

Broadcast Message: Enforcement of the Post-Completion OPT and Employer Information Requirement in SEVIS

To: All SEVIS Users

Date: Jan. 4, 2021

Number: 2101 – 01

General Information

We write to inform you about a recent enforcement operation by U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) and the Student and Exchange Visitor Program (SEVP) and to remind educational institutions that they must routinely update all employer information in the Student and Exchange Visitor Information System (SEVIS).

By regulation, Designated School Officials (DSOs) assume the responsibility for maintaining the SEVIS records of all students for the entire period of authorized Optional Practical Training (OPT). Foreign students participating in the post-completion OPT are allotted 90 days of unemployment, or 150 days in the aggregate if engaged in a 24-month STEM OPT extension, before they are considered to have violated the terms of their nonimmigrant status. If they exceed that period, they can be terminated from SEVIS and are subject to removal proceedings.

A significant number of SEVIS records have not been properly maintained. This has significant national security and public safety implications that will not be tolerated by the Department of Homeland Security (DHS).

This past summer, SEVP sent notices to nonimmigrant students who failed to report employment while on OPT, reminding them of unemployment limits and the obligation to report employment. The notices advised that failure to report employment could result in additional action, including the potential initiation of removal proceedings, if a student was determined to have violated their nonimmigrant student status, either for failing to report employment or for exceeding the permissible period of unemployment. Compliance concerns were discussed at a recent DHS and ICE press conference, available for [viewing online](#).

This serves as an important reminder for educational institutions and foreign students that failure to update SEVIS records can have a significant impact on school certification and the immigration status of foreign students. By regulation, a foreign student must notify their DSO of certain personal or employment information changes. DSOs must update foreign student information in SEVIS within 21 days.

By statute, material failure of an educational institution “to comply with the recordkeeping and reporting requirements to receive nonimmigrant students...shall result in the suspension for at least one year or termination...of the institution’s approval to receive such students[.]”¹

¹ 8 U.S.C. § 1762

By regulation, “When a DSO recommends a student for OPT, the school assumes the added responsibility for maintaining the SEVIS record of that student for the entire period of authorized OPT.”²

By regulation, SEVP can determine that an educational institution should “no longer be entitled to certification for any valid and substantive reason.”³ Routine failure to maintain SEVIS records is a valid and substantive reason for SEVP to decertify an institution. Institutions are certified with the understanding that they will maintain a relationship with their students throughout the educational experience, to include any OPT, to ensure that SEVIS records are properly maintained and updated. The nation’s security rests on SEVP’s assurances that SEVIS records are reliable and appropriately updated, and for that we rely on institutions fulfilling their responsibilities.

To maintain the integrity of our foreign student program, and to protect national security, HSI and SEVP are continuing to identify improperly maintained SEVIS records and will make notifications to institutions and individuals as needed. Educational institutions must ensure proper maintenance of SEVIS records.

Disclaimer

This Broadcast Message is not a substitute for applicable legal requirements, nor is it itself a rule or a final action by SEVP. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil or criminal matter.



² 8 C.F.R. 214.4

³ Id.