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July 17, 2020

The Honorable Chad Wolf
Acting Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Matthew T. Albence
Deputy Director and Senior Official
Performing the Duties of the Director
U.S. Immigration and Customs Enforcement
801 I St NW, Washington, D.C. 20536

Rachel Canty
Director, Student and Exchange Visitor Program
U.S. Immigration and Customs Enforcement
801 I St NW, Washington, D.C. 20536

RE: Recommended Changes to Updated July 15, 2020 FAQs to Stakeholders Regarding Impact of COVID-19 on SEVP-Certified Schools and F and M Students

Dear Director Canty, Deputy Director Albence, and Acting Secretary Wolf:

We write this letter to express our continued concern regarding U.S. Immigration and Customs Enforcement's (ICE) updated Student and Exchange Visitor Program (SEVP) guidance regarding F and M students during the COVID-19 pandemic, revised on July 15, 2020.¹ While colleges, universities, and other higher education institutions commend ICE's position to reverse its stance on the July 6, 2020 policy, there is need for continued clarification of the revised guidance to ensure all schools making adjustments in instructional delivery, including hybrid model schools, can continue to pursue their designated course of study.

The non-partisan Presidents' Alliance on Higher Education and Immigration brings together college and university leaders dedicated to increasing public understanding of how immigration policies and practices impact our students, campuses and communities, and supporting policies that create a welcoming environment for undocumented, immigrant, and international students. The Alliance is composed of nearly 500 presidents and chancellors of public and private colleges and universities, representing over five million students in 41 states, D.C., and Puerto Rico.

¹ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY, Frequently Asked Questions for SEVP Stakeholders about COVID-19 (July 15, 2020), <https://www.ice.gov/doclib/coronavirus/covid19faq.pdf>.

First, we recommend that ICE clarify in the March (now July) FAQs that the guidance applies to all schools in making adjustments in instructional delivery, including hybrid model schools. Otherwise, the perception by some could be that the guidance and exemption *only* apply to fully online schools. We have found several statements in the guidance that require changes to ensure that colleges and universities can continue to develop flexible instructional delivery by allowing any and *all* international students, including new international students, who are currently outside the United States to enter our country even if their coursework will be fully online or their schools are operating on a hybrid model of instruction.

Specifically, the response to Question 2 under *Nonimmigrant Students Maintaining student records* states: “If initial students have not arrived in the United States, they should remain in their home country.” This statement should be deleted from the guidance and replaced with a clarifying statement that all new international students can study in the United States or from outside the United States regardless of the delivery of the instruction. This clarification should also be made under the full course of study requirements and online learning section. The guidance should address all forms of instructional delivery, including hybrid models. Higher education institutions as well as their international students should continue to be provided the flexibility of making adjustments in instructional delivery, including implementing hybrid models of instruction or offering all online coursework for the duration of the emergency as indicated in the original March 13, 2020 SEVP guidance.

Second, our organization also impresses upon ICE to issue further guidance on CPT/OPT eligibility for initial students. The guidance does state that an F student is allowed to accrue eligibility for practical training whether they are inside or outside of the United States during the COVID-19 emergency. The guidance also states that “SEVP will allow F and M students to temporarily count online classes toward a full course of study . . . even if they have left the US and are taking the online classes elsewhere.” However, for both OPT and CPT, the guidance requires the F student to be in Active status in SEVIS. Yet, the SEVP guidance does not allow Initial Status students to become “Active” status in SEVIS until they enter the United States. If Initial Status students do not enter the US until the Spring 2021 semester, technically, they will lose the Fall 2020 semester as time counted toward their one year CPT/OPT eligibility. As such, our organization respectfully requests subsequent guidance to clarify this issue to ensure initial status students outside of the US are still eligible to have their Fall 2020 semester course count toward eligibility time for CPT/OPT. The guidance should also allow F students, who are enrolled remotely and are abroad due to COVID-19, to file their OPT applications from abroad.

Again, we thank you for your continued partnership with the various universities and colleges in the United States and hope we can find the right mix of flexibility in this space to ensure all students pursuing a higher education during this pandemic can continue to meet the goals of ensuring a strong economy, world class innovation, and cutting edge education. If you have any questions regarding this request, please contact Jose Magaña-Salgado at jose@presidentsalliance.org or (480) 678-0040.

Sincerely,

A handwritten signature in black ink, appearing to read "Miriam Feldblum". The signature is fluid and cursive, with a long horizontal stroke at the end.

Miriam Feldblum
Executive Director
Presidents' Alliance on Higher Education and Immigration