Immigration Regulations and Issues

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International Engagement Workshop

Basic Understandings

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Immigration System

- U.S. Immigration Law created by:
  - Legislative Branch (Congress)
  - Executive Branch (President and Executive Agencies)
  - Judicial Branch (Federal Courts)
- Laws must be interpreted, applied and adhered to by both the government and the public

The Immigration and Nationality Act divides the persons of the world into two categories:

- Citizens or nationals of the U.S.
- Aliens, which includes everyone in the world *except* citizens or nationals of the U.S.

U.S. law further distinguishes between various categories of aliens, depending on their connection to the U.S.

- Immigrants—lawfully accorded privilege of residing permanently in the U.S. (commonly referred to by different terms such as lawful permanent resident or green-card holder)
- Nonimmigrants—alien who wishes to be admitted to U.S. for a limited, temporary purpose, and who plans to depart from U.S. after completing that purpose
- Aliens granted special status for humanitarian or procedural reasons (refugees and asylees, for example)

Federal Regulations and the Federal Register System

The Code of Federal Regulations (C.F.R.)

- Official codification of the "general and permanent rules" published in the Federal Register
- Regulations published in the C.F.R. are considered "law" made by the authority delegated to the agencies by Congress
- Public access to free online version of C.F.R.: http://ecfr.gpoaccess.gov

F-1 Students: Basic Roles and Relationships

An F-1 international student is:

- A nonimmigrant
- Pursuing a "full course of study" to achieve a specific educational or professional objective
- At an academic institution in the U.S. that has been designated by the Department of Homeland Security (DHS) to offer courses of study
- Has been entered in SEVIS (the Student and Exchange Visitor Information System)
- F-1 students are expected by the U.S. government to return to home country after educational objectives have been attained
- F-1 is the visa type/category—the visa is the "ticket" into the U.S.

The F-1 category is created by section 101(a)(15)(F) of the Immigration and Nationality Act (INA):

INA §101(a)(15)(F):

- (F)(i) an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study consistent with section 214(m) at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program in the United States, particularly designated by him and approved by the Attorney General after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (ii) the alien spouse and minor children of any such alien if accompanying him or following to join him.

The F-1 "status" involves various relationships between the government, private individuals, and educational institutions

Student acquires F-1 status by using Form I-20, issued by a DHS-approved school through SEVIS. F-1 status is acquired in one of two ways:

- if the student is abroad, by entering the United States with the I-20 and an F-1 visa obtained at a U.S. consulate
- if the student is already in the United States, by sending the I-20 to USCIS with an application for change of nonimmigrant status

Six principal entities are involved in the F-1 immigration process:

- The Department of Homeland Security (DHS)
- The U.S. School
- The Designated School Officials (PDSO, DSO)
- The Student
- The U.S. Department of State (DOS)
- The SEVIS Database and the SEVIS Help Desk

The Department of Homeland Security (DHS)

- DHS writes regulations and develops policies to implement the F-1 statute and that establish the parameters, procedures, conditions, benefits, duties and restrictions of the F-1 category.
- DHS adjudicates I-17 petitions filed by schools that want to enroll F-1 students, and designates those schools whose petitions it approves.
- DHS inspects F-1 students when they apply for admission at a U.S. port of entry, and admits them into the United States in F-1 status if they are found admissible.
- DHS adjudicates applications for certain benefits under the F-1 regulations.
- DHS manages the Student and Exchange Visitor Information System (SEVIS)

Three Bureaus within the Department of Homeland Security share responsibility for these immigration functions:

- **USCIS:** *U.S. Citizenship and Immigration Services* (USCIS) is responsible for most application and petition adjudications.
- **ICE:** *U.S. Immigration and Customs Enforcement* (ICE) is responsible for immigration investigations, detention, removal, intelligence, and SEVIS.
- **CBP:** *U.S. Customs and Border Protection* (CBP) is responsible for immigration inspections at U.S. ports of entry, for the Border Patrol, and for the Customs Service.

The U.S. School:

- Petitions for government approval to enroll F-1 students by filing Form I-17 through SEVIS. After approval, it must undergo recertification periodically.
- Through the school president, designates up to ten regularly employed members of administration to be "Designated School Officials" (DSO) who will have various official functions in the F-1 process.

The U.S. School:

- Through an admission officer, accepts prospective students for enrollment in a "full course of study" that leads to attainment of a "specific educational or professional objective."
- Provides a "full course of study" to the student.
- Complies with its recordkeeping and reporting obligations.

The Designated School Official (DSO):

- Is a regularly employed school administrator who represents the school in F-1 student matters
- Ensures institutional and individual compliance with the law, by learning and interpreting and applying laws and government policies related to F-1 students.
- Issues and signs I-20 forms and updates SEVIS records.

The Designated School Official (DSO):

- Ensures that the institution keeps records that are required to be kept and that institution complies with reporting duties under SEVIS.
- Approves or recommends benefits for F-1 students and educates students and school about their rights and obligations under F regulations.
- A Principal Designated School Official (PDSO) must be designated as the principal contact between the government and the school.

The Student:

- Signs the Student Certification on Form I-20 to indicate that he or she has read and understood the terms and conditions of F-1 students.
- Pursues a full course of study at the school that issued his or her Form I-20.
- Follows the proper procedures to transfer schools, change educational levels, or extend his or her program.
- Engages in employment only when specifically authorized.

The Department of State (DOS):

- Issues F-1 visas, after performing all necessary clearances and establishing that the requirements for nonimmigrant student status are met.

The SEVIS database and SEVIS Help Desk:

- The SEVIS database receives, stores, and processes student data submitted by schools through the SEVIS Real-Time Interface (RTI) and Batch Interface.
- The SEVIS Help Desk and the I-901 Customer Service hotline assist SEVIS users or I-901 fee payers with technical questions, and passes issues and questions that need policy resolution to the appropriate government Agency.

To issue an I-20 to a prospective F-1 student a *school* must:

- ***Precondition*:** Be approved by DHS to admit F-1 students and be enrolled in SEVIS;
- Receive a written application from the student for admission to the school;
- Receive and evaluate the applicant's academic credentials and level of English language ability, and ensure that the applicant meets all academic standards for admission;
- Accept the student into a program which constitutes a "full course of study;"
- Assess the student's ability to meet all expenses during the course of study, and specifically examine documentation showing finances for at least the first year of study.

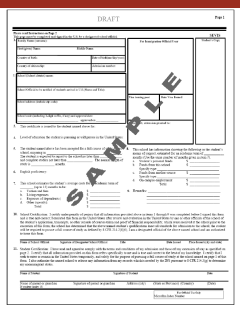
To obtain an F-1 visa or F-1 status, a *student* must show the *government*:

- An I-20 properly issued in SEVIS by a school designated by DHS;
- A passport valid for at least 6 months,
- Intention to stay in the United States "temporarily and solely for the purpose of pursuing a full course of study;"
- Proof of a residence outside the U.S. to which the student intends to return after completing the temporary period of study;
- Proof of a residence outside the U.S. to which the student intends to return after completing the temporary period of study;
- Proof of having paid the SEVIS fee, if required.

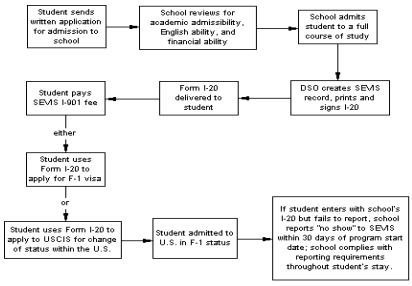
Form I-20

- The I-20 is a multi-purpose government form used in connection with many F-1 procedures and benefits.
- The SEVIS Form I-20 is retained by the student. For travel and employment, page 3 is for DSO signatures authorizing travel and for recommendations or grants of employment authorization
- The I-20 is generated by the SEVIS system in PDF format using data from the SEVIS database.

Sample Form I-20



Flow of the F-1 Process



Resources

- Minnesota International Educators (MIE): http://www.mn-mie.com/
- NAFSA—Association of International Educators: www.nafsa.org
- NAFSA Online Advising Manual-- www.nafsa.org: Knowledge base for international student advisors on concepts, laws, policies, procedures and gray areas around complicated U.S. immigration regulations.

Resources

- For schools and programs, contact the following for all other technical questions: the SEVIS Help Desk at 800-892-4829 between 8 A.M. and 8 P.M. Eastern Time or by e-mail at SEVIShelpdesk@eds.com for assistance and support. For specific technical, urgent cases: Toolbox.SEVIS@dhs.gov
- For school certification questions: To check the status of an I-17 petition, confirm receipt of payment or to receive information on a site visit, contact the SEVP School Certification Branch at schoolcert.SEVIS@dhs.gov or the SEVP Response Center (SRC) at 703-603-3400. The School Certification Branch is organized on a state-by-state basis. Inquiries will be directed to the Case Analyst working with the schools in that state.

- Questions