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COVID-19 GUIDANCE FOR ADDRESSING F-1 STUDENTS, OPT, AND STEM OPT COMPLIANCE

ICE continues to release guidance documents, including broadcast messages, and FAQ updates to assist educational institutions with F-1 visa compliance as campuses close and classroom instruction transitions to online forums. A summary of the latest flexible, modified, or waived requirements is provided below.

I-20 ISSUANCE

- During the COVID-19 emergency, a Designated School Official ("DSO") **may sign and send Form I-20 electronically**, without requesting permission from the Student Exchange and Visitor Program ("SEVP"). This includes: emailing a scan of a physically signed I-20, emailing an I-20 that has been digitally signed using signature software, and emailing an I-20 that has been signed with a digitally reproduced signature. The I-20 may be sent electronically to the student email address noted in the Student and Exchange Visitor Information System (SEVIS), or in the case of minors, to the email address of a parent or legal guardian.
- COVID-19 guidelines have **not** waived the requirement that only a DSO may sign an I-20. Failure to adhere to this rule can result in a withdrawal of a school's SEVP certification.

ONLINE COURSES

- If an educational institution closes campus and transitions to online instruction due to COVID-19, then online courses **will count** towards a full course of study for an F-1 student visa holder. This exception applies even if online courses exceed the one class/three credit limit imposed by regulation for online or distance education. The student must make normal progress. The **school must notify SEVP within 10 days of the procedural change** to utilize this exception.
- If an F-1 student visa holder is unable to maintain a full course of study because required courses cannot be available online (for example, labs or required experiential courses), then s/he may take less than a full course of study **without penalty**. The **school must notify SEVP within 10 days of the procedural change** to utilize this exception.
- If an F-1 student visa holder is required to leave campus and complete coursework online, s/he may do so **within the U.S. or abroad**. The student must make normal progress. The **DSO must update the student's address**.

CONTINUED

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This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.

CPT (CURRICULAR PRACTICAL TRAINING)

■ F-1 student visa holders who must transition from classroom instruction to online coursework and who leave the U.S. may still utilize CPT if the following **three criteria are met**: 1) CPT is integral to the academic program in which enrolled; 2) the DSO authorized CPT prior to the CPT start date; and 3) the employer must have an office outside of the U.S. OR must be able to properly assess engagement and learning objectives electronically.

OPT (OPTIONAL PRACTICAL TRAINING)

■ F-1 student visa holders must still apply for OPT / STEM OPT from **within the U.S.** If an F-1 student wishes to leave the U.S. due to COVID-19, then the OPT/STEM OPT application should be submitted to USCIS prior to U.S. departure. Alternatively, F-1 students may re-enter the U.S. prior to the I-20 program end date and apply for OPT at that time.

■ During the COVID-19 emergency, F-1 student visa status will **not** be impacted if employers require employees utilizing OPT / STEM OPT to work remotely from home. F-1 student employees who will work from home for **longer than 10 days must notify SEVP**, and STEM OPT **I-983 training plans must be updated** to reflect the new home worksite.

■ If an employer worksite closes due to COVID-19 and OPT / STEM OPT work cannot be completed from home, then F-1 student employees **may begin accruing days of unemployment.**

NOTICE REQUIREMENTS

■ SEVP certified schools making procedural adaptations due to COVID-19 must report changes within 10 days. SEVP will send a confirmation email.

■ For online courses, schools should report the courses and majors with enrolled F and M students.

Associate **Ashley Moore** contributed to this briefing.

Wiggin and Dana's Immigration and Nationality Law and Compliance Practice Group plans to provide additional briefings as more information becomes available. Please contact the practice group Co-Chair, Najia Khalid, at 203.498.4314 or nkhalid@wiggin.com if you have any questions.