

Information on Filing an Appeal or Motion to Reopen/Reconsider on a (SEVP) Notice of Denial, Automatic Withdrawal or Withdrawal

Filing Your Appeal or Motion

If you recently received a Notice of Denial, Automatic Withdrawal (AW) or Withdrawal on Notice (WON) and wish to appeal or file a motion to reopen/reconsider the Student and Exchange Visitor Program (SEVP) School Certification Branch's (SCB) or SEVP Analysis and Operations Center's (SAOC) decision, in many cases, you may file an appeal or a motion.

You should review the written decision that was issued to your school by SCB or SAOC. The written decision will inform you of the reasons for denial, withdrawal, or automatic withdrawal. This notice will inform you of your rights to file an appeal and/or motion as well as the process and filing deadlines. Before you begin assembling evidence concerning an appeal or motion, please make note of the amount of time available to file the appeal or motion. By regulation, schools denied certification have thirty (30) calendar days to file an appeal and schools withdrawn from certification have fifteen (15) calendar days to file an appeal. By regulation, schools wishing to file a motion to reopen or reconsider have thirty (30) calendar days to file for either a denial or withdrawal of certification. You may file your appeal or motion electronically by sending it to SEVP.Appeals@dhs.gov or by fax to 703-603-3598. ***If you received your Notice of Denial, AW or WON by mail, by regulation, you have an additional three (3) calendar days to file your appeal or motion;*** therefore, the motion must be emailed or faxed by the 33rd calendar day and the appeal must be filed by the 33rd calendar day for a denial or by the 18th calendar day for an AW or WON. The petitioner must meet these deadlines in order to submit a timely filed appeal or motion.

See 8 C.F.R. 103.3, 8 C.F.R. 103.5(a)(1) and 8 C.F.R. 103.5a(b).

Average Processing Time for an Appeal/Motion

The review process ensures that your school's specific situation is given maximum consideration. Because of the complexity of each appeal or motion and the nuances of each school's situation, we are not able to provide you with an exact timeframe for receipt of your final decision. We can assure you that we treat each appeal or motion with the same thorough review, striving to complete the review in the timeliest manner possible.

If you have any questions or concerns as your appeal or motion is being processed, please contact the SEVP Appeals Team (SAT) at SEVP.Appeals@dhs.gov and we will respond to your concerns as expeditiously and completely as possible.

Frequently Asked Questions (FAQs) about Appeals and Motions

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1. What is the difference between filing an Appeal and a Motion?

- Motions to reopen or reconsider the Notice of Denial, AW, or WON are adjudicated by the official who made the latest decision in the proceeding (i.e. the SCB or SAOC Adjudicator). These SCB and SAOC motions are not forwarded to SAT for adjudication. The SCB and SAOC motions are reviewed and signed by the SCB Branch Chief or SAOC Chief.
- An appeal of a Notice of Denial, AW, or WON is first reviewed by the official who made the unfavorable decision being appealed (i.e. the SCB or SAOC Adjudicator). This official decides whether or not favorable action is warranted within forty-five (45) calendar days of receipt of the appeal, by regulation. If the reviewing official determines that favorable action is warranted, then the reviewing official may treat the appeal as a motion to reopen or reconsider and take favorable action. If the reviewing official determines that favorable action is not warranted, that official shall forward the appeal and the Record of Proceeding (ROP) to SAT for adjudication of the appeal. SAT's appeal decision is then reviewed by several entities within Immigration and Customs Enforcement (ICE) to ensure policy compliance and legal sufficiency. The appeal decision is reviewed and signed by the SEVP Director.
- Petitioner may request an additional 30 days to submit the appeal brief by checking this option on the Form I-290B. There are no extensions permitted for the filing of a motion.
- See 8 C.F.R. 103.5(a)(1)(i), 8 C.F.R. 103.3(a)(2) and 8 C.F.R. 103.3(a)(2)(vii).

2. How do I file an Appeal?

- If the petitioner wishes to file an appeal, the petitioner may submit the USCIS Form I-290B, Notice of Appeal or Motion (Form I-290B) (go to <http://www.uscis.gov/files/form/i-290b.pdf>), checking the box for an appeal.
- The Form I-290B must be submitted by a party with legal standing.
 - The party with legal standing may be represented by an attorney or representative. The attorney or representative must submit a Form G-28 (Notice of Entry or Appearance as Attorney or Representative).
- The Form I-290B may be accompanied by a brief and/or evidence, but a brief is not required. Unless an extension has been requested on the Form I-290B, all documents related to an appeal should be submitted at one time when the Form I-290B is submitted.
- The Form I-290B and/or the brief **must state that SCB or SAOC erred in its decision by making an erroneous conclusion of law or statement of fact.**
- See 8 C.F.R. 103.2(a)(3), 8 C.F.R. 103.3(a)(1)(iii)(B) and 8 C.F.R. 103.3(a)(2).

3. Who reviews my Appeal?

- An appeal of a Notice of Denial, AW, or WON is first reviewed by the official who made the unfavorable decision being appealed (i.e. the SCB or SAOC Adjudicator). This official decides whether or not favorable action is warranted within forty-five (45) calendar days of receipt of the appeal. If the reviewing official determines that favorable

action is warranted, then the reviewing official may treat the appeal as a motion to reopen or reconsider and take favorable action. If the reviewing official determines that favorable action is not warranted, that official shall forward the appeal and ROP to SAT for adjudication of the appeal.

- A SAT Adjudicator will review and adjudicate your appeal. SAT's appeal decision is then reviewed by several entities within ICE to ensure policy compliance and legal sufficiency.
- The appeal decision will then be reviewed and signed by the SEVP Director.

4. What are the requirements for filing a Motion?

- The motion must be in writing and signed by an affected party or the attorney or representative of record;
- The motion must be accompanied *by a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding and, if so, the court, nature, date, and status or result of the proceeding;*
- The motion must be addressed to the official having jurisdiction (the official who made the latest decision in the proceeding, i.e. the SCB or SAOC Adjudicator); and
- The motion must be submitted to the office maintaining the record upon which the unfavorable decision was made for forwarding to the official having jurisdiction (i.e. SEVP).
- See 8 C.F.R. 103.5(a)(1)(iii).

5. How do I file a Motion to Reopen?

- If the petitioner wishes to file a motion to reopen, the petitioner may submit the USCIS Form I-290B, Notice of Appeal or Motion (Form I-290B) (go to <http://www.uscis.gov/files/form/i-290b.pdf>), checking the box for a motion to reopen, or submit a letter requesting a motion to reopen.
- A motion to reopen *must state new facts to be provided in the reopened proceeding and be supported by affidavits or other documented evidence.*
- In cases of abandonment (an example of abandonment is when the petitioning school does not respond to a request for evidence (RFE) from SCB or SAOC at the time of adjudication in the time given by SCB or SAOC), *the motion to reopen must be filed with evidence illustrating the decision was in error because:*
 - i. The requested evidence was not material to the issue of eligibility;
 - ii. The evidence requested by SEVP was submitted with the petition or application; or
 - iii. The SCB or SAOC RFE was sent to an address other than that on the application, petition, or notice of representation. Or in cases where the applicant or petitioner advised SEVP in writing of a change of address or change of representation, but SEVP failed to send the RFE to the new address.
- In most cases, if the motion to reopen is denied, a school may re-file for SEVP-certification. However, a school whose SEVP-certification has been withdrawn or denied recertification must wait one calendar year from the date of the WON or denial of

recertification to file a new Form I-17 petition. Eligibility to re-petition is at the discretion of the SEVP Director.

- See 8 C.F.R. 103.5(a)(2) and 8 C.F.R. 214.4(a)(2).

6. How do I file a Motion to Reconsider?

- If the petitioner wishes to file a motion to reconsider, the petitioner may submit the USCIS Form I-290B, Notice of Appeal or Motion (Form I-290B) (go to <http://www.uscis.gov/files/form/i-290b.pdf>) checking the box for a motion to reconsider, or submit a letter requesting the motion to reconsider.
- A motion to reconsider ***must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or SEVP policy.***
- A motion to reconsider a decision ***must also establish that the decision was incorrect based on the evidence of record at the time of initial decision.***
- If the motion to reconsider is denied, in most cases, you may file a new Form I-17 petition for SEVP-certification. However, a school whose SEVP-certification has been withdrawn or denied recertification must wait one calendar year from the date of the WON or denial of recertification to file a new Form I-17 petition. Eligibility to re-petition is at the discretion of the SEVP Director.
- See 8 C.F.R. 103.5(a)(3) and 8 C.F.R. 214.4(a)(2).

7. Who reviews my Motion?

- The official who made the latest decision in the proceeding is the official having jurisdiction.
- Therefore, the SCB or SAOC Adjudicator who issued your Notice of Denial, AW, or WON is the official who will adjudicate the motion.
- The motion will then be forwarded to the SCB Branch Chief or SAOC Chief for review and signature.
- See 8 C.F.R. 103.5(a)(1)(i) and 8 C.F.R. 103.5(a)(1)(ii).

8. Who may file an Appeal or Motion?

- Only a party with legal standing may file an appeal or motion: the owner of the school, the Principal Designated School Official (PDSO), Designated School Official (DSO), the school's attorney of record or designated representative.
- Students of a school may not file an appeal or motion.
- An affected party may be represented by an attorney or representative, with a filed Form G-28 (Notice of Entry or Appearance as Attorney or Representative).
- See 8 C.F.R. 103.3(a)(1)(iii)(B) and 8 C.F.R. 103.5(a)(1)(iii).

9. Is there a fee for filing an Appeal or Motion?

- There is currently no fee associated with filing either an appeal or motion.

10. How long do I have to file a Motion?

- Any motion to reconsider an action by the SEVP filed by an applicant or petitioner must be filed within thirty (30) calendar days of the decision that the motion seeks to reconsider.
- Any motion to reopen a proceeding before the SEVP filed by an applicant or petitioner must be filed within thirty (30) calendar days of the decision that the motion seeks to reopen.
- ***If you received your Notice of Denial, AW or WON by mail, by regulation, you have an additional three (3) calendar days to file your motion;*** therefore, the motion must be emailed or faxed by the 33rd calendar day. Service by mail is complete upon mailing.
- See 8 C.F.R. 103.5(a)(1)(i) and 8 C.F.R. 103.5a(b).

11. How long do I have to file an Appeal?

- If the initial Form I-17 petition was denied, the petitioner has thirty (30) calendar days from the date the Notice of Denial was issued to file the appeal.
- If the petitioner's SEVP-certification was withdrawn, the petitioner has fifteen (15) calendar days from the date the AW or WON was issued to file an appeal.
- ***If you received your Notice of Denial, AW or WON by mail, by regulation, you have an additional three (3) calendar days to file your appeal;*** therefore, the appeal must be emailed or faxed by the 33rd calendar day for a denial or by the 18th calendar day for an AW or WON. Service by mail is complete upon mailing.
- See 8 C.F.R. 103.5a(b) and amendment to 8 C.F.R. 214.4(h).

12. Can I request additional time to file a Motion?

- No, the petitioner must submit the Form I-290B or a letter (to request a motion) within the time allotted to file a motion.
- While SCB and SAOC may not grant extensions to the filing deadline, failure to file the motion before this period expires may be excused in the discretion of SEVP where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.
- See 8 CFR 103.5(a)(1)(i).

13. Can I request additional time to file an Appeal?

- Yes, but the petitioner may only request additional time to submit a brief in support of an appeal by checking the box on the Form I-290B requesting a 30 day extension.
- See 8 C.F.R. 103.3(a)(2)(vii).

14. Where do I submit my Appeal or Motion?

- You may file your appeal or motion electronically by sending it to SEVP.Appeals@dhs.gov.
- The appeal or motion may also be faxed to: 703-603-3598.

15. Do I need an attorney to file an Appeal or Motion?

- The petitioner does not need an attorney to file an appeal or motion. If the petitioner decides to hire an attorney or other representative to represent the school for the appeal or motion, the attorney or representative must submit a Form G-28 (Notice of Entry or Appearance as Attorney or Representative).

16. Do I always have the option to file an Appeal?

- There are some instances when the petitioner may not file an appeal, including, but not limited to, if the petitioner abandons its initial petition by not responding to a RFE or other SEVP notice that requires a response. The Notice of Denial, AW, or WON will specify what your appeal rights are.

17. If I decide not to file a Motion or Appeal, do I have any other options?

- The petitioner may decide to file a new Form I-17 petition for SEVP-certification. If the petitioner chooses to re-file, the petitioner should consider the reasons for denial.
- If the petitioner's SEVP-certification was withdrawn or the petitioner was denied recertification, the petitioner must wait at least one calendar year from the date of the WON or the denial of recertification to file a new Form I-17 petition. Eligibility to re-petition is at the discretion of the SEVP Director.
- See *8 C.F.R. 214.4(a)(2)*.

18. What new information can I provide on Appeal or Motion?

- Evidence submitted on appeal or motion must prove the school's eligibility at the time of filing. For example, if a school is denied based on failure to meet the minimum weekly clock hours, the school cannot alter the clock hours and then submit evidence of the new clock hours on appeal or on motion. The evidence provided on appeal and on motion must help clarify that the school was eligible for SEVP-certification at the time of filing the Form I-17.
- See *8 C.F.R. 103.2(b)*.

19. What happens if information on my Form I-17 petition changes during the Appeal/Motion process?

- School officials should always immediately report changes to information on the Form I-17 petition to SEVP. A school official may send an email to SAT at SEVP.Appeals@dhs.gov, and SCB at initial.sevis@dhs.gov or SAOC at sevp.compliance@dhs.gov, informing of changes made to the Form I-17 during adjudication of the appeal or motion.
- School officials may also report changes to the Form I-17 during adjudication of the appeal or motion by faxing to both SAT at 703-603-3598 and SCB at 703-603-3596 or SAOC at 703-603-3597.
- If SAT determines that the reported change to the Form I-17 constitutes a material modification to the Form I-17 petition, SAT will direct the school official to withdraw the appeal or motion in writing (via email or fax to the above addresses.)
- A material modification to a Form I-17 petition constitutes any change in information pertaining to any of the following categories listed in *8 CFR 214.3(h)(3)(i)*:

- (A) Approval for attendance of students (F/M/both);
- (B) Name of school system; name of main campus;
- (C) Mailing address of the school;
- (D) Location of the school;
- (E) School type;
- (F) Public/private school indicator;
- (G) Private school owner name;
- (H) The school is engaged in;
- (I) The school operates under the following Federal, State, Local or other authorization;
- (J) The school has been approved by the following national, regional, or state accrediting association or agency;
- (K) Areas of study;
- (L) Degrees available from the school;
- (M) If the school is engaged in elementary or secondary education;
- (N) If the school is engaged in higher education;
- (O) If the school is engaged in vocational or technical education;
- (P) If the school is engaged in English language training;
- (Q) Adding or deleting campuses;
- (R) Campus name;
- (S) Campus mailing address; and
- (T) Campus location address.

If SEVP determines that a school has not reported a material modification after an appeal and/or motion has been filed, this will be considered grounds for the dismissal of the petitioner's appeal or motion.

20. How do I know the status of my Appeal or Motion?

- Appeals and motions are processed in the order in which they are received. After an appeal or motion is filed, SEVP cannot discuss the specifics of the case while the appeal or motion is pending.

21. How am I notified of the decision on Appeal or Motion?

- The petitioner is notified electronically of SAT’s decision for an appeal.
- SCB or SAOC will notify the petitioner in writing regarding a decision on motion.
- Therefore, it is important that you inform SEVP of a change in email address in order that you may receive your decision. Since you cannot update your contact information via the Student and Exchange Visitor Information System or through the SEVP Help Desk while in “denied” status, you must notify both SAT and SCB or SAOC either electronically or by fax at the [email addresses and fax numbers](#) listed in #19.

22. How do I contact SAT if I have additional questions?

- The email address to contact SAT is: SEVP.Appeals@dhs.gov.
- The fax number to contact SAT is: 703-603-3598.
- The phone number to contact SAT is: 703-603-3568.

23. My Appeal was dismissed, do I have any other recourse?

- You may file a motion to reopen or reconsider the appeal decision with SAT.
- See the document provided with your Notice of Appeal, “Information on Filing a Motion to Reopen/Reconsider a Dismissal of an Appeal”, for further instructions.
- No further administrative appeal shall lie from the dismissal of an appeal.
- See 8 *C.F.R.* 103.3(a)(2)(iii).