



May 6, 2021

Rachel E. Canty
Director, Student and Exchange Visitor Program
U.S. Immigration and Customs Enforcement
Department of Homeland Security
Washington, D.C. 20536

VIA EMAIL: Rachel.e.canty@ice.dhs.gov

Re: Request for clarification to SEVP April 26 updated guidance

Dear Director Canty:

I write today on behalf of NAFSA: Association of International Educators to thank the Student and Exchange Visitor Program (SEVP) for the updated guidance on COVID-19 procedural adaptations issued on April 26, 2021.

NAFSAs and their institutions are anxious to begin rebuilding their international programs as quickly as possible, and are taking a variety of approaches based on institutional resources and factors, and accounting for changing safety conditions in their geographical areas. This requires them to develop alternative plans, such as preparing to open for in-person, hybrid, hybrid, online and, if necessary, online-only delivery models.

The United States is in a competition for global talent with other countries. Even without the pandemic we were set to experience a decline in new international student enrollment for the fourth straight year. We are also losing our market share of international students, while many other countries are proactively establishing national policies and marketing strategies in order to attract these talented individuals. Unfortunately, the Institute of International Education's Fall Snapshot survey showed a 43 percent decline in new international student enrollment at U.S. institutions during the COVID-19 pandemic. As you are aware, international students and their enrollment in U.S. institutions have an enormous economic impact on the overall U.S. economy. NAFSA's annual International Student Economic Value Tool analysis found that the overall economic impact generated by international students had declined by \$1.8 billion to \$38.7 billion

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during the 2019-2020 academic year from \$40.5 billion in the prior year. The declining enrollment numbers for 2020 will unfortunately contribute to the challenges our economy confronts as we rebuild from the global pandemic.

Flexibilities of the type featured in SEVP’s April 26, 2021 guidance are crucial in supporting a successful 2021/2022 academic year. We would like to suggest the following additional clarifications to further help schools and students operate responsibly and responsively during this year of transition. Our overarching recommendation is to provide schools greater flexibility to operate as international, national, state, and local safety considerations allow.

Clarify the procedures and implications for a school that returns to “normal operations”

“Maintaining student records” FAQ 8, in response to the question, “If students cannot or will not return to school when in-person instruction resumes, should their records be terminated for authorized early withdrawal?,” states:

“A. Once a school returns to normal operations, if students cannot or choose not to return to the United States to study, DSOs should terminate the records. Refer to the Terminate Student article in the SEVIS Help Hub on Study in the States for additional information.”

A return to “normal operations” will take place along a continuum at most institutions. Continued accommodations for both domestic and international students will likely be a part of a school’s 2021-2022 plan, even though the school’s goal might be to restore normalcy to the greatest extent possible.

NAFSA asks that SEVP allow schools to maintain SEVIS records in Active status for continuing students abroad if they are unable to obtain a visa to return to the United States for the Fall 2021 term and register for a full course of study online, regardless of the school’s operating status along the return to normal operations continuum. The consulates are only now just starting to reopen, and the blanket National Interest Exception for F-1 and M-1 students from all countries subject to a COVID-19 geographic proclamation was announced only at the end of April, meaning that many

students may not be able to secure a visa in time to return for the Fall 2021 term. Allowing schools to keep these records Active will avoid unnecessary data fixes during this transitional period.

Eliminate the 12-Month Validity of Paid SEVIS Fees

We would like DHS to consider the I-901 fee to be valid for longer than 12 months for students who are unable to schedule a visa appointment. One of our members reached out to FMJFEE.SEVIS@ice.dhs.gov and was provided this response: “When applying for a visa the I-901 fee is valid for one year from the payment date. If the student does not receive the visa within that year then the fee is no longer valid.”

If this is the case, all students who were given initial I-20s for Fall 2020, paid the SEVIS fee last year, and whose I-20 start dates were deferred to Fall 2021, would need to repay the SEVIS fee if their visa appointment will be more than 12 months from the date they paid the fee.

However, there is no statutory or regulatory limit to the duration of the validity of a SEVIS fee payment. DHS regulations impose a 12-month validity on SEVIS fees following denial of a visa application [8 CFR 214.13(e)(5)], but impose no limit on the validity of a SEVIS payment for a student who could not even apply for a nonimmigrant visa.

The preamble to the final SEVIS fee rule at 69 FR 39814, [39820](#) (July 1, 2004) stated:

“The SEVIS fee is a one-time fee for each nonimmigrant program in which the student or exchange visitor participates. For purposes of this fee, a “single program” for an F or M student generally extends from the time that the student is granted a particular nonimmigrant status, until such time that the nonimmigrant falls out of status, changes status, or departs the United States for an extended period of time.”

In these cases, the student has not applied for a visa and has not entered the United States or granted nonimmigrant status, so his or her fee payment should remain valid.

Consider the longer-term realities of the pandemic by eliminating the March 9, 2020 date and the scope of SEVP flexibilities and processes.

SEVP’s original guidance was developed in the Spring of 2020, in the context of hopeful short-term expectations regarding the pandemic. SEVP should eliminate the March 9, 2020 date that still figures prominently in its current COVID-19 guidance, because the date no longer serves to distinguish new and continuing students. Maintaining the March 9, 2020 date creates unnecessary limits on newer students as schools retool for the coming academic year.

Given the duration of the ongoing pandemic, the flexibilities SEVP develops should apply to all students, new, continuing, transferring, and moving levels, regardless of when they begin or began studies. For example, SEVP should:

- Allow schools to register records that are in Initial status, and to maintain SEVIS records that are in Active status, for students that are enrolled for a full course of study that is online, hybrid, hyflex, or a combination thereof, depending on the education delivery models and options the school reports to SEVP, regardless of whether the student is inside or outside the United States.
- Allow new students to enter the United States for study even if school will be entirely online. This allows schools the flexibility to shift between entirely online, hybrid, hyflex, or fully in-person instruction in response to national, regional, or local shifts in COVID-19 risks, without penalizing international students.
- Accommodate transfer and change of level students who are outside the United States, by allowing schools to register such students’ SEVIS records and thereby reduce unnecessary data fixes.
- Streamline any required data fix processes to facilitate students’ timely return to the United States.



- Cooperate with USCIS to develop a policy that allows a student to apply for optional practical training (OPT) from outside the United States.

These flexibilities should apply to students who are enrolled, or planning to enroll, in any program of study a school is approved to offer under its Form I-17, including degree study, language training programs, pathway programs, and non-degree programs.

Thank you for considering our recommendations for additional flexibilities to allow schools and international students to maneuver this evolving environment successfully and safely.

Sincerely,

[Signature Redacted]

Esther D. Brimmer, DPhil
Executive Director & CEO
NAFSA: Association of International Educators