

# COVID-19 Federal Policy Factsheet Series for Graduate Education Leaders

## Immigration Policies and International Graduate Students

As of July 8, 2020 and is subject to change.

### **Background**

The coronavirus pandemic has halted several facets of international graduate education. On March 13, the Department of Homeland Security (DHS) released [guidance](#) related primarily to distance education and international students enrolled in U.S. institutions. On May 21, DHS released an [updated FAQ](#) for Student Exchange Visitors Program (SEVP) stakeholders that has helped inform answers to some of the questions below. Several questions remain about what flexibility the Administration will grant international students and U.S. institutions for the 2020-2021 academic year in light of anticipated travel restrictions and disruptions to visa processing.

Additionally, President Trump issued a [Presidential Proclamation](#) on April 22, 2020, suspending the entry of certain new immigrants (those who do not already have an approved immigrant visa) for 60 days. *How does this impact international students?* The proclamation does not currently impact applicants for adjustment of status to permanent residence, or nonimmigrants including, students, exchange visitors, visitors for business or pleasure, and H-1B visa holders. *However*, the proclamation instructs the Secretaries of Labor, Homeland Security, and State to review nonimmigrant programs over the next 30 days and to provide recommendations on how to further curb non-immigrant visas and work programs, which could include international student visas, Optional Practical Training, and H-1B visas.

Below are some frequently asked questions and answers included in guidance documents stemming directly from SEVP. CGS has organized these questions by topic area for ease and has also included as outstanding questions under each topic area.

### ***Update (July 8, 2020)***

On July 6, the Student and Exchange Visitor Program operated by the U.S. Immigration and Customs Enforcement (ICE) issued [new guidance](#) modifying temporary exemptions for international students receiving online instruction from U.S. institutions during the COVID-19 pandemic. **Per the latest guidance, new visas will not be granted to international students, nor will they be permitted to enter the United States, if they are enrolled in a school/program that is fully online for the Fall semester.** Individuals on F-1 and M-1 nonimmigrant visas could face removal if they receive their full course load via online instruction while in the U.S., even if the decision to convert to fully online instruction later in the year is deemed essential due to the pandemic.

The new guidance will take effect at the start of a school's defined fall semester and will supersede SEVP's temporary COVID-19 guidance. The current temporary guidance will remain in effect until the end of a school's 2020 summer semester.

### **Frequently Asked Questions**

#### ***Distance Education***

**Q: Can international students enrolled at U.S. institutions on an F-1 or M-1 visa take a larger portion of their instruction online than what current policies allow?**

**A:** According to the [new SEVP guidance for the Fall 2020 semester](#), it depends on the model of instruction the institution will be operating.

**If an institution is operating entirely online:** students may not take a full online course load and remain in the United States. Active students currently in the U.S. enrolled in programs which will be operating entirely online must depart the country or consider transferring schools which will be operating in-person to remain in lawful status. The U.S. Department of State will not issue visas to students enrolled in schools and/or programs that are fully online for the Fall 2020 semester not will U.S. Customs and Border Protection permit these students to enter the U.S. *Note: although students will not be permitted to enter or remain in the U.S., they are not barred from continuing to attend all classes at this institution abroad.*

**If an institution is operating under normal-in-person classes:** students are bound by existing regulation limiting eligible F-1 students to take a maximum of one class or three credit hours online.

**If an institution is operating a hybrid model** (a mixture of online and in person classes): students will be allowed to take more than one class or three credit hours online. Institutions must certify to SEVP that the program is not entirely online, that the student is not taking an entirely online course load for the Fall 2020 semester, and that the student is taking the minimum number of online required to make normal progress in their degree program. *Note: this does not apply to F-1 students in English language training programs or M-1 students, who are not permitted to enroll in any online courses.*

*Previous guidance temporarily allowed those on F-1 and M-1 visas to “count online classes towards a full course study in excess of the limits [of their visa terms].”*

**Q: Will students studying online outside the U.S. remain in Active state in SEVIS?**

**A:** Yes, according to the [FAQ for SEVP Stakeholders about the new Fall 2020 guidance](#), continuing F-1 and M-1 students may remain in active status.

#### **Areas that have not been addressed in the new Fall 2020 guidance:**

**Q: What recommendations does SEVP have for students lacking technology resources to participate in online or alternative instruction requirements?**

**A:** SEVP recommends F-1 and/or M-1 students notify their Designated School Official if they lack technology resources to participate in online instruction requirements. Student records may be kept Active in SEVIS as long as the student intends to resume their course of study when in-person classes resume.

**Q: If a returning international graduate student is unable to be physically present in the United States when in-person instruction resumes due to pandemic-related complications (i.e., travel restrictions or visa processing delays), will they be allowed to resume their program?**

**A:** For returning students who cannot or will not return to the United States when a school designates normal operations will resume, SEVP recommends those students have their records terminated for authorized early withdrawal.

**Q: If an admitted international graduate student is unable to be physically present in the United States for the fall 2020 semester due to the pandemic (i.e., travel restrictions or visa processing delays), will they be allowed to start their program?**

**A:** SEVP [guidance](#) updated May 21, 2020 has no specific recommendations for actions regarding **new students**. The guidance does note that if a school has accepted F-1 and/or M-1 students but will not maintain standard operations because of COVID-19, deferment is an alternative.

**CGS requests that the Administration provides additional guidance on the following:**

1. Will the same level of consideration for distance education requirements that are being currently granted to international students whose institution has transitioned to online education be granted to the students for the 2020-2021 academic year?
2. Will U.S. institutions be facing levys placed by other countries for providing distance education to foreign international students while the students are physically located in their home country? (example, India's Equalisation Levy)

### *Processing of New Student Visas*

USCIS [announced](#) that it will temporarily suspend in-person services at its field offices, asylum offices, and application support centers (ASCs) to help slow the spread of coronavirus. USCIS is readying offices to reopen on or after June 4. Employees in these offices are continuing to perform mission-essential services that do not require face-to-face contact with the public while the offices are closed.

**CGS requests that the Administration provides additional guidance on the following:**

1. Will the Department of Homeland Security grant flexibility in the student visa (F-1, M-1) process to ensure students can still participate in their programs, given the temporary suspension of face-to-face services?
  - a. Will DHS waive the face-to-face interview?
2. How will DHS ensure that visas are processed in a timely manner, perhaps by prioritizing their processing once USCIS operations resume?

### *Returning to the U.S. on a Current Visa*

**Q: Will F-1 and M-1 students be able to return to the United States if they are continuing their studies outside of the country as a result of COVID-19?**

**A:** Yes, if a student continues to make normal progress in their course of study they remain eligible for admission into the United States. However, because of the changing array of travel restrictions, the ICE FAQ document directs students to refer to their local embassy's website through the [U.S. Department of State](#) for any updates about visa issuance.

## *Extending F-1, and M-1 Status for Those Graduating or Completing a Research Scholar Program on a J-1 Visa*

### **CGS requests that the Administration provides additional guidance on the following:**

1. Will the Department of Homeland Security grant temporary extensions to F-1, M-1, and J-1 visas if students have completed their education program/research scholar program in the U.S. but are unable to return to their home country due to COVID-19?

## *International Student Employment*

### **Q: Can F students continue on-campus employment remotely?**

**A:** Yes, according to the [ICE FAQ for SEVP Stakeholders](#) students may continue to engage in on-campus employment remotely, if the current on-campus employment opportunity has transitioned to remote work. Schools should be able to explain how the students are providing services associated with the employment while not at the location of the employer

### **Q: Can F and M students who were previously employed and are now unemployed due to COVID-19 apply for unemployment benefits?**

**A:** ICE recommends students unemployed due to COVID-19 should contact their local or state employment agency for more information.

## *Optional Practical Training*

### **Q: Will students still be considered engaged in Optional Practical Training (OPT) if they are now working fewer than 20 hours due to COVID-19?**

**A:** Yes, students who are working less than 20 hours in their OPT opportunity will be considered engaged in OPT by SEVP according to [ICE's FAQ document](#).

### **Q: Can an employer offer an OPT experience be offered remotely?**

**A:** SEVP [guidance](#) updated May 21, 2020 notes students currently participating in OPT, including STEM OPT, may work remotely if their employer has an office outside of the United States or the employer can assess student engagement using electronic means.

### **Q: Does time spent studying outside of the United States during the COVID-19 emergency count toward the one-year requirement for OPT?**

**A:** During the COVID-19 emergency, SEVP guidance allows an F-1 student to accrue eligibility for practical training whether they are inside or outside of the United States. The student must be in Active status in SEVIS and meet the requirements of their school's procedural change plans submitted to SEVP.

### **CGS requests that the Administration provides additional guidance on the following:**

1. Will the Department of Homeland Security provide more flexibility for students intending to participate in OPT?
2. Will there be a grace period or waiver instituted so that students participating in OPT are not penalized for an unemployment period greater than 90 days?

### *Passports*

**Q: Do students need to renew passports that have expired during a prolonged stay in the U.S. because of the COVID-19 pandemic?**

**A:** ICE recommends students contact their country's embassy or consulate to identify options for passport extension or renewal. If students decide to depart the United States, they will not be eligible to apply for admission until they renew their passport.

### **Regulatory Recommendations/Requests**

CGS requests additional guidance on/adoption of the following:

1. Continued flexibility for distance education offered to international students for the upcoming 2020-2021 academic year.
2. Flexibility for F-1 and M-1 visa processes to ensure that these individuals can participate in their program, including waiving the face-to-face interview requirement for those who are unable to do so in-person due to COVID-19 restrictions.
3. Prioritize processing student visas when USCIS consulate offices begin to resume regular operations.
4. Provide temporary extensions for those who are incapable of returning home after their education program in the U.S. has been completed.
5. An additional grace period for students who may face unemployment due to the pandemic. Currently, students on OPT who accumulate 90 days of unemployment must leave the U.S.
6. Granting flexibility for the application process (for example, allowing student be able to apply for OPT if they are not physically present in the U.S.), as well as timely processing of OPT authorization are critical, and we would appreciate additional guidance on these issues as well.

### **Additional Resources**

- SEVP: [COVID-19: Guidance for SEVP Stakeholders](#)
- SEVP: [Frequently Asked Questions for SEVP Stakeholders about COVID-19](#)