

Pre NAFSA Conference Questions

SEVIS Q&A with SEVP- Pre-submitted Questions

Wednesday, May 27, 2009

Leave of Absence Guidance

1. We understand that the regulations may be changing in the future, but until that time, DSOs need guidance regarding students who take a leave of absence from the US. NAFSA has submitted a written inquiry on how leaves of absence should be handled for current students. Does SEVP have updates on current guidance?

Response:

SEVIS does not currently have leave of absence functionality. This will be addressed by SEVIS II. Until SEVIS II is released and/or regulations can be drafted regarding leave of absence, the most appropriate action to take for a student taking a leave of absence from school is to provide the student with an authorized early withdrawal in SEVIS.

Scenario 1: Current student elects to take a leave of absence of less than five months outside the United States.

Action: Within 30 days of the student's return to the United States or visa interview, whichever is earlier, the DSO should open a ticket with the SEVIS Help Desk to request that the student's record be returned to Active status.

Scenario 2: Current student elects to take a leave of absence of five months or more outside the United States.

Action: Student must apply for and obtain a new visa. An initial Form I-20 may be issued to support this.

Scenario 3: Student has earned and is on an annual summer vacation.

Action: Questions arise about how the annual vacation provision impacts the amount of time a student can be on a leave of absence when his or her annual vacation immediately precedes or follows the effective dates of the LOA, and that vacation is spent outside the United States as well. In response to these questions, SEVP notes that an F-1 student is considered to be in status during the annual vacation. Accordingly, if a student is out of the country during the annual vacation/authorized break, the DSO should terminate the student's record for authorized early withdrawal when registering students for the next session. The student will have five months from the date the record is terminated or the next session start date, whichever is earlier, to return to the United States to resume studies on the current SEVIS record.

In the absence of system functionality or clear regulations on leave of absence, SEVP feels this is the most appropriate solution. We have attempted to be as flexible as possible within the constraints of the regulations and security interests. If you have comments on the leave of absence policy, we welcome them. They will ultimately assist us in rewriting the regulations.

White Paper for DMVs re: Driver's Licenses for ISS

2. In several states, the Departments of Motor Vehicles are not issuing driver's licenses in several instances – during a student's or scholar's grace period, during cap-gap periods, etc. These students and scholars often have a need to drive during times when their documentation does not meet the needs of the DMVs. At the annual NAFSA conference in May 2008, SEVP stated that they planned to prepare a white paper for DMVs. Are SEVP and the DMV meeting about these issues? Could SEVP provide an update on the status of the white paper?

Response:

1. SEVP is drafting a fact sheet to students and DSOs educating them on the document verification process in each state. We established numerous contacts throughout the country with state representatives knowledgeable of state practices and policies. In the end, we anticipate new communication and specific document information from states to assist students procure licenses in every state. SEVP established contacts at the SAVE office, as well, to assist/facilitate any immediate concerns and issues experienced by students at the 30 states with SAVE access. In the interim, DSOs and students may send immediate issues or problems through sevis.source@dhs.gov and write in the subject line: DMV Issue – (name of the state). SEVP has a full time policy analyst reviewing these issues and coordinating with state liaisons to ameliorate these cases. We request students to communicate to DSOs any problems experienced at the DMV offices immediately with accurate information in an e-mail. In each e-mail, we request the following information:

1. The applicant's name
2. The alien's I-94 admission number (11 digits) or alien registration number (9-digit A#) (if there is one)
3. SEVIS # if the client is a foreign student or exchange visitor
4. The alien's date of birth (DOB)
5. The address of the DMV office where the person experienced the problem, a receipt number (if available)
6. The date the person visited the DMV office
7. A contact address and phone number or e-mail address for the alien (in case the DMV office needs to contact the person)
8. An explanation of the problem

As a reminder to all DSOs, we advise students to communicate to the DSO prior to the applying for a driver's license, but understand students do not consistently understand the importance of communicating first hand. In these cases, we do request at a minimum students review all documentation required to procure a license in any state on the state Web site. For students applying for a benefit or of knowledge of a dependent procuring a license, we request them to plan at least one month in advance before the end of the expiration date of the license or end of the program end date. For students trying to apply for a driver's license or renewing a driver's license by the end of the program end date or have a dependent applying for a license before the end of the I-20 program end date, they may experience difficulty.

2. SEVP now has a dedicated liaison within the DHS office of Real ID who will be working with SEVP in advance of SEVIS II to ease the transition to a paperless system and to better educate state DMV offices.

Reporting Changes in Employment for NSEERS Registrants

3. When 8 C.F.R. § 264.1(f)(5) was amended by 69 Fed. Reg. 67578 (December 2, 2003), the supplemental information (at 67584) explained, "this rule discontinues the requirement that student aliens monitored under SEVIS who are subject to special registration separately notify DHS of a change in their educational institution or address, if such information is provided to DHS through SEVIS. This rule provides that when an alien reports a change of address or educational institution to DHS through SEVIS, that action fulfills his or her special registration requirement to notify DHS of changes in address. However, student aliens who are monitored under SEVIS who are subject to special registration will still be required under 8 CFR 264.1(f)(5) to notify DHS of any change of employment which is currently not captured in the SEVIS system."

Question: With the ability to update employer info in SEVIS and the new OPT reporting requirements, are these students still required to report changes of employment on AR-11SR or will the students be considered compliant when they report their changes in employment to the DSOs as part of the OPT reporting requirements?

Response:
Need input from attorneys.

Data Entry Standards

4. At an SEVP SEVIS II Stakeholders meeting in March 2009, SEVP stated that the DOS name standards would be used in SEVIS II. Could SEVP confirm that this will be the recommended practice in SEVIS II? Until then, should DSOs and ROs

use the standards described in SEVP's Fact Sheet "[Improving Data Integrity in U.S. Government Systems with Information on Nonimmigrant Students](#)," which is currently on the SEVP Web site?

Response:

Yes. SEVP can confirm that SEVIS II will use the DOS name standards found in 9 FAM APPENDIX F, 500

5. If a newly-admitted student or exchange visitor is temporarily residing in a country other than his/her home country (e.g. working, studying abroad), what address should the DSO/ARO put in the "Foreign Address" field in SEVIS? The student's or EV's permanent home country address, or the address where s/he is residing at the time that the initial document is created?

Response:

We recommend that the student provide the permanent address in his or her home country.

Fraudulent Requests for I-901 Refunds

6. On April 29, 2009, SEVP sent out a broadcast message regarding fraudulent refund requests for I-901 fees. If SEVP determines that a refund has been issued for a student or exchange visitor who has received a visa or is present in the United States, "SEVP will mail a formal notice to each involved nonimmigrant student or exchange visitor to their address of record giving them 30 days to remit payment for their I-901 Fee via cashier's check, money order or Western Union transfer ...If the nonimmigrant student or exchange visitor does not make payment within the allowed 30 days, SEVP will terminate... [or] cancel their SEVIS record."

- Will the notice be mailed to both the U.S. and foreign address listed in the student/exchange visitor's SEVIS record?

Response:

No

- How many cases are suspected of being fraudulent at this time?

Response:

While final numbers are being collated, we estimate the range to be 800-2000.

- This is a case of punishing the student or exchange visitor in cases where a third party may be at fault. It would seem to be an issue that would more appropriately be handled between SEVP and the credit card companies in cases where fraud is suspected, e.g. not allowing the refund. Has this avenue been explored, and if not, why not?

Response:

SEVP scrupulously pursued all available options to resolve the issue. Student contact is limited to those cases in which other options were not available. Proactive steps were taken to limit SEVP's future liability.

When students are contacted, SEVP does not arbitrarily assume liability to be that of the student's. However, the student is made aware of the issue and provided the opportunity to ensure that this mandatory fee is paid.

Copies of I-20s

7. We sometimes receive requests from newly admitted students who are still overseas to e-mail them copies of their Initial I-20s before we mail the hard copies to them, as they want to make sure that all their information is correct on the I-20. In the early days of SEVIS, schools were told by SEVP that we were not allowed to send copies of I-20s (or DS-2019s) to anyone in an effort to prevent potential fraud. Does this guidance still stand?

Response:

This guidance remains in effect. Given the potential for fraud, we ask that you continue to only send the hard copies. Schools can establish a process with students to verify information on the Form I-20 is correct such as e-mailing students with all information/data fields contained on the form.

OPT

8. In SEVP Policy Guidance 0801-02, the answer to question 6.6 indicates that a student may not continue to use an approved EAD for pre-completion OPT if she or he completes the program of study earlier than expected. In most of these cases, the student will need to submit an application for post-completion OPT well before the original end date of the pre-completion OPT as recorded in SEVIS. However, SEVIS does not permit the DSO to shorten an approved period of pre-completion OPT to the new program end date, nor does it permit the DSO to request overlapping periods of OPT. Therefore, it is impossible for the DSO to recommend the post-completion OPT based on the new, earlier program end date. Further complicating matters, members have reported that the SEVIS Help Desk will not assist them in shortening the period of pre-completion OPT either; nor will the Help Desk add the post-completion OPT recommendation dates. The Help Desk instructs the DSO to advise the student to submit the I-765 application for post-completion OPT to a USCIS service center without the required Form I-20; then, to call the Help Desk again once the service center issues an RFE asking for the I-20. This, of course, causes unnecessary delays and can cause hardship for the student who is forced to stop working while the delayed application is pending.

- Is this the procedure that SEVP anticipated when the Policy Guidance was issued?
- Would SEVP be willing to program SEVIS to permit the DSO to shorten the approved pre-completion OPT?
- Failing that, will SEVP instruct the Help Desk to shorten the pre-completion OPT upon the DSO's request so that post-completion OPT can be recommended and an I-20 can be properly filed with the I-765?

Response:

We understand this has been a source of frustration. In the short-term, we have provided guidance to the Help Desk to add a second segment of OPT. We are also considering an update to SEVIS to allow for multiple segments of OPT. Until that can happen, we ask that you contact the Help Desk to request that a second segment of OPT be added to a student's record. In making the request, you should only request a second segment of OPT. It is not appropriate to shorten the period of OPT currently on the record, as that is an adjudicated decision.