

23 February 2011

The President  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

5225 N. Wilson Blvd.  
Arlington, VA 22205-1148

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Re: Request for Urgent Action on Behalf of the Students of Tri-Valley  
University

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Dear Mr. President:

We are writing on behalf of the over one thousand students of Tri-Valley University ("TVU") in Pleasanton, California, who are facing considerable hardship due to the harsh and perhaps illegal management of their case by the responsible agencies.

Media reports state that various U.S. Government officials have assured all affected parties that TVU students will be treated fairly. Before it is determined what is fair, we must examine the context and the extent of the harm that has been done, and continues to be done.

As a consequence of TVU's sudden and unexpected closure, its students, all of whom followed what they believed were proper legal channels, have been left out of lawful immigration status. The overwhelming response of students affected by this incident is that they would never have enrolled at TVU if they had known, or been forewarned, that the school was involved in any illegal activity. Their academic and financial futures are now imperiled for no fault of their own.

This letter provides context for the problems TVU's students are currently facing, and makes recommendations on how to address this critical situation within our existing legal and policy framework. We respectfully submit that the acceptance and implementation of these recommendations will help alleviate the extreme distress that these students are currently enduring.

**EVIDENCE CLEARLY ESTABLISHES THAT THE GOVERNMENT HAD PRIOR  
KNOWLEDGE OF THE ALLEGED FRAUD BY TVU OFFICIALS AND DID NOT  
FOREWARN THE STUDENTS.**

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U.S. Immigration and Customs Enforcement (“ICE”) is penalizing TVU students because they did not know their university was allegedly defrauding the government – an imputation of malfeasance by omission. To the contrary, if we are to impute malfeasance by omission, then ICE is the bigger malefactor by far. If ICE – the Department of Homeland Security’s (DHS) largest investigative agency with an annual budget of \$5.74 billion, employing more than twenty thousand (20,000) people in over four hundred (400) offices nationwide<sup>1</sup> – did not detect and act against the alleged fraud in time, then the students cannot be held to the same standard.

As late as September 30, 2010, Student and Exchange Visitor Information System (“SEVIS”) was informing students that TVU was a legitimate institution accredited by the government. Note the following email exchange: \*\*\*

from [Redacted]  
To [SEVIS.Source@dhs.gov](mailto:SEVIS.Source@dhs.gov) [SEVIS.Source@dhs.gov](mailto:SEVIS.Source@dhs.gov)  
Date Wed, Sep 22, 2010 at 11:05 AM  
Subject Admission(sevis enquiry)  
Mailed-by gmail.com

Hello,

i am an international student holding F-1 visa now, i want to transfer to Tri-Valley University, can i join in this institution. please reply me.

From Source, SEVIS [sevis.source@dhs.gov](mailto:sevis.source@dhs.gov)  
To [Redacted]  
Date Wed, Sep 22, 2010 at 12:21 PM  
Subject RE: Admission (sevis enquiry)  
Mailed-by dhs.gov

Thank you for contacting the Student and Exchange Visitor Program (SEVP). Tri-Valley University in Pleasanton, CA is a SEVIS-approved school. We recommend having the Designated School Official (DSO) at your current school contact the DSO at Tri-Valley University to initiate the transfer. Once you apply to the new school, you should not have any problems with the transfer if they approve your application.

We hope this information is helpful. Kind regards,

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<sup>1</sup> ICE Fiscal Year 2010 Enacted Budget *available at* <http://www.scribd.com/doc/24704564/ICE-Fact-Sheet-FY2010-Budget-11-5-09>

*See also* DHS Budget-in-Brief: Fiscal Year 2009 *available at* [http://www.dhs.gov/xlibrary/assets/budget\\_bib-fy2009.pdf](http://www.dhs.gov/xlibrary/assets/budget_bib-fy2009.pdf)

In addition to ignoring the misinformation being propagated, during its investigation of the TVU scandal, ICE has utterly disregarded the rights of TVU students. Please consider the following points.

First, in TVU's Student and Exchange Visitor Program ("SEVP") Withdrawal Notice ("Notice"), ICE acknowledges its awareness of TVU's alleged fraud as early as September 30, 2009.<sup>2</sup> The Notice also states:<sup>3</sup>

On November 22, 2010, the Homeland Security Investigations (HSI) Office of the Special Agent in Charge, San Francisco, delivered to SEVP information regarding the school's violations of SEVP regulations.

Second, the DHS site visit to TVU's campus as part of the SEVP approval process established that TVU possessed a "confirmed capacity for approximately 30 students" (as of December 30, 2010).<sup>4</sup> In light of this fact, one fails to understand why ICE then allowed TVU to enroll an astonishing "1613 Active and 966 initial F-1 nonimmigrant students"?<sup>5</sup>

Third, note that ICE terminated the SEVIS records of all students enrolled at TVU as of January 18, 2011<sup>6</sup> – inexplicably, a day prior to shutting down the school pursuant to a raid on January 19, 2011.<sup>7</sup> Even though ICE was aware of the alleged wrongdoings of TVU as far back as September 30, 2009, they did nothing to warn the over one thousand unsuspecting students who enrolled at TVU in good faith and with no knowledge of the alleged fraud committed by their school. ICE chose to stay silent over this matter for over one (1) year and four (4) months before suddenly shutting down the school, without providing any safeguards for the students.

It is ICE's failure to timely act upon TVU's alleged false accreditation application that allowed TVU to exercise power on the fate of the students, including allegedly reporting false student addresses, issuing false I-20s, and authorizing dubious Curricular Practical Trainings ("CPT"). Bureaucratic apathy *ipso facto* equals injustice, especially where a bureaucracy is plenipotentiary. But here, not only were the students' future and their basic due process rights ignored, they were and are even now being treated as perpetrators, not victims.

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**ICE IS ACTING ARBITRARILY AND HAS FAILED TO FOLLOW ITS OWN GUIDELINES OR UNDERSTAND THAT TVU STUDENTS ARE INNOCENT.**

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As a consequence of TVU's sudden and unexpected closure for alleged immigration fraud, most of its students, who are from India and obtained status through proper legal channels, have been left out of lawful immigration status and worse. They have lost out both

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<sup>2</sup> Student and Exchange Visitor Program (SEVP) Withdrawal Notice ("Notice"), at 2

<sup>3</sup> *Id.*

<sup>4</sup> *United States of America v. Real Property Located at 405 Boulder Court, Suite 800, Pleasanton, California, et al*, Case 3:11-cv-00258-EMC at 9. (January 19, 2011) (Hereinafter "Complaint").

<sup>5</sup> Notice, at 2

<sup>6</sup> *Attention Former Tri-Valley University Students*, U.S. Immigration and Customs Enforcement, available at <http://www.ice.gov/sevis/tri-valley-110118.htm>

<sup>7</sup> *Feds Raid Private University Offices, Home Of Pres*, (KTVU News) available at <http://www.ktvu.com/news/26550954/detail.html>

academically and financially for no fault of their own. To further worsen the vulnerable position of these students, neither the relevant government agencies nor the applicable regulations provide guidance on how school closures can be conducted equitably and efficiently. For over a month following the closure of TVU, none of the regulating agencies– ICE, United States Citizenship and Immigration Services (“USCIS”) and Department of State (“DOS”) – have provided any meaningful guidance to assure students of their current status or future prospects.

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**ICE HAS FAILED TO ANNOUNCE APPROPRIATE STANDARDS FOR STATUS AND HAS FAILED TO FOLLOW THE REGULATIONS THEREBY PLACING STUDENTS IN JEOPARDY WITH USCIS AND DOS.**

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The regulation pertaining to students’ status, 8 CFR 214.2(f)(5)(iv):

An F-1 student authorized by DSO to withdraw from classes will be allowed a **15-day period for departure** from the United States. However, an F-1 student who fails to maintain a full course of study without the approval of the DSO or **otherwise fails to maintain status** is not eligible for an **additional period** of departure.

There is no provision for situations where ICE steps in to decertify or close a school. It is noteworthy that the part of the regulation, which does not permit students any grace period (“additional period of departure”) is clearly applicable to a student who “fails to maintain status.” It is obvious from the language of the regulation that this provision covers only those contingencies where a student is “at fault” for failing to maintain status. The situation of the TVU students is not provided for in the regulations. ICE has arrogated to itself the right to decide otherwise. Arguably, to hold unprepared students to even a 15-day limit is unreasonable, especially where no individual notice of closing is provided and the school is closed without any prior public notice. Regardless, the January 2007 ICE Memorandum<sup>8</sup> -- issued as guidance to F-1 students in the event of school closure or loss of SEVP-certification – directly contradicts 8 CFR 214.2(f)(5)(iv) by mandating students to “immediately transfer to another SEVP-certified school or depart the United States” if a school closes unexpectedly.<sup>9</sup> In doing so, ICE has come to represent the veritable judge, jury and executioner in this scandal, where the rights of the students continue to be sacrificed at the altar of bureaucratic indifference.

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<sup>8</sup> *Fact Sheet: Maintaining student status when an SEVP-certified school closes or loses its certification to enroll F-1 nonimmigrant students*, U.S. Immigration and Customs Enforcement, January, 2007.

*See also* 8 CFR § 214.2(f)(5)(iv): “An F-1 student authorized by DSO to withdraw from classes will be allowed a 15-day period for departure from the United States. However, an F-1 student who fails to maintain a full course of study without the approval of the DSO or otherwise fails to maintain status is not eligible for an additional period of departure.”

<sup>9</sup> *Fact Sheet: Maintaining student status when an SEVP-certified school closes or loses its certification to enroll F-1 nonimmigrant students*, U.S. Immigration and Customs Enforcement, January, 2007, at 2. “If you are enrolled at a school that closes unexpectedly, immediately transfer to another SEVP-certified school or depart the United States.”

ICE is failing to follow even a meager 15-day limit. In many cases, ICE has issued Notices to Appear (NTA) for failure to maintain lawful nonimmigrant status within two (2) days of the school's closure, which could not possibly have been anticipated by the students. Once a student is considered out of status, he or she is then removable from the United States and it is highly uncertain whether he or she can successfully reinstate to student status or apply for a change of status to either H-1B or H-4. Additionally, once an NTA is issued, it is highly improbable that USCIS will grant either another status or reinstatement to student status.

In a striking contrast to how ICE has arbitrarily managed the affairs of TVU students, last year students from another academic institution -- the CMG Computer Center in Pennsylvania—were given almost three months to change status after their school's SEVP-certification was revoked. Although the CMG Computer Center was not shut down in an ICE raid, the common denominator between students at both schools is that they fell out of status suddenly and unexpectedly. Yet, there is a glaring dissonance in the grace periods permitted in the two comparable situations.

See attached **Exhibit A**, a letter dated 28 October 2010 from ICE giving students until 22 January 2011 to change status. It is incomprehensible why ICE is not giving a similar "grace period" to the students of TVU.

Any student applying for reinstatement or change of student status will have to wait approximately six (6) months or more, until USCIS reaches a decision on their case. According to reports received by this office, the SEVIS records of all TVU students are currently on hold pending further investigation, which precludes them from either transferring to another academic institution or seeking reinstatement. During this time, the students' academic futures are highly uncertain and they could end up losing the tuition fees paid to enroll in new schools. Note that ICE can continue to issue NTAs even if a request for change of status or reinstatement is pending before USCIS.

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### **LACK OF STANDARD PROCEDURES ON ISSUANCE OF NTAS HAS EMPOWERED ICE WITH UNFETTERED POWER OVER TVU STUDENTS.**

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Solely on the grounds of school closure, ICE is issuing NTAs to hundreds of TVU students to appear before U.S. immigration courts. Lack of centralized policy and standard procedures on the issuance of NTAs has empowered ICE agents with unfettered power over the fate of TVU students. As a direct result of this policy and procedural vacuum, ICE agents are meting out disparate treatment to students in similar situations and, in some instances, blatantly abusing their power. It is important to understand and highlight the legal consequences students face once an NTA is issued, as it could be the first step toward possible deportation (removal) from the United States.<sup>10</sup>

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<sup>10</sup> 8 U.S.C.A. § 1229(a)(1): In removal proceedings under section 1229a of this title, written notice (in this section referred to as a "notice to appear") **shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any)** specifying the following: (emphasis added) **(A)** The nature of the proceedings against the alien, **(B)** The legal authority under which the proceedings are conducted, **(C)** The acts or conduct alleged to be in violation of law, **(D)** The charges against the alien and the statutory provisions alleged to have been violated,

Students who have been issued NTAs and wish to leave the United States cannot do so because they will otherwise be subject to a ten (10) year bar from re-entering, leaving their aspirations toward U.S. degrees and prospects in tatters. Thus, they will have to wait till their case is scheduled in immigration court. Significantly, the current case backlog in immigration courts is at a record high,<sup>11</sup> and it has been reported that the earliest possible hearings for students issued NTAs will be scheduled around September 2011. Additionally, ICE has also confiscated many students' passports, which prevents them from leaving the United States if they wish to do so.

Shamefully, some ICE agents have abused their power during this process. Please note some of the incidents reported to this office by TVU students. In one egregious example of abuse of discretion by ICE agents, a student was detained for sixteen (16) days for having an "attitude." Before detaining the student, the ICE agent reportedly threatened the student that "you have dug your own grave." ICE did not inform the student of the charges against him.<sup>12</sup> In another instance reported to our office, ICE officers arrived at a Virginia residence occupied by two individuals, one of whom was a TVU student. The officers not only confiscated the passport and issued an NTA to the TVU student, but also subjected his roommate to the same treatment, even though he was not affiliated with TVU in any manner.<sup>13</sup> Please also see **Exhibit B** for an example of the singularly vague emails TVU students are receiving from DHS agents. The email notes that "This case and its subsequent investigation will affect your ability to return to or remain in the United States or obtain any future immigration benefit from the United States." For a frightened student already under financial pressure, these types of communications are not only uninformative, but also intimidating. ICE has sent out possibly hundreds of such emails.

Government inconsistency has so terrorized the students that the slightest threat sends them running for reassurance. For the second time in the past two weeks, we have seen a spurious email sent out to terrorized TVU students. Both claimed to be from the government as a result of which our office received a flurry of phone calls. We had to explain to these otherwise extremely intelligent people that the emails were obviously forgeries. See, for instance **Exhibit C**. This email purports to be from the FBI requiring the student(s) to deposit money for an FBI clearance. The contact email, however, is an aol.com address.

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**(E)** The alien may be represented by counsel and the alien will be provided (i) a period of time to secure counsel under subsection (b)(1) of this section and (ii) a current list of counsel prepared under subsection (b)(2) of this section. **(F)(i)** The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 1229a of this title, **(ii)** The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number, **(iii)** The consequences under section 1229a(b)(5) of this title of failure to provide address and telephone information pursuant to this subparagraph, **(G)(i)** The time and place at which the proceedings will be held, **(ii)** The consequences under section 1229a(b)(5) of this title of the failure, except under exceptional circumstances, to appear at such proceedings.

<sup>11</sup>*Backlog in Immigration Cases Continues to Climb*, Transactional Records Access Clearinghouse ("TRAC") (a non-partisan research organization that operates out of Syracuse University) available at <http://trac.syr.edu/immigration/reports/225/> "By the end of last year, the number of cases awaiting resolution in Immigration courts was roughly 268,000...The case backlog was 44 percent higher than it was in 2008," according to TRAC.

<sup>12</sup> The student has confirmed the details of this incident with our office, and is available to confirm the same, if necessary. See also Tri-Valley Student Recounts Horror of Detention, available at <http://www.ndtv.com/video/player/news/tri-valley-student-recounts-horror-of-detention/190110>

<sup>13</sup> The student has confirmed the details of this incident with our office, and is available to confirm the same, if necessary.

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**STUDENTS HAVE BEEN PUT OUT OF STATUS, CONFINED INDEFINITELY, FORCED TO SPEND CONSIDERABLE SUMS OF MONEY TO PROCURE BAIL AND SEEK LEGAL ASSISTANCE.**

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As stated above, there is no central policy governing the conduct of ICE agents, whose actions have been highly inconsistent from region to region and from agent to agent. For the same allegations, some students have had to procure between \$5,000 and \$15,000 to be released from custody, while others have been advised to seek new status without issuance of NTAs or insistence upon release bonds. Note that there are several instances of students spending as many as sixteen (16) nights in ICE custody because they had no family or friends who could procure the required amount. A similar danger exists for many more students who are yet to be interviewed by ICE.<sup>14</sup>

In effect, the issuance of NTAs leaves students with no choice but to retain legal counsel in order to guide them through this precarious legal situation. The students' woes are compounded by the fact that they are out of status in a foreign country thousands of miles away from their families, experiencing possible detention by a foreign government, anxious and uncertain about their academic futures, and struggling to arrange sufficient finances to sustain themselves until a hearing is scheduled.

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**ICE WRONGLY ALLEGES THAT STUDENTS' MISREPORTED THEIR RESIDENTIAL ADDRESSES.**

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The relationship between the Designated School Official ("DSO") and students carries an inherent power differential that can easily be exploited to the disadvantage of students. Appreciating this fact is critical to understanding and empathizing with the plight of these students. The students correctly reported their addresses to the DSO, in accordance with their legal obligations, but the DSO apparently failed to report the same. Clearly, the students must not be penalized for the alleged illegal acts of TVU and its officials.

Appropriate attribution of guilt should be obvious from the records in possession of ICE. Even a cursory examination of publicly available documents indicates the students' innocence.

First, the Complaint and the Notice allege, among other things, that TVU officials—not the students—made false statements in connection with the accreditation application and allowed unauthorized personnel to illegally access and update TVU's SEVIS database.<sup>15</sup> Further revelations suggest that those unauthorized personnel, acting at the direction of TVU's management, were listing the same fraudulent address in SEVIS to conceal the fact that most of TVU's students lived outside California and were not physically attending classes.<sup>16</sup> During this time, students were unaware of this allegedly fraudulent scheme. Every student our office has spoken with was shocked to realize that his or her address had been misreported.

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<sup>14</sup> *What do I tell my father, asks duped student*, Hindustan Times, available at <http://www.hindustantimes.com/What-do-I-tell-my-father-asks-duped-student/Article1-658271.aspx>

<sup>15</sup> Complaint, at 2, 6-9

<sup>16</sup> *Id.*, at 4

Second, TVU President Susan Su's response ("Response") to the Notice admits that it was the schools failure to report the addresses. The pertinent section of the Response states that "TVU later on hire staff to update student [sic] actual physical address [sic], not the consultant [sic] address. With the frequent change of student [sic] address [sic] and quick growth of admitted students; [sic] the staff never completed the work."<sup>17</sup> Thus, by alleging that the students misreported their addresses, ICE is in effect holding them accountable merely for their association with TVU, even though the Response clearly absolves the students of any blame.

Third, under SEVIS regulations, schools must notify all students of their legal obligation to inform the school within ten (10) days of any changes in information, including their residential address in the United States.<sup>18</sup> Thereafter, the burden is on the DSO – an officer of the university who has been designated by the government to be demigod over the students – to update SEVIS within 21 days.<sup>19</sup> In other words, if a student has notified his or her DSO of any change in address, then the student does not have to independently notify DHS. Again, the Response clearly acknowledges the school's failure to follow SEVIS regulations, and not the students':<sup>20</sup>

We did fail to report to SEVIS about the address change within 21 days, mainly because TVU has been considered purchasing a permanent campus building for quite a long time, and has considered several buildings including 4455 Stonebridge DR (with bank loan not approved), until finally bought 405 Boulder Ct (similar to 4455 Stonebridge Dr but only one-third of the price and is a brand new building)

The students report that they continued to receive mail from TVU at their correct addresses, even though TVU had allegedly misreported their addresses in SEVIS. While the students complied with their reporting obligations, it appears that the DSOs at TVU not only violated the law by failing to fulfill their reporting duties but also allegedly defrauded students by reporting false information to USCIS. Therefore, ICE is wrongly victimizing the students by penalizing them for the alleged illegal acts of TVU and its officials.

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**ICE HAS NOT GIVEN STUDENTS ANY VIABLE OPTIONS AS TO THEIR IMMIGRATION STATUS.**

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After TVU's closure, ICE announced with much fanfare that the problem had been "solved." Students were given the option of calling SEVIS and inquire about available options. In fact, ICE handled all such queries in a perfunctory manner by giving students three choices with no explanation of the consequences of each choice: (1) report to an ICE office for voluntary departure, (2) leave USA, or (3) apply for reinstatement.

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<sup>17</sup> TVU President Susan Su's Letter to DHS responding to the SEVIS Withdrawal Notice ("Response"), at 2

<sup>18</sup> 8 CFR §§ 214.4(a)(2)(i), 214.3(g)(1)(iii)

<sup>19</sup> *Id.* See Complaint, at 7

<sup>20</sup> Response, at 3



The reality, however, is that the students only have the “choice” of reporting to ICE for a voluntary departure because when students try to apply to another academic institution for reinstatement, that institution cannot issue new I-20s because the students SEVIS records are inaccessible pending further investigation. Hence, reinstatement is not an option. Moreover, for students whose passports have been confiscated, leaving the United States is not an option either.

In the meantime, ICE inquisitions and NTAs are continuing to this day. Students continue to go through unspeakable agony, expense and uncertainty. Furthermore, students who applied for a change of status to an H-1B, or derivative visas like H4s, are reporting receiving daunting Requests for Evidence (RFE) that challenge their status in the U.S. **The relevant excerpt from one such RFE forwarded to this office by a TVU student states:**

#### **Maintenance of status**

It does not appear that the beneficiary is currently maintaining a valid nonimmigrant F1 student status. The SEVIS I-20, Certificate of Eligibility for Nonimmigrant Student Status, that was submitted with your application contains information that does not match information submitted by the school in the SEVIS electronic system.

The I-20 you have submitted indicates that the beneficiary is pursuing a doctorate in computer software engineering, through Tri-Valley University, that will be completed in December of 2015. The SEVIS electronic system indicates that the beneficiary’s status was terminated for falling to maintain status.

Submit evidence that shows the beneficiary had been maintaining a valid nonimmigrant status as a(n) F1 student status, at the time of filing this petition.

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**DESIGNATED SCHOOL OFFICIALS, NOT STUDENTS, ARE RESPONSIBLE FOR OVERSEEING COMPLIANCE WITH THE HIGHLY COMPLEX AND TECHNICAL PHYSICAL ATTENDANCE REQUIREMENTS FOR INTERNATIONAL STUDENTS AND AUTHORIZING REQUESTS FOR CURRICULAR PRACTICAL TRAINING (CPT).**

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Immigration laws are extremely complex and it is unreasonable to expect foreign students to comply with their legal obligations absent any guidance from the government. To make matters worse, the government places DSOs in the position of arbiters and interpreters of the laws. An F-1 visa is granted for “duration of status,” defined as the time spent by student pursuing a “full course of study” at an accredited educational institution for foreign students.<sup>21</sup> As long as the student is pursuing a “full course of study,” he or she is considered to be in status.

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<sup>21</sup> 8 CFR §§ 214.2(f)(5)(i) and 214.2(f)(6)

***THE LAW GOVERNING ONLINE CLASSES AND PHYSICAL ATTENDANCE  
REQUIREMENTS IS NOT CLEAR AND STUDENTS WERE MISINFORMED BY TVU.***

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The law governing online classes and physical attendance requirements is not clear and subject to different interpretations. The regulations seem to mandate that an F-1 student may only take one class or three credits on-line or through distance education per term.<sup>22</sup> ICE is alleging that TVU students did not fulfill the full course of study requirement because although the regulations prohibit students from attending more than one class per term or semester online,<sup>23</sup> the exclusive means of instruction at TVU was via online classes. Thus, according to ICE, these students never completed a “full course of study” as required by law, which renders them out of status from the beginning of their enrollment at TVU.<sup>24</sup>

However, a memorandum issued by ICE in 2009 titled Decision by SEVP Director: Full Course of Study: California Community College Crisis (“SEVP Memo”) provides a different interpretation concerning the nexus of online courses and physical attendance requirements (Please see **Exhibit D**). The SEVP Memo was written in response to the high enrollment demand in California Community Colleges, which created logistical problems for F-1 students who are required to enroll in a minimum of 12 units per semester. In recognizing the problems posed by increased student enrollment, the SEVP Memo empowers community colleges with the “flexibility in defining what constitutes a full course of study for F-1 students.” With respect to online classes, SEVP Memo makes an important observation:<sup>25</sup>

There is no limit to the number of online classes that can be counted toward a full course of study **if the school can confirm the physical presence and participation of students**. SEVP encourages schools to make maximum use of monitored online training as feasible (emphasis added).

In this respect, Susan Su’s Response clearly states that from the very outset TVU students were told that physical attendance is not required to fulfill their degree requirements:

We advise every student, that they [sic] are welcome to come here, if they can not [sic] make it, **they do not need to**, because they will see exactly the same in their computer as everyone who come [sic] here on campus (emphasis added).

The Response also claims that the TVU has the means to “confirm the physical presence” of students:<sup>26</sup>

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<sup>22</sup> 8 C.F.R. §214.2(f)(6)(i)(G)

<sup>23</sup> 8 CFR §§ 214.2(f)(6)(i)(G)

<sup>24</sup> Notice, at 13

<sup>25</sup> *Decision by SEVP Director: Full Course of Study: California Community College Crisis* (November 12, 2009)(“SEVP Memo”): “SEVP is aware that there are other states and college systems in the United States facing similar issues. The Director will consider allowing similar ameliorative standards if contacted by a state’s department of education or an administrative office of a community college system.” at 3

<sup>26</sup> The Response also states that “The President has sent multiple E-mails to all TVU students to make the real life class attendance mandatory, E-mails to all Instructors to strictly monitor class attendance” at 3. However, the many students who have spoken to our office have indicated that no such emails emphasizing attendance policies were sent to the students.

Since our SEVP approval to enroll international students a year later in Feb 2009, the University has upgraded to the most advanced version which is **capable of monitoring every second a student entering and leaving the classroom.** [sic] We also reinforce student classroom attendance by requiring students showing [sic] their face [sic] in the camera to check the attendance. In Fall of 2010, approximate 90% if [sic] TVU 800 or so registered students attending [sic] weekly class meeting (emphasis added).

***TVU'S WEBSITE ALSO INDICATES THAT THE MECHANISM OF ONLINE INSTRUCTION ADOPTED BY TVU ENABLED STUDENTS TO PARTICIPATE DURING LECTURES.***

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TVU's website also indicates that the mechanism of online instruction adopted by TVU enabled students to participate during lectures: <sup>27</sup>

Reason Three: TVU Dual Education Module: On-Site Classroom/Remote Live Synchronous Access

Tri-Valley University is a research oriented higher education institution, with on-site research labs and classrooms complimented by remote live synchronous [sic] access (which is believed to be the coming future education model) to accommodate our industry related faculty and students' need. TVU develops the unique dual education module for classes with the cutting edge web meeting technology to facility [sic] **remote live synchronous access to on-site classroom instruction.** [sic] **When registering class, student can choose [sic] attending class "On-Site" or "Remote".** While the instructor's computer screen is projected on the board at the wall in the on-site classroom, his voice, video and computer screen are also projected at the same time on our remote student's [sic] computer at the same time. **Students can ask live questions, with both voice, video popping up in the entire classroom screen**<sup>28</sup> (emphasis added).

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Moreover, the Response also admits that the system in place to monitor classroom attendance is not foolproof: "The virtual class room monitoring has small issues if a student or a faculty is not properly changed, when a student enter the classroom, if he/she forget to input his own name, what the system sees is just an "Attendee No", can not identify who the student is. Also some student may leave the class in the middle, and relogin in couple of minutes later. We are also plan to fix all of these issues in the coming term by training all TVU students and instructors on how to check in the attendance in the first 30 minute of each class meeting, with the students showing face in camera and full name recorded" at 5.

<sup>27</sup> Tri-Valley University website, *available at* <http://trivalleyuniversity.org/why-tvu.html>

The website also states:

However, TVUs instruction is also quite different from the on-line program content which takes a textbook material and edits into reading and questions and answer section (**on-line classes have no real lectures, just reading and email back and forth between the students and the instructors**). All TVU's classes are regular classic classroom instructor content with power point presentation on each textbook chapter with live class lectures and live classroom interaction between students and instructors. With the cutting-edge technology to live broadcasting class meeting at TVU, **people at work can attend class and house wife can also attend class while staying at home** (emphasis added).

Please also note another relevant excerpt from TVU's website:

At Tri-Valley University, on-site classroom is complimented with virtual live synchronous and asynchronous on-line access. The integrated web meeting facility with desktop sharing, video and audio sharing, whiteboard annotation, chat and polls, question manager as well as recording and dial-in features, makes Tri-Valley University's **courses available to the global audience with no limit on location** (emphasis added).

<sup>28</sup> *Tri-Valley University website, available at* <http://trivalleyuniversity.org/why-tvu.html>

An evaluation of the aforementioned information lends itself to two possible interpretations. First, if the SEVP Memo guidelines are correct, then the students were arguably fulfilling the full course of study requirement and ICE's contention to the contrary is incorrect. Second, if the SEVP Memo guidelines are not in accordance with the full course of study requirement, then the students cannot be blamed for failing to maintain status because TVU clearly assured them otherwise. In any case, the students cannot be faulted if TVU either misinterpreted the law or misinformed the students.

A closer examination of TVU's website reinforces the fact that TVU's students were provided incomplete or incorrect information. While TVU's website clearly enunciates restrictions on taking purely online classes for undergraduate students, a similar caveat is not forthcoming for graduate students – who constitute the overwhelming majority of TVU's student body. The paragraph below, which is taken from TVU's website, shows that TVU officials limited the restrictions on online coursework only to undergraduates:<sup>29</sup>

On-Line Courses Limits: **Undergraduate students** may count a maximum of three credit hours via online or distance-learning courses towards a full-time course load count each trimester. If students meet the minimum [sic] requirement for on-site class, he/she may enroll in additional online or courses as desired (emphasis added).

Our office has seen many examples of TVU interpreting the laws for the students. For instance, reproduced below is an email apparently sent by a TVU student to Susan Su inquiring whether the requirements for an MS Degree could be satisfied by taking purely online classes, and the DSO's response assuring the student that physical attendance was not required.

Dear Ms. Susan,

I don't mind sending the necessary documentation, but, I will need to know if I can get MS Degree (Computer science) by doing all of my coursework online at Tri-Valley University. Please let me know at your earliest convenience, to proceed further.

Thanks,

[Redacted] On Tue, Nov 23, 2010 at 7:28 PM, <\*\*\*@trivalleyuniversity.org> wrote:

Yes you can complete your MS degree online by Tri valley university Virtual classroom programme

Thank you

Our office can find no indicia of culpability attributable to students of TVU in this and many other examples we have reviewed.

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<sup>29</sup>Tri-Valley University website, available at <http://trivalleyuniversity.org/int.htm>

**REGULATIONS PERMIT DSOS CONSIDERABLE DISCRETION IN CPT ISSUANCE;  
STUDENTS CANNOT BE BLAMED FOR TVU'S INCORRECT ISSUANCE OF CPTS:**

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ICE has misunderstood its own regulations in maintaining that CPT cannot be issued in the first semester. In fact, there are two exceptions to this rule.<sup>30</sup> First, when a student has been in student status for one full academic year with any school (not necessarily the school issuing the CPT). Second, graduate students can be permitted to start CPT from the first day of school if the DSO determines that the CPT is an integral part of the student's curriculum. Also note that the sole authority to grant authorization for CPT purposes is vested with the DSO. This is also clearly stated on ICE's own website:<sup>31</sup>

The DSO approves Curricular Practical Training (CPT) for students in accordance with the 8 CFR 214.2(f)(10)(i). **No employment authorization from USCIS is needed** (emphasis added).

However, TVU offered CPTs from the very first day of enrollment, and students had no reason to either question the judgment of their DSO or doubt the legitimacy of the authorized CPT's. Even if ICE maintains that the CPTs were wrongfully authorized, ICE must hold the DSO accountable because the determination of whether the full courses of study or CPT requirements have been fulfilled is exclusively the domain of the DSO.<sup>32</sup>

**TRANSFERRING TO ANOTHER SCHOOL OR SEEKING REINSTATEMENT ARE NOT  
VIABLE OPTIONS FOR STUDENTS.**

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For most TVU students, transferring is not an option because they did not fulfill the "full course of study" requirement.<sup>33</sup> Even if transferring were an option, however, it is riddled with several obstacles.

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<sup>30</sup> 8 CFR 214.2(f)(10)(i):

*Practical training.* Practical training may be authorized to an F-1 student who has been lawfully enrolled on a full time basis, in a Service-approved college, university, conservatory, or seminary for one full academic year. This provision also includes students who, during their course of study, were enrolled in a study abroad program, if the student had spent at least one full academic term enrolled in a full course of study in the United States prior to studying abroad. A student may be authorized 12 months of practical training, and becomes eligible for another 12 months of practical training when he or she changes to a higher educational level. Students in English language training programs are ineligible for practical training. An eligible student may request employment authorization for practical training in a position that is directly related to his or her major area of study. There are two types of practical training available:

*Curricular practical training.* An F-1 student may be authorized by the DSO to participate in a curricular practical training program that is an integral part of an established curriculum. Curricular practical training is defined to be alternative work/study, internship, cooperative education, or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school. Students who have received one year or more of full time curricular practical training are ineligible for post-completion academic training. Exceptions to the one academic year requirement are provided for students enrolled in graduate studies that require immediate participation in curricular practical training. A request for authorization for curricular practical training must be made to the DSO. A student may begin curricular practical training only after receiving his or her Form I-20 with the DSO endorsement.

<sup>31</sup> *Curricular Practical Training*, U.S. Immigration and Customs Enforcement available at: <http://www.ice.gov/sevis/students/cpt.htm>

<sup>32</sup> 8 CFR § 214.2(f)(10); See Notice, at 6-8

<sup>33</sup> 8 CFR § 214.2(f)(6)(i) and 8 CFR § 214.2(f)(8)(i)

First, TVU misrepresented whether its credits will be accepted by an accredited college or university when submitting the I-17 petition to DHS for accreditation. The Complaint states:<sup>34</sup>

DHS requires a school which is unaccredited, such as TVU, to provide evidence from three accredited colleges or universities that the credits which a student obtains at TVU will be accepted by that college or university for credit...When ICE began to investigate, however, ICE found that at least two of those agreements were false; authorized officials in two of those accredited colleges had not accepted TVU credits in the past and did not agree to accept TVU's credits in the future.

This means that students will not be able to transfer the credits and degrees they have already earned to another college or university. This is a major financial and academic loss for the students' who are not a part of this scheme to defraud.

Second, the spring semester at most reputable universities already began in mid-January, and even late enrollments are closed. Some schools on the quarter system may have openings for the spring term but very few universities are on the quarter system.

Third, admission to a SEVIS-accredited university - especially at the master's level or higher - takes months not days. Many universities have even closed the admissions process for the fall of 2011, especially if assistantships are involved.

Fourth, many universities only admit new students in the fall. Since students at these universities in question will be unable to transfer credits and since there is a highly structured prerequisite system in some specialties, off term is often not possible in these programs.

Fifth, for students dependent on financing their education through bank loans, the situation is even more precarious as they can only secure bank loans if they are currently enrolled at an institution, which is not a viable option for the aforementioned reasons.

Since transferring to another institution is not possible, the alternative is to request a new school to issue a new I-20 with the DSO's recommendation for reinstatement, and then request reinstatement based upon exceptional circumstances. The student will only be able to attend classes if the SEVIS records are released to the new school. However, according to the government, those records are currently not available, which precludes the students from seeking reinstatement.

Furthermore, reinstatement carries its own set of risks. If reinstatement is denied, the student must leave the US immediately, and forsake all the money spent on seeking reinstatement and tuition fees thus far. If the student does not leave, he or she may be placed in removal proceedings at any time. This, in turn, makes the possibility of getting another F-1 visa highly unlikely.

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<sup>34</sup> Complaint, at 8

## **EVIDENCE SHOWS THAT USCIS AND DEPARTMENT OF STATE ARE UNLIKELY TO GRANT ANY RELIEF TO TVU STUDENTS**

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Since the beginning of the TVU debacle, our office has been apprehensive because even if ICE were to withdraw its NTA offensive, TVU students could still be in a legal limbo. They have only two choices in every possible permutation and combination: seek status within USA from USCIS or depart USA and seek a new visa from DOS. We have implored the government to take corrective measures to prevent further damage and do justice for TVU students. More than a month after TVU's closing, however, we have yet to see any remedies.

Students who had applied for change of status are being questioned by USCIS regarding their violation of status. It is obvious that unless USCIS, DOS and ICE are all individually and collectively forthcoming with a concerted policy, innocents will continue to suffer.

Minor corrections in and public announcements of policy by the U.S. government can help alleviate the extreme distress that the students are currently enduring. Respect for the due process and human rights of individuals, even if they are foreigners, is guaranteed both under the Constitution of the United States and by fundamental notions of a free society. As a civilized nation, it is imperative that its government provide the students with an attitude and the protection of the assumption of innocent-until-proven-guilty.<sup>35</sup>

The following list establishes a much-needed framework for relief for innocent victims of the Tri-Valley debacle.

### **RECOMMENDATIONS**

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- ICE should discontinue issuance of NTAs and pending NTAs against students should be withdrawn. Note that almost all NTAs issued so far claim only violation of status because of school closure as grounds for removal from U.S.
- ICE should immediately stop confiscating students' passports and should return confiscated passports, except in rare cases where well-founded allegations of fraud are made.
- ICE must implement a policy change to allow students' sufficient time to change status after the unexpected closure of their school. Note that there are no regulations that govern the contingency of a school closing. Therefore, a policy change is the only requirement of law. This case requires a lengthier grace period because TVU, in violation of its legal obligations, misreported the addresses of students because of which ICE could not notify students about school closure. In addition, all SEVIS records must be made available for school transfers and reinstatements.


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<sup>35</sup> Ironically, immigration investigations and proceedings are deemed civil proceedings, although, ICE can detain individuals indefinitely and tag them like animals. In fact, our civilized society ensures more rights for animals than it does for ICE targets.

- DHS must develop and provide clear guidelines for students on the steps to take once they are out of status, and provide viable options to convert status.
- DHS must direct USCIS to expedite the change of status and reinstatement process or, in the alternative, provide public policy statements for those awaiting a decision on reinstatement so that their time and money are not wasted in a futile pursuit.
- DOS must provide U.S. Consulates in India clear guidance on how to interpret the impact of school closure and assess re-issuance of visas to students.
- DHS must implement a centralized policy to provide clear guidelines for ICE agents and remove any requirement of students having to post an Immigration Bond in order to be released from ICE's custody or be RFID tagged. Money being held towards bonds must be returned.
- U.S. Government must make arrangements to compensate students (through asset forfeitures and other means) for their losses — financial and otherwise.

Respectfully submitted on behalf of TVU students.

Law Offices of Rajiv S. Khanna, PC

By:   
Rajiv S. Khanna

CC: The Honorable Vice President Joe Biden  
The Honorable Secretary of State Hillary Rodham Clinton  
The Honorable Secretary of the Department of Homeland Security Janet Napolitano  
The Honorable Ambassador of India to the United States Meera Shankar



## EXHIBIT A

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A letter from ICE to students of CMG Computer School

U.S. Department of Homeland Security  
Student and Exchange Visitor Program  
US Immigration and Customs Enforcement  
500 12th ST. SW STOP 5600  
Washington, DC 20536-5600



U.S. Immigration  
and Customs  
Enforcement

OCT 28 2010

**Student and Exchange Visitor Program  
Notice to Student**

You are currently holding an *Active* non-immigrant F-1 or M-1 status to study at CMG Computer Center, school code PHI214F00799000. The Student and Exchange Visitor Program (SEVP) has withdrawn the school's approval for attendance of nonimmigrant students as of the date of this letter.

You are permitted to continue studying at CMG Computer Center until January 22, 2011; the current term or session end date plus an additional 30 days. By this date you must transfer to another SEVP-certified school, complete your program of study, or depart the United States. If you still wish to pursue a *full* course of study, you must apply to another SEVP-certified school and upon admission, work with your current school's PDSO or DSO to complete the SEVIS record transfer. You may refer to the list of SEVP-certified schools at <http://www.ice.gov/sevis/>. Information regarding *Transfer* between SEVP-approved schools is available under the title "Transfers" at <http://www.ice.gov/sevis/faq.htm>.

If you fail to maintain status through this date the school must *Terminate* your record in SEVIS. As long as you maintain *Active* status, the school PDSO or DSO is responsible for counseling you on possible actions and appropriately updating your SEVIS record.

Failure to maintain *Active* status or departing the United States will result in your name being submitted to SEVP's Counterterrorism and Criminal Exploitation Unit. This may result in removal from the United States and you could be banned from obtaining legal status in the United States for a period of up to ten (10) years. For instructions on how to file for a reinstatement, visit [www.uscis.gov](http://www.uscis.gov).

**On January 22, 2011, if you have not transferred to another SEVP-approved school or completed your program of study, you must depart the United States.**

Should you wish to speak to someone regarding this notice, contact the School Certification Branch via email at [schoolcert.sevis@DHS.gov](mailto:schoolcert.sevis@DHS.gov) or by telephone at (703) 603-3591.

Sincerely,

*Dianne Currie*

Dianne Currie  
Chief, School Certification Branch  
Student & Exchange Visitor Program

## EXHIBIT B

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Subject: Please contact the U.S. Department of Homeland Security Regarding Tri Valley University

Date: Mon, 14 Feb 2011 19:31:25 -0500

From: [...]@dhs.gov

To: [TVU student]

[Student Address]

DOB: [...]

Passport: India, [...]

I am a Special Agent with the United States Department of Homeland Security and have been assigned a case to investigate your non-immigrant status in the United States related to Tri Valley University (TVU). Attention TVU Student, if you were formerly enrolled as an F-1 student at TVU you been terminated in SEVIS effective January 18, 2011 and have the options of making arrangements to report to 620 Frelinghuysen Avenue, Newark, NJ 07114 at a pre-arranged date and time if you feel you have legal reason to remain in the United States or you may depart from the United States without an otherwise possible applicable bar to re-admission to the United States in the future. I am tasked with trying to determine if you are still in the United States, where you are located, why you have not yet departed, and how I may contact you. If you have left the United States, I need to know when you departed, where you departed, and how you departed the United States. Additionally, if you are no longer in the United States, I will need proof of your departure or something showing you're no longer in the United States. This case and its subsequent investigation will affect your ability to return to or remain in the United States or obtain any future immigration benefit from the United States. Please contact me via email at [...] or via telephone at [...], extension [...], or [...].

Thank you,

[Name of DHS Agent]

Special Agent  
U.S. Department of Homeland Security  
U.S. Immigration and Customs Enforcement  
Homeland Security Investigations - SAC Newark

Desk: [...]

Cell: [...]

## EXHIBIT C

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A spurious letter purportedly from FBI/DHS



**FBI Headquarters in Washington, D.C.  
Federal Bureau of Investigation  
J. Edgar Hoover Building  
935 Pennsylvania Avenue,  
NW Washington, D.C. 20535-0001**



**EFCC Headquarters in  
Lagos.  
Economic and Financial  
Crimes Commission  
15A, Awolowo Road,  
Ikoyi, Lagos,  
Nigeria, 23401.**

**REF: US/28028/88/11**

**Attention:**

You are to contact the U.S. Department of Homeland Security (DHS) Los Angeles, California to obtain your Clearance Certificate, find below their contact information's:

**Contact Person:** Rev. James Kelly

**PRINCIPAL Legal Advisor U.S. Department of Homeland Security (DHS)**

**Rev James Email:** revjimkelly@aol.com

Los Angeles Office Address 606 South olive Street, 8<sup>th</sup> Floor, California. Ensure you contact (DHS) with your Full Name, Address and phone number/cell number.

Contact the DHS via Email with the information above immediately, once you contact them i will get back to you or else I will have an agent come visit you at home for questioning.

Furthermore, be advice that according to the United State Law together with the FBI rules and regulations, you are to obtain the document from the DHS. Also note that you are to take care of the cost of the Clearance Certificate, which will be issued in your name. Due to the content of the Clearance Certificate and how important and secured the document is, you as the beneficiary will send the DHS the sum of \$350 Dollars only for the issuing of the Clearance Certificate. That is the lay down rules for the DHS to release such sensitive document; DHS will issue you the authentic and original copy of the Clearance Certificate with a seal on it for verification and approval.

You are hereby advised to Contact them through the email address above to make an enquiry concerning how you will send the official fee to them. Note that you are to observe this immediately, if you really want your funds to be credited to your personal bank account and to avoid any legal battle with the security operatives over this matter. We have already informed the DHS about the present situation go ahead and contact them immediately.

Your funds are under our custody and will not be released to you unless the required document is confirmed, after that the fund will be release to you immediately without any delay.

NOTE: We have asked for the above document to make available the most completed and up-to date records possible for no criminal justice purposes. The documents will clarify the intensity of this fund; exonerate it from money laundry, scam and terrorism.

WARNING: Failure to provide the above requirement in the next 24 hours, legal action will be taken immediately by arresting and detaining you as soon as international court of justice issues a warrant of arrest, if you are found guilty, you will be jailed as terrorism, drug trafficking and money laundering is a serious problem in our community today and the world at large. The F.B.I will not stop at any length in tracking down and prosecuting any criminal who indulges in this criminal act. Nobody is above the law and the law is not a respecter of anybody. We presume you are law abiding citizen whom would not want to have scuffles with the authority, in and outside of the United States.

We are charged with the responsibility of implementing legal norms and our authority is irrevocable so don't dare dispute our instruction, just act as instructed. The person you know will not help you in this matter rather abide by this instruction. The funds in question were deposited by those people that contacted you.

Note: You are to contact DHS with your full names, phone number/cell number and full address via the email which I stated above immediately, for the processing of your Clearance Certificate within the next 48 hours.

Faithfully Yours  
**Robert S. Mueller III**  
***FBI Director***

**Note contact the DHS office:** revjimkelly@aol.com



**ROBERT MUELLER**  
Director – **FBI.**



**NSB SEAL ABOVE**

## EXHIBIT D

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### **Decision by SEVP Director**

#### ***Full Course of Study: California Community Colleges Crisis***

**Date: November 12, 2009**

1. Effective immediately and to be reviewed each semester until the current crisis is resolved, the following guidance will be used by all SEVP personnel involved in the determination of whether an undergraduate student in the California Community College system is enrolled in a full course of study.
2. There are no previous decisions by the SEVP Director on this issue.
3. Media reports and communication with the California Community College Chancellor's Office, which is attached, confirms that the combination of significant decreases in budget and increased enrollment has strained California's community colleges so that there is insufficient space in courses for the number of students. International students, even availing themselves of all the available options for concurrent enrollment and online study, are unable to enroll in what the regulations have defined as a full course of study.
4. 8 CFR 214.2(f)(6)(B) defines a full course as follows:

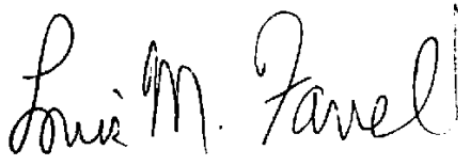
Undergraduate study at a college or university, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter hour systems, where all undergraduate students who are enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or are considered full-time for other administrative purposes, or its equivalent (as determined by the district director in the school approval process), except when the student needs a lesser course load to complete the course of study during the current term;
5. Due to these extenuating circumstances, this Director's decision will authorize SEVP-certified community colleges in California, to enroll their F-1 nonimmigrant students in the number of credits certified by their designated school officials (DSO) as a full course of study. These students must enroll in at least one course (three credit hours) per term which requires their physical presence. Otherwise, they may enroll in online courses and/or reduce their course loads to fewer than 12 credits, as approved by DSOs. The reduced course load function in SEVIS does need not to be used, but a copy of this directive must be kept in the student's file. The student's SEVIS file must be annotated to reflect this Director's Decision.
6. In authorizing this flexibility for schools in determining the full course of study available, SEVP wishes that schools are clear on the available parameters of

online training available to credit toward a full course of study. 8 CFR 214.2(f)(6)(G) allows:

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 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.

There is no limit to the number of online classes that can be counted toward a full course of study if the school can confirm the physical presence and participation of students. SEVP encourages schools to make maximum use of monitored online training as feasible.

7. SEVP certified schools should maintain a list of students for whom they have provided relief identified in this decision
8. SEVP is aware that there are other states and college systems in the United States facing similar issues. The Director will consider allowing similar ameliorative standards if contacted by a state's department of education or an administrative office of a community college system.

Approved:   
Louis M. Farrell  
Director  
Student and Exchange Visitor Program

Date: NOVEMBER 12, 2009

Attachment: Letter from Chancellor Jack Scott



October 26, 2009

Katherine H. Westerlund

Management and Program Analyst

Student and Exchange Visitor Program

Immigration and Customs Enforcement

2450 Crystal Drive, Century Tower I, 9<sup>th</sup> Floor

Arlington, VA 22202

Dear Ms. Westerlund:

I am writing in response to your email of October 8, 2009, to Executive Vice Chancellor for Programs Morgan Lynn. You have asked whether media and campus reports of high enrollment demand in the California Community Colleges are accurate and whether high enrollment demand is posing a barrier to enrollment in 12 units per semester for international students on F-1 visas. I can confirm that enrollment demand is indeed surpassing the funding available to the California Community Colleges to offer classes and services. As a result, many students are finding it difficult to develop an appropriate 12-unit course schedule. This problem is especially acute for new students, who generally have lower enrollment priority than continuing students, and for students who register late in the process. Many F-1 students fall into these categories and find themselves unable to register for 12 units.

Should the Student and Exchange Visitors Program be able to provide community colleges with flexibility in defining what constitutes a full course of study for F-1 students it would be very helpful to enabling these students to be successful in reaching their educational objectives and fulfilling the goals for international education that we all share. Thank you for recognizing this problem and being proactive in proposing a solution.

Should you have additional questions or a need for assistance, please feel free to contact Linda Michalowski, Vice Chancellor for Student Services and Special Programs at (916) 327-5361 or by email to [lmichalo@cecco.edu](mailto:lmichalo@cecco.edu).

Sincerely,

Jack Scott, Ph.D.

Chancellor

cc: Morgan Lynn

Linda Michalowski