

# Student and Exchange Visitor Program guidance on COVID-19 and nonimmigrant students on F and M visas

16 March 2020

The Student and Exchange Visitor Program (SEVP) released [guidance](#) on 9 March 2020 regarding potential procedural adaptations that SEVP-certified schools may take to address COVID-19. On behalf of the Department of Homeland Security (DHS), SEVP oversees nonimmigrant students on F and M visas that are pursuing programs of study within the United States. SEVP administers Student and Exchange Visitor Information System (SEVIS), which is a web-based system for maintaining information on international nonimmigrant students and exchange visitors in the U.S. The SEVP guidance – which relates only to students who are currently enrolled in a program of study in the U.S. – addresses how SEVIS users should report operational changes and accommodations that will be made for F and M visa students. As with the recent U.S. Department of Education COVID-19 guidance, which we described in our 9 March [advisory](#), SEVP appears to be signaling that it will be flexible with respect to application of its rules in light of COVID-19 developments. At the same time, the guidance focuses largely on process and does not expressly waive regulatory requirements. As institutions address COVID-19, the guidance describes steps to address potential compliance risks related to institutional regulatory obligations.

For context, applicable law provides that an F-1 student must be enrolled in a “full course of study.”<sup>1</sup> For F-1 students enrolled in classes for credit or classroom hours, 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 online or through distance education and does not require the student’s physical attendance for classes, examinations, or other purposes integral to completion of the class.<sup>2</sup> An online or distance education course is a course that is offered principally through the use of television, audio, or computer transmission including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, or computer conferencing.<sup>3</sup> If the F-1 student’s course of study is in a language study program, no online or distance education classes may be considered to count toward a student’s full course of study requirement.<sup>4</sup> Similarly, M-1 students must also be enrolled in a “full course of study.” For M-1 students, the immigration regulations provide that

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<sup>1</sup> See 8 C.F.R. § 214.2(f)(6)(i).

<sup>2</sup> See *id.* § 214.2(f)(6)(i)(G).

<sup>3</sup> See *id.*

<sup>4</sup> See *id.*

“no on-line or distance education classes may be considered to count toward an M-1 student's full course of study requirement if such classes do not require the student's physical attendance for classes, examination or other purposes integral to completion of the class.”<sup>5</sup> An institution's transition to distance education in response to COVID-19 would seem to implicate these requirements.

The SEVP guidance does not reference that requirement, nor does it otherwise expressly grant permission to institutions to instruct F-1 visa holders via distance education. Instead, the guidance focuses on process. However, NAFSA: Association of International Educators has [reported](#) that on 12 March 2020, SEVP provided NAFSA with the following statement:

“SEVP is committed to remaining flexible in allowing schools to make temporary procedural adaptations so nonimmigrant students can continue to make normal forward progress in their program of study. They can temporarily engage in distance-learning, either from within the U.S. or outside the country, in light of COVID-19. SEVP will provide updated guidance as the scope and length of this situation becomes more clear.”

With respect to the process to follow, the 9 March guidance states as follows:

“SEVP recognizes that schools are updating their emergency operations plans to minimize the potential impact of COVID-19 on the school. If a school determines that it will exercise temporary closure or make other significant operational or curricular changes, the school must advise SEVP of accommodations it is making for its F and M nonimmigrants population.”

SEVP will not require prior notice for procedural adaptations. However, SEVP instructs institutions to document all changes and to notify SEVP of those changes “within 10 business days of the date of the decision to initiate the operational change.” The guidance provides details about the content of the notice, the subject line, and the email address to which the notice must be sent. SEVP explains that in evaluating reported changes, it intends to be flexible with temporary adaptations.

The guidance also encourages nonimmigrant students engaged in practical training to consult their employers to seek ways to maintain employment, such as teleworking.

We are available to answer questions.

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<sup>5</sup> See *id.* § 214.2(m)(9)(v).

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