



March 16, 2020

The Honorable Chad Wolf  
Office of the Secretary  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Dear Acting Secretary Wolf,

On behalf of NAFSA: Association of International Educators, I write today to request that the Department of Homeland Security (DHS) exercise its discretion to allow for flexibility in adjudication of benefit requests and status determinations for international students and scholars who are impacted by COVID-19 and the measures institutions of higher education are taking in response to it. Schools and exchange visitor programs are implementing measures to mitigate the spread of COVID-19 and ensure the health and safety of their communities. Typical measures include temporary closures, telework and distance education policies, and other measures.

To date, we appreciate recent DHS guidance regarding visa and immigration policy and processes for international students and exchange visitors, specifically the Student Exchange Visitor Program (SEVP) guidance regarding the transition to online courses and its impact on F and M international students. Higher education institutions have extensive emergency and contingency plans for natural and other disasters. What higher education institutions need now is a whole-of-government approach that holds harmless international students, scholars, researchers, and other nonimmigrants on campus to reasonable responses to this pandemic. Specific requests include the following:

**First**, we ask DHS and DOS to publish a **Special Student Relief notice in the Federal Register**. Regulations allow DHS to suspend or alter rules regarding duration of status, full course of study, and employment eligibility, for specific groups of students from parts of the world that are experiencing emergent circumstances. This collection of benefits is known as "special student relief" (SSR). DOS has also twice acted to publish SSR notices for exchange visitors. We ask DHS and DOS to develop an SSR package that addresses the reality that some schools and exchange programs may have to cancel classes or have students temporarily drop below a full course of study.

**Second**, we ask DHS agencies to accept and adjudicate benefit requests that are filed outside filing windows and deadlines or otherwise at variance with regulatory deadlines or form instructions. Most benefit requests filed with USCIS are done so within the context of filing windows established by regulation and form instructions. We ask DHS to publish a general, temporary form instruction that provides flexibility in adjudication of benefit requests filed outside filing deadlines due to COVID-19. DHS has the authority to do so. 8 CFR 103.2(a)(1) provides:

“Every form, benefit request, or other document must be submitted to DHS and executed in accordance with the form instructions regardless of a provision of 8 CFR chapter I to the contrary. The form's instructions are hereby incorporated into the regulations requiring its submission...”

We believe that this provision gives DHS the authority to publish a general, temporary forms instruction to provide needed flexibility. Some examples of filing deadlines and filing procedures that would be temporarily waived under such a general instruction:

- **DHS should waive the optional practical training (OPT) filing windows established by 8 CFR 214.2(f)(11)(i)(B)(2).** USCIS should accept a Form I-765 filed more than 30 days (or more than 60 days for STEM OPT applicants) after the DSO’s recommendation for OPT in SEVIS. USCIS also should accept a Form I-765 filed more than 90 days prior to the student’s program end date or more than 60 days after the student’s program end date.
- **DHS should allow F-1 and M-1 students to apply for OPT while they are physically present outside the United States.** Form I-765 contains an instruction that "You must file Form I-765 while in the United States." USCIS should waive this condition and allow students to apply for post-completion Optional Practical Training (OPT) while they are physically present outside the United States because they were taking a full course of study online abroad under the school's COVID-19 procedural adaptation as authorized under SEVP Broadcast Message 2003-01 and subsequent clarifications.

**Third**, we ask DHS to allow F, M, and J nonimmigrants to enter or reenter the United States based on their Initial or Active SEVIS record. The “system of record” is already the electronic SEVIS record. To reduce the need for exchange of paper forms and social interaction, CBP should allow students, exchange visitors, and their dependents to enter or reenter the United States on the basis of the electronic SEVIS record alone (if otherwise eligible), without a paper Form I-20 or DS-2019 or without a “travel signature” by the P/DSO or A/RO.

**Fourth**, we ask DHS to develop a written policy to provide that DHS will consider a student, scholar, or dependent to have continuously maintained his or her F, M, or J

**nonimmigrant status for purposes of future eligibility for immigration benefits and otherwise**, where a school or exchange visitor program properly maintains the student, exchange visitor, or dependent’s SEVIS record in Active SEVIS status under a COVID-19 adaptation, regardless of the individual’s physical location being abroad or within the United States. This policy will ensure, for example, that:

- **A student, exchange visitor, or dependent remains eligible for the full range of benefits and actions within their SEVIS category** and duration of status, such as school or program transfers, extension of stay, moving educational levels, reduced courseload authorizations, and incident to status employment or employment authorizations authorizable by the P/DSO or A/RO (regardless of whether the employment is done on the school’s or program’s premises or through telework authorized by the employer).
- **A student, exchange visitor, or dependent will be considered to have continuously maintained nonimmigrant status for purposes of future immigration benefit requests**, such as change of nonimmigrant status, extension of nonimmigrant stay, adjustment of status to lawful permanent resident.

**Fifth**, we ask DHS for flexibility in school reporting requirements. 8 CFR 214.3 establishes a number of regulatory deadlines for reporting changes to an F or M school’s information and changes to information of individual students. There are four basic kinds of reporting requirements:

1. Event-based reporting on individual students
2. Periodic reporting on all students (SEVIS registration and enrollment reporting)
3. Recertification
4. Updates to a school’s information

We ask that DHS allow flexibility in the reporting deadlines associated with the above, including those described at [SEVIS Reporting Requirements for Designated School Officials](#). We also ask that you consider disabling any date-based automatic SEVIS actions during the COVID-19 emergency.

**Sixth**, we ask DHS to not consider time spent unemployed during the COVID-19 emergency towards the post-completion OPT and STEM OPT unemployment limits.

**Most importantly, we ask that DHS in the short term make clear that their goal is the health and well-being of all involved.** Broad guidance based on these principles is needed that include options for nonimmigrant students, faculty, researchers, and others on campuses to remain in legal immigration status and to access or continue work opportunities.



Thank you for considering this list of items, and for your willingness to consider other suggestions that we might forward to you in the future as the situations students and scholars face change.

Sincerely,

[signature]

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NAFSA: Association of International Educators

CC:

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