

Table of Contents

Practical Training 2

1. OPT Extension Participation 2

2. New I-20 Needed for Entry into United States on OPT 2

5-Month Rule and Leave of Absence 3

3. Recent SEVP Leave of Absence Guidance 3

4. DataFixes and Leave of Absence 4

MAVNI Program and SEVIS 5

5. MAVNI (U.S. Army) Program 5

Border Commuter Students 6

6. F-3 Visas..... 6

I-17 Updates..... 7

7. Appeal Process for Delays/Problems With I-17 Updates for “Auxiliary Classroom” 7

Entering Biographic Information in SEVIS..... 8

8. SEVIS and No Month/Day of Birth 8

SEVIS HelpDesk 8

9. HelpDesk Tickets 8

10. Long Outstanding HelpDesk Tickets..... 8

SEVIS I-901 Fee 9

11. SEVIS Fee Challenges 9

SEVIS II..... 9

12. SEVIS II Roll-Out Dates..... 9

13. SEVIS II and Name Issues 10

14. Conversion of “Requested Status” Records in SEVIS II 11

Program Dates and Extensions of Stay 11

H-1B and OPT 11

15. H-1B Cap Gap Issued in Error 11

16. Returning to Approved OPT After Loss of H-1B Employer 12

Online Programs and Short-Term Programs 13

17. Online Program With an On-Campus Course 13

18. Short Term Class on Tourist Visa	13
19. ESL Classes on Tourist Visa	14
Transfers, Change of Level, Change of Status	15
20. Change of Education Level.....	15
21. Change of Status to F-1 (Not Approved Prior to Travel Abroad).....	15
Reinstatement	16
22. Are reinstatement approval emails still being sent?	16
School Recertification	16
23. Recertification Process Update.....	16
DMV Issues	17
24. SEVIS/SAVE Issues	17

Practical Training

1. OPT Extension Participation

(Region XI)

If a student fails to report his/her STEM OPT Extension Participation and the "Report Participation" link is then subsequently removed from the SEVIS record and the student's SEVIS record remains active, could SEVP confirm that the DSO should not terminate the record and should continue to update information (address changes, etc.) that the student reports?

SEVP Response: Yes, SEVP can confirm this is correct.

2. New I-20 Needed for Entry into United States on OPT

(Region I)

Members have reported instances of students traveling while on OPT who are told at the border to get new Forms I-20 for various reasons. One officer said the Form I-20 should say "OPT approved" on the third page. Another officer was bothered because the recommend dates did not match the approved dates on the card. Some consular officers have also instructed students to obtain new Forms I-20 noted with the actual dates of OPT authorization.

- Could SEVP confirm that new I-20s are not needed for re-entry or for visa applications, and is this something that SEVP can share with CBP and Department of State officials?

SEVP Response: The Form I-20 serves to validate the nonimmigrant's purpose for entry into the United States. If the student outside the U.S. has a Form I-20 with signed approval for travel over six months old, the form is invalid and the school should issue a new Form I-20 with travel

approval before the student arrives at a port of entry. If a student tells the CBP official that he is returning to commence or complete OPT, it is reasonable for the official to expect that OPT approval will appear on the Form I-20.

Students share responsibility in facilitating their return to the United States. If there has been a significant change (e.g., name, marital status, citizenship, program of study, etc.), the documentation they present to CBP should reflect their current status. If they haven't bothered to visit their DSO to get an updated, they should expect problems at re-entry.

It is worth noting that applications for benefits to USCIS frequently require a Form I-20 issued within the previous 30 days. It isn't unreasonable for consulates and CBP officials to expect documentation that looks current. The student should be encouraged to present documentation that clearly validates their recommendation for re-entry, not focusing on the minimum standard they can get away with.

SEVP Policy is logging issues students face at the borders and with consular processing such as this. DSOs may send e-mails to sevis.source@dhs.gov, ATTN: POLICY to report specific cases. We will continue to coordinate with Department of State and CBP. Your timely and detailed information is essential to our efforts for quality assurance in student processing.

Thanks to those of you who assure that your students don't leave the United States without complete and updated paperwork, and to those of you that are diligent in reporting problems.

5-Month Rule and Leave of Absence

3. Recent SEVP Leave of Absence Guidance

(Region VI)

SEVP's most recent guidance on leave of absence instructs DSOs to terminate a SEVIS record for reason "Authorized Early Withdrawal" for leave of absence, and provides three scenarios. Some questions:

Scenario 2 in the guidance reads: "Current student elects to take a leave of absence of five months or more outside the United States. Action: Student must apply for and obtain a new visa. An initial Form I-20 may be issued to support this."

- Does the student also have to pay a new SEVIS fee in this scenario? Does the student have to show new proof of finances, etc.? Should the new I-20 show a new program start date?

SEVP Response: Yes—if it has been more than five months, the student is considered as an initial student and will be processed like one. This applies to any F-1 student who receives a new I-20 with new SEVIS ID for any reason and returns to the United States on that new SEVIS ID.

The SEVIS fee can be transferred if the first payment has been made within the past year, and if the status on the old SEVIS ID is not terminated for any reason other than Authorized Early Withdrawal. Otherwise, the student must pay the SEVIS fee again.

Yes, the new Form I-20 should show a new program start date. If the school is already in receipt of current or valid documents as required to issue the Form I-20, then the DSO does not need to receive them again. Accrual of time in F-1 status for eligibility for benefits such as practical training is forfeited any time a student opens a new SEVIS record.

What if a student withdraws from classes in the beginning of the spring semester, leaves the US, and wishes to come back within five months when the spring semester ended and summer term starts. Registration for summer is open, and the student may enroll for summer classes. However, he does not want to register, he wants to take summer semester as a vacation.

- 8 CFR 214.2(f)(5)(iii) states that “An F-1 student at an academic institution is considered to be in status during the annual (or summer) vacation if the student is eligible and intends to register for the next term.” Must the student enroll for summer classes or is it fine if he resumes study in the next regular (i.e., fall) semester?

SEVP Response: In this case, the student would not be eligible for the vacation following the leave of absence because he would have had to have been enrolled for a complete academic year before the summer term to eligible for annual vacation.

Specific questions like this can be sent by e-mail to sevis.source@dhs.gov.

4. Data Fixes and Leave of Absence

(Region II)

The Leave of Absence Guidance that was posted on the SEVP Web site with the Pre NAFSA Conferences Questions and Answers (compiled July 16, 2009) explains that if a current student takes a leave of absence for less than five months outside the U.S. the DSO should terminate the student’s SEVIS record for authorized early withdrawal. Within 30 days of the student returning to the U.S., the DSO should request that the student’s record be returned to Active status by the SEVIS HelpDesk.

- Does SEVP anticipate that the SEVIS HelpDesk will expedite data fixes to set the record back to Active for purposes of Leave of Absence? Our concern is that even if the request is made in a timely manner by the DSO, the data fix process may delay the student’s ability to renew his or her visa and/or re-enter the United States by the start of the next academic semester.

SEVP Response: The HelpDesk assures us that they will expedite corrections if DSOs call and provide information and/or documentation regarding the student’s definite date of return. Obviously, the more lead

time that can be provided, the better.

As a side note, SEVP will be correcting its previous guidance to clarify that these are not actually HelpDesk tickets for a Data fix, but rather Correction Requests to student status in SEVIS. After the student's record has been set back to Active, does the DSO immediately register the student's record in RTI, similar to reinstatement approvals?

Yes, the DSO should do so.

- Has this information been communicated to CBP, so that they will know where to look if the SEVIS record is not reactivated before the student returns?

SEVP Response: DSOs are encouraged to provide students with a letter of explanation and points of contact at the school to carry with them as they enter the United States. If students have a choice, it is to their advantage to arrive in the United States during business hours in case such coordination with the school is necessary. We will continue to coordinate with CBP on this issue.

MAVNI Program and SEVIS

5. MAVNI Program

(Region VI)

- What branches of the military are involved in the MAVNI program?

SEVP Response: At this time, the U.S. Army is the only participating service.

- What will the immigration status of the students be while on the program?

SEVP Response: MAVNI recruits are not able to maintain their F or M status once they have begun their tour of duty with the U.S. Army. We understand that they will be eligible for naturalization upon enlistment, and that the Form N-400 application will likely be processed at some time before they complete their basic training and are deployed.

- What happens if a student is injured/discharged/etc., prior to completion of his or her four years of service?

SEVP Response: Injured military personnel (these are no longer F or M-1 students, and based on this scenario are now USCIs) are evaluated by their commands to determine whether they are capable of completing their original commitments, perhaps in other capacities, or should be discharged because of severity of their injuries.

- Why do the document requirements specifically indicate an unexpired VISA instead of a valid I-20?

SEVP Response: The requirements were prepared with a broad range of nonimmigrants in mind rather than particularly students.

- What training are the military recruiters being given on this program?
SEVP Response: The Army has provided extensive training to its recruiters, participates in ongoing conference calls with DHS to resolve issues, and has identified Army personnel to serve as its POC for students who enlist through MAVNI.
- Are students with certain skill sets or languages being more highly recruited than others?
SEVP Response: Yes—refer to <http://www.defenselink.mil/news/mavni-fact-sheet.pdf> for further details. In this limited pilot, people with the following critical skills are being sought: physicians, nurses and certain experts in specified languages with associated cultural backgrounds.
- What should a DSO do with a student's SEVIS record after that student was on OPT but then joined the U.S. Army's MAVNI Program?

SEVP Response: Employment in the U. S. Army cannot count as OPT employment. Students can continue to work on OPT or can maintain their studies until they begin their actual employment with the U.S. Army, usually their report date for basic training. The SEVIS record should be Terminated within 21 days of that date, for Authorized Early Withdrawal if the student has reported his or her situation to the DSO. The DSO should also indicate that the student is enlisting through MAVNI in the Remarks section of the Form I-20 in SEVIS and has maintained status up to that point, as applicable.

SEVP is editing its final version of a MAVNI FAQ for publication on the SEVP Web site and will host a webinar on this topic later this fall. For further references, please see:

<http://www.defenselink.mil/news/mavni-fact-sheet.pdf>

www.army.com/enlist/mavni.html

www.uscis.gov/military

Border Commuter Students

6. F-3 Visas

(Region III)

Pursuant to the Border Commuter Student Act of 2002, the Department of State has been issuing F-3 visas for border commuter students. The current DHS regulations address border commuter students in the F-1 regulations, which were promulgated prior to the Border Commuter Student Act. Could SEVP clarify:

- The restrictions on border commuter student employment in DHS's F-1 border commuter student regulations at 8 CFR 214.2(f)(18)(iv) do not apply to a national of Canada or Mexico who is pursuing a full course of study on a *full-time* basis [8 CFR 214.2(f)(18)(i)(B)]. Can SEVP confirm that a Canadian or Mexican national

admitted to the United States on the basis of an F-3 visa for *full-time* study may pursue the full range of F-1 employment and practical training benefits set forth at 8 CFR 214.2(f)(9) and (f)(10)?

SEVP Response: No schools have been certified by DHS/SEVP to enroll F-3 or M-3 students. If a student has been issued a visa for either of those statuses, it has been done in error and the visa should be corrected. You may wish to caution your prospective students from Canada or Mexico to be aware of this possibility and correct the error at the time of issuance.

The questioner is correct. If a student lives in Canada or Mexico and commutes to the United States to participate in a full-time program of study, he or she is regarded the same as any other F-1 or M-1 student concerning benefits. If a student lives in Canada or Mexico and commutes to the United States to participate in a part-time program of study, the student's benefits are restricted as described in 8 CFR 214.2(f)(18) and 8 CFR 214.2(m)(19).

We continue to work with the Department of State and CBP in those instances in which an F-3 or M-3 visa has been issued.

- Will DHS be writing new F-3 and M-3 regulations in the upcoming rewrite of 8 CFR Part 214?

SEVP Response: A border commuter rulemaking is a priority for SEVP, but too many unresolved questions remain to include it in the rewrite of 8 CFR 214. We hope to address this issue as soon as possible after SEVIS II implementation.

- Currently SEVIS I has a checkbox in the U.S. address field to indicate whether the student is a commuter student, but the record is still an F-1 record. Will SEVIS II include additional F-3 designation fields?

SEVP Response: Introduction of new fields in SEVIS will coincide with the border commuter rule, mentioned above. We are delaying entering them in SEVIS now to avoid further confusion.

I-17 Updates

7. Appeal Process for Delays/Problems with I-17 Updates for “Auxiliary Classroom”

(Region III)

What can a school do to contact SEVP to expedite the approval of adding an “Auxiliary Classroom” at another private high school location (which has been approved by the required accrediting agency) for an already approved SEVIS institution? What mechanisms does SEVP have in place to expedite Form I-17 adjudications?

SEVP Response: The SCB adjudicates Forms I-17 in the order they are received. Details such as you have given, regarding prior approval of the site by an accrediting agency, will simplify the approval process and speed

up a decision. In general, any narrative that provides detail where the SCB might otherwise have questions will be in the school's best interests. As always, the earlier you submit the change before you need approval, the more likely the SCB can support you. We ask that you please bear with us during this process. School Certification Branch is averaging 182 updates per month. We have not been able to backfill positions within the office and therefore are well below 40% of the number of staff members. If the update has been submitted we will process it as quickly as possible.

Entering Biographic Information in SEVIS

8. SEVIS and No Month/Day of Birth

(Region VI)

Could SEVP and DOS confirm what a P/DSO or A/RO should put on an I-20 or DS-2019 if a student or exchange visitor has only a birth year, and not a full date of birth (mm/dd/yyyy)?

SEVP Response: Currently SEVIS requires a valid birth date that includes month/date/year xx/xx/xxxx. There are no substitutes; the user can not proceed to the next page of the I-20 or DS-2019 without using a valid birth date,

SEVIS HelpDesk

9. HelpDesk Tickets

(Region V)

Do e-mail responses from the HelpDesk to DSOs and ROs routinely include the HelpDesk Ticket Number and the SEVIS ID for the DSO/RO's reference? If not, is it possible to include them to assist DSOs/ROs in connecting HelpDesk responses to specific cases (with SEVIS IDs)?

SEVP Response: Remedy is the tracking system used to create and monitor Help Desk Tickets and the emails that are automatically generated by the remedy application do not contain the student/ev SEVIS ID. The system generated emails only contain the Help Desk Ticket number. We can suggest to Remedy to add the SEVISID to the system generated emails, but we do not have the final decision..

10. Long Outstanding HelpDesk Tickets

(Region VIII)

A DSO reports that a SEVIS HelpDesk ticket has been outstanding for almost three months, with no resolution (CLAIMS termination of an F record to H-1B when the H goes into effect in October). The SEVIS record now has been completed, and it appears from the amount of time that this has taken that the H-1B status will activate before the

situation with the HelpDesk has been resolved.

- What is the current processing time for SEVIS HelpDesk tickets?

SEVP Response: What is the Help Desk ticket number? I will follow-up and call the user. The maximum response time to resolve a Help Desk tickets is 30 days. In regards to the students and EV who were approved for H1B beginning October 1, the Help Desk experienced a large volume Help Desk tickets. The reason for the spike in Help desk tickets was due to SEVIS records not receiving appropriate updates from CLAIMS for H1B approvals. As a result data fixes were performed on the records to add the H1B approvals, and cap gap. If users are still experiencing problems, please call the Help Desk.

- In what cases are there often longer processing times, and how long do those cases take for resolution?

SEVP Response: The tickets that take the most time to resolve are Policy and System Change Request (SCR) Help Desk tickets. SCR's are data changes performed by the data base team. Both require resolution from outside the Help Desk.

SEVIS I-901 Fee

11. SEVIS Fee Challenges

(Region V)

After credit card payments became unavailable for four African nations, students in the affected countries have faced difficulties paying the SEVIS fee, most notably in Nigeria and Cameroon, where the Western Union payment option does not seem to be working. Without access to issue checks drawn on U.S. funds in a U.S. bank, these students cannot pay the fee themselves and must rely on someone in the United States to mail a check for them. However, not every student has a friend or relative in the United States who can do this for them, and not every college or university is willing to front the money for these students' SEVIS fees. Therefore, the SEVIS fee is now becoming a barrier to legitimate students from these countries.

- Is SEVP considering instituting a new method of payment that would be accessible to these students?

SEVP Response: SEVP is looking into alternative resolutions to the overall fee payment fraud issue, but at this time the credit card restrictions will remain in place."

SEVIS II

12. SEVIS II Roll-Out Dates

(Region XI)

Could SEVP provide clarification on the two roll-out phases for SEVIS II – what each will be and when they will begin?

SEVP Response: The schedule for SEVIS II is still under review, but remains (tentatively):

Initial Operating Capability (IOC): February 2010

Creation of customer accounts for school and sponsor officials, students, exchange visitors, and dependents

Add new I-17 information and update some fields that have new choices on a drop-down list or were free text and are now a selection from a list
Keep SEVIS I as the system of record

Final Operating Capability (FOC): October 2010

Full functionality

SEVIS I is no longer used

13. SEVIS II and Name Issues

(Region X)

A recent ICE Fact Sheet – September 2009 – talks about preparations for SEVIS II. Here are some questions of concern on name-related issues:

- The Fact Sheet states, “...use FNU in the First Name Field in SEVIS...” Some students have ONLY a first name in the passport, and NO family or surname. SEVIS must have a family name, and given name is optional. Thus, there is a “disconnect” between the passport, the suggestion, and SEVIS functionality.

Question: Would it be correct, in this scenario, to put the single, given name, from the passport in the SEVIS Family Name field, and leave the given name field blank?

SEVP Response: If a student’s passport only lists one name, SEVP asks that you enter that name in the Last Name field and use FNU (**F**irst **N**ame **U**nknown) in the First Name field in SEVIS. SEVP will work with federal and state agencies to familiarize them, if necessary, with FNU. We also ask that you, as school officials, provide students with guidance so that are prepared to explain the acronym if it is causing problems with any government process.

- The Fact Sheet says putting “FNU” in the first name field in SEVIS “**will** be followed in SEVIS II.”

Question: Is using FNU optional now in SEVIS I (i.e., can we choose to leave the given name field blank), or is it “mandatory” that we put FNU in this field?

It would be very difficult to advise students who are overseas, whom we have never met, and whose English skills and governmental interaction skills are not capable, to explain why FNU is acceptable, even when it is not in the passport.

SEVP Response: The use of FNU is optional.

- Not using a hyphen in SEVIS II for names that *are* hyphenated in the passport creates a potential problem for social security number applications and other governmental (federal and state) interactions where exact adherence to the passport style is expected.

Question: What discussions has SEVP had with DOS, CBP, DMVs and SSA regarding the changed guidance for names (hyphens, FNU, etc.)?

SEVP Response: SEVP is working with its partners within the federal government and at the state level on issues associated with naming conventions, hyphens, and special characters.

14. Conversion of “Requested Status” Records in SEVIS II

(Region VIII)

A member reported concern about all of the records (41) they have in the alert, "Students with requests in Requested Status over 90 days," and what will happen with these records during conversion to SEVIS II? Most of the records in that alert had OPT start dates in 2007 or 2008. Only three could be considered 'current.' They never have been cleared by CLAIMS or SEVP.

- Is there some way to clear them with one massive ticket to the SEVIS HelpDesk, or will these be cleaned up by SEVP before the conversion?

SEVP Response: As always, SEVP asks that school officials regularly monitor student records and make/request any changes to ensure their accuracy. If you have records hanging with requests in Requested Status over 90 days, you can work with the SEVIS Help Desk to make the necessary changes.

Program Dates and Extensions of Stay

H-1B and OPT

15. H-1B Cap Gap Issued in Error

(Region XI)

- There have been some reports of H-1B cap gap benefits being incorrectly applied to records of students on PRE-completion OPT. How do you recommend we deal with cases like this?

SEVP Response: We are aware of this issue. The CLAIMS interface with SEVIS does not detect the difference between pre-completion and post-completion OPT in some cases. We must ask DSOs to contact the SEVIS HelpDesk for a data fix.

- The H-1B cap gap is also being applied to individuals working for a cap-exempt

petitioner. They are also being granted the cap-gap in SEVIS, and their OPT being extended to 9/30/09, even through they are not in a cap-gap situation, and the H-1B benefit start date is before 9/30/09.

SEVP Response: We are aware of this issue. Unfortunately, the CLAIMS interface with SEVIS does not detect the difference between cap-subject and cap-exempt H-1B applicants who are not eligible for the cap-gap extension. We hope that this may improve for next year, but cannot provide specific information at this time. Again, DSOs must contact the SEVIS HelpDesk for a data fix.

- The cap-gap “extension” also sometimes improperly shortens OPT to 09/30/2009. How can a student have his or her SEVIS record corrected if his or her post-completion OPT has been improperly shortened to 09/30/2009 by the cap-gap functionality?

SEVP Response: Again, DSOs must contact the SEVIS HelpDesk to request a data fix to remove the cap gap from the SEVIS records.

16. Returning to Approved OPT After Loss of H-1B Employer

(Region II)

Members have reported numerous cases of students on OPT whose employers have filed H-1B petitions for them with a benefit start date of October 1, 2009 who have subsequently been laid off. In most of these cases, the student's OPT end date has been shortened to September 30, 2009, based on the approved H-1B petition. As it can take several months for USCIS to process an H-1B petition withdrawal, the student would only be in a position to provide a copy of the request to withdraw the H-1B petition.

- Because the H-1B petition will no longer be valid, and if the cessation of employment occurred before October 1, could SEVP advise what the DSO can do in order to have the student's OPT end date corrected in SEVIS?

SEVP Response: The DSO must contact the SEVIS HelpDesk for a data fix, if the petitioning employer filed a letter of withdrawal of the H-1B petition with the USCIS Service Center before October 1. This does not require that the Service Center processed it before October 1. The student may continue to work on OPT as approved on the EAD if the above conditions have been met, if a data fix is pending.

- Is there any way for the petitioner to request USCIS to revoke their approved petition if it is before the employment start date on I-129? If yes, what is the procedure for that, and for restoring the original OPT end date in SEVIS?

SEVP Response: SEVP Policy is currently working with USCIS and the SEVIS HelpDesk on a list of specific cases of this nature to determine what documents we can accept for such a request and how we can receive them so as to timely process these tickets and get the records

fixed. Once the receipt is received, the student's OPT can be restored. If the withdrawal was not filed before the H-1B effective date, the student must apply for reinstatement to F-1 status to continue OPT.

Online Programs and Short-Term Programs

17. Online Program with an On-Campus Course

(Region II)

The branch campuses of University X are offering more and more online courses, making it difficult for international students enrolled at University X to meet the requirement of only one online course per term.

- Are any considerations being made to allow for the new regs to allow an international student to take more online courses per term?

SEVP Response: Yes. The current regulation [8 CFR 214.2(f)(6)(i)(G)] allows "no more than the equivalent of one class or three credits per session, term, semester, trimester, or quarter may be counted toward the full course of study requirement **if the class** is taken on-line or through distance education and **does not require the student's physical attendance for classes, examination or other purposes integral to completion of the class.**" A class which employs on-line technology and **does** require the student's physical attendance for classes, examination or other purposes integral to completion of the class can be engaged in without restriction. DHS needs assurance from the sponsoring school that the student is physically present and participating in classes full time. On-line training, within these monitoring parameters, supports DHS's need. Obviously, distance education classes that do not provide a means for physical monitoring and must be restricted.

The rewrite of 8 CFR 214 is intended to clarify this text.

18. Short Term Class on Tourist Visa

(Region I)

Our school has some graduate programs that are mostly online but require students to attend week-long face to face sessions for each class.

- What immigration category is appropriate for such activity?

SEVP Response: SEVP has received a number of questions on such programs in the past. Because the students are coming to the United States with the intent to study full time, albeit for a short period of time, they should be in F-1 status. DSOs should issue a Form I-20 with program dates for that week only.

19. ESL Classes on Tourist Visa

(Region I)

Has there been any clarification on tourist visa students taking ESL classes (reference to 8 CFR 214.2(b)(7) and INS Memo HQS D/70-6.2.2-P? Our office has a very literal interpretation of the memo: a single ESL class, one quarter only. Other programs seem much more liberal: as long as the visitor is part-time (less than 18 hours per week), s/he can enroll for as long as s/he wants. Although the differences were troubling, I assumed that since the regulations were not completely clear, each institution might interpret this as suits their program until further guidance had come out. I have noticed, however, that a few consular websites have statements that a B visitor can enroll for ESL classes of less than 18 hours per week.

- Are we too strict in our interpretation, considering the consulates may be sending a different message to visitor visa applicants?

SEVP Response: Ultimately it will be the consulates that make the decision as to what type of visa to issue. Our guidance is that if a person is coming to the United States with the primary intent of studying English, then he or she should not do so as a visitor, but as an F-1 student. Because of this, the person would then need to meet the requirement for a full course of study. SEVP does not operate under the INS memo to which you refer. We do not administer visitor visas, of course, but we understand that visitors may only engage in avocational or recreational study, which was not their primary intent or purpose for coming to the United States.

Federal regulations at 8 CFR 214.2(b)(iii)(7) state:

(7) Enrollment in a course of study prohibited. An alien who is admitted as, or changes status to, a B-1 or B-2 nonimmigrant on or after April 12, 2002, or who files a request to extend the period of authorized stay in B-1 or B-2 nonimmigrant status on or after such date, violates the conditions of his or her B-1 or B-2 status if the alien enrolls in a course of study. Such an alien who desires to enroll in a course of study must either obtain an F-1 or M-1 nonimmigrant visa from a consular officer abroad and seek readmission to the United States, or apply for and obtain a change of status under section 248 of the Act and 8 CFR part 248. The alien may not enroll in the course of study until the Service has admitted the alien as an F-1 or M-1 nonimmigrant or has approved the alien's application under part 248 of this chapter and changed the alien's status to that of an F-1 or M-1 nonimmigrant.

- Has there been some clarification on policies for visitors who want to take ESL classes?

SEVP Response: Please see above.

- How might this affect visitors coming to the United States on a visa waiver?

SEVP Response: Visa waiver is not appropriate for those nonimmigrants whose intent it is to engage in a full program of study. You may refer to 8

Transfers, Change of Level, Change of Status

20. Change of Education Level

(Region I)

A student begins study at the Associate level. Before finishing that level, she decides to switch to the Bachelor's level in the same major (for example, from Associate in Graphic Design to Bachelor's in Graphic Design). The opposite situation also occurs, when a student decides to not continue with a program at one education level, and, having earned enough credit at a lower education level, decides to accept award of the degree at the lower education level (e.g. Bachelor's to Associate's degree)

- Should the Change Education Level function be used to process these types of changes, or is there some other procedure?

For what is being described here, we would ask you to use the Program Information Update function. We would rather that the Change Education Level function be used when a student has fully completed one degree level and is moving on to begin a new program, usually at a higher degree level.

SEVP Response: Yes, a PDSO or DSO should use the change education level link when a student changes from an Associate to Bachelors degree, it does not matter that the degree is in the same field of study. The user can also use change education level link when a student is also doing a reverse matriculation i.e. from Bachelors to Associate.

21. Change of Status to F-1 (Not Approved Prior to Travel Abroad)

(Region X)

Scenario: Student submits an application for Change of Status to F-1. The COS application is pending in the fall semester, but it is not adjudicated prior to the student wanting to travel home for winter break.

If the application hasn't been adjudicated by the winter break and a student wants to travel home, we have always issued another I-20 for travel -- from the same SEVIS record with the same SEVIS number -- knowing that the COS is abandoned by departure. The student travels, gets entry visa, enters the United States in F-1 status.

Last winter we had three students whose SEVIS records were terminated a month or two after entry in F-1 status because the adjudicator denied the COS because the students had departed the United States. A denied COS would terminate the students' SEVIS records, but the students were here in F-1 status with a valid I-94 cards from their entry from abroad. These students' records were eventually corrected through a datafix, but the terminations could conceivably have occurred while they were abroad and caused huge problems at the POE.

The SEVIS HelpDesk has said that the COS SEVIS record should be canceled and a new SEVIS record created, but this would require a new SEVIS fee when a student applies for an F-1 entry visa although the student has already paid the SEVIS fee for the COS application.

- What is the proper procedure for maintaining the SEVIS record and a record of having already paid the SEVIS fee in this scenario?

SEVP Response: The Initial COS I-20 should be canceled upon the individual's departure from the United States. Because it is canceled and not terminated, the SEVIS fee can be transferred upon request to the new initial I-20 if the SEVIS fee was paid within the last year. The student should write to fmjfee.sevis@dhs.gov to request a SEVIS fee transfer.

- Is there any notation that can be made in the COS SEVIS record so that it will not be automatically terminated with abandonment of the COS application given a new I-20 is issued for travel and entry in "Initial" status?

SEVP Response: No, a notation cannot be made; however, DSOs may contact the Service Centers as such cases arise. The student would have a couple of options. One is to wait to study abroad until a later time in the program. Another is to apply for consular processing of an Initial Form I-20 for an F-1 visa while on study abroad.

Reinstatement

22. Are Reinstatement Approval E-mails Still Being Sent?

We have received some reports that Reinstatement approval e-mails were not sent once the record was set back to active.

- Are these e-mails still being sent by the SEVIS system?

SEVP Response: Yes, the SEVIS system is still generating emails for Reinstatement approvals. If you know of a scenario where the email approval notice was not sent to the official, please call the SEVIS Help Desk to report this problem and research will be done to investigate what happened.

School Recertification

23. Recertification Process Update

(Region I)

Our administration has been asking for a "calendar" for the recertification process.

- Can you provide an update on F/M school recertification?

SEVP Response: We have been in conversation with the National Center for Education and Sciences within the Department of Education. The discussion is to assist SEVP and the schools in the implementation of Recertification, by making it an easy process. At this time we cannot provide an exact timeline as to when it will begin. However we no longer plan to wait for SEVIS II to start implementation of recertification.

DMV Issues

24. SEVIS/SAVE Issues

Members continue to report that SAVE is not being updated with actual immigration status data, and DMVs often say that the problem is with SEVIS information in SAVE.

- Could SEVP provide an update regarding the broader resolution of this situation, and how SEVP is working with DMV and SAVE officials?

SEVP Response: For clarification, SAVE does not update information. The system queries data in multiple DHS databases to locate information based on specific parameters depending on the user agency. In regards to resolving the situation, the SEVP communicates with multiple state DMVs to better understand the verification process in each state, identify causes of non-responses, and identify broader communication problems between schools, students and DMVs. The program's ongoing communication with state DMVs permits an SEVP representative to comprehend state policies affecting state verification responses, such as understanding the role of SAVE in the verification process. SAVE and SEVP established a workgroup to address problems agencies experience.

- Can SEVP refer people to the July 2009 SEVP DMV fact sheet, which includes instructions for emailing sevis.source for hard-to-resolve cases, since some conference attendees might not be familiar with it?

SEVP Response: Yes. SEVP requests all representatives (schools, students and DMVs) to refer to the July Fact Sheet. This Fact Sheet will be updated with current information concerning state DMV practices as they are identified.

- Can SEVP discuss whether the data system interfaces in SEVIS II will be more fully integrated with SAVE?

SEVP Response: Yes. SEVP is working closely with SAVE to make improvements to the interface. We are working to ensure SAVE receives the information they need in a way that allows them to interpret it properly.