and this information will be passed along to those involved with the DOS validation study.