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**THE IMPACT OF RECENT LAW AND POLICY CHANGES ON
INTERNATIONAL STUDENTS AND SCHOLARS IN THE U.S**

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Introduction

International education in the U.S. has been dramatically impacted by the effects of September 11, 2001. Media worldwide have reported on the strict new laws foreign students in the U.S. are facing. In reaction to the status of some of the 9/11 terrorists, a complex maze of laws and regulations have been put in place. This has created a confusing, overly restrictive, and punitive environment, which along with increased recruiting by other countries with more welcoming international education policies, and a slower U.S. economy, is deterring some international students who might otherwise study in this country. Total enrollment of international students at U.S. institutions decreased by 2.4% in 2003/2004, the first absolute decline since 1971/72. International education, the country's fifth largest service sector export that contributed over \$13 billion dollars last year to our economy, is a national treasure and must be protected. (Open Doors 2004)

September 11, 2001 brought a "war" to our doorstep and resulted in the hunt for possible terrorists on our campuses. Added to perceived and real difficulties in getting student visas, many international students have been increasingly frustrated in their attempts to study in the U.S.

Due to national security concerns since 9/11, one governmental agency after another announced changes in policies affecting international students and other foreigners. More restrictive Social Security Administration policies, new consular processing procedures from the Department of State, new policies in applying for driver's licenses, the implementation of the new, complex Student Exchange Visitor Information System (SEVIS) which monitors students in the U.S. and the dismantling/restructuring of the Immigration and Naturalization Service (INS) have all significantly affected international students and scholars and the university personnel who support them.

The duties of the former INS were spread among three new branches of the Department of Homeland Security (DHS), with: the U.S. Citizenship and Immigration Services (CIS) assigned responsibility for application and petition adjudications; the U.S. Customs and Border Protection (CBP) assigned responsibility for immigration inspections at the ports of entry and Customs; and the U.S. Immigration and Customs Enforcement (ICE) assigned responsibility for investigations, detention, removal, intelligence and SEVIS. International student and scholar advisors who have been trying to assist their students and scholars have been faced with a variety of new procedures and personnel, longer processing times, more scrutiny and less access for resolving problems.

Over the last year, however, some governmental systems have been streamlined and a number of positive changes have been implemented including public policy statements such as that by Maura Harty, Assistant Secretary of State for Consular Affairs, "*We don't want to lose even one student.*" However, stemming the tide of negative perceptions will take ongoing, sustained and concerted efforts by many parties to rebuild the worldwide goodwill and faith that a U.S. higher education is worth the effort and expense. (Harty)

Demographics and Current Trends

The number of international students enrolled in U.S. institutions for the 2003/04 academic year was 572,509. Adding scholars (postdocs, visiting faculty and researchers), the count of foreign nationals or non-immigrant visa holders studying and working at U.S. institutions is over 1,000,000. The Council of Graduate Schools reported in September 2004, a 28% decline in international graduate applications in a 450-school survey. They also report a sharp plunge in the number of students taking the Graduate Record Exam, which indicates future numbers of possible applicants. Applicants for the exam dropped by *one-half* in India and China. This may have a dramatic effect on graduate programs in the future since many graduate schools rely heavily on international students from these countries. Although Open Doors 2004 reported that the total number of graduate students increased slightly by 2.5% in 2003/04, this is offset by the news from the Council of Graduate Schools that first time international graduate students during this period shows a reduction of 6%. (Council of Graduate Schools)

Open Doors 2004 reported that international undergraduate enrollment decreased by over 5%, which accounted for the overall decrease in total numbers. More than one-half of international students are undergraduate students. Students from Asia comprise 57% of the total of all international students in the U.S. The top country sending students to the U.S. in 2003/04 was India (79,736 up 7%, slowing from 12% the previous year), followed by China (61,765, down by 11%), Korea (52,484, up 2%), Japan (40,835, down 11%), and Canada (27,017, up 2%). Taiwan dropped to 6th place (26,178, down 7%). Students from Europe decreased 5%, from Russia decreased 11%, and from the Middle East decreased 9%.

International graduate students currently still make up a large percentage of enrollments in many disciplines. The most popular fields of study have been business and management (19%), engineering (17%) and math and computer sciences (12% although this is a decline of 6% over the last two years). The International Institute of Education's Open Doors Report confirms that almost 75% of international student funding comes from personal and family sources outside of the U.S. The University of Southern California has the largest number of international students at 6,647. California (77,186), New York (63,313) and Texas (45,150) are the top three states in international student enrollment. (Open Doors 2004)

Of note is that Chinese international student enrollment dramatically increased in Australia by 25% and India by 31% in 2003 (Zhao). Open Doors also reports a dramatic decrease in numbers of students in ESL programs since 9/11. Professional international educators surveyed attributed the overall decrease in growth to difficulties with the visa application processes, financial difficulties and competition by other host countries. (Open Doors 2003)

Severe New Regulations After Terrorist Attacks

While international students comprise less than 2% of all foreign nationals coming to the U.S. each year, students were unfortunately involved in both World Trade Center attacks in 1993 and 2001. It is reported that two terrorists actually entered the U.S. on student visas. One attended a university and belonged to a cell that committed the first attack and the other entered the U.S. on a student visa, but never attended school, and participated in the second attack. The 9/11 Commission Report also concludes that some of the terrorists had previously been to the U.S. to attend English as a Second Language

Schools. Two additional terrorists involved in the 9/11 attack entered on B tourist visas and applied for a change to F-1 student status in the U.S. so they could attend flight school. They were allowed to attend school while their change to student status was pending. Their change of status was approved six months after 9/11, creating uproar, which was in part responsible for the demise/restructuring of the INS.

In reaction to the first bombing of the World Trade Center in 1993, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996. In addition to many sweeping, and in several instances draconian, measures which still significantly impact U.S. immigration today, IIRIRA mandated that the government maintain up-to-date information on international students and exchange visitors in the U.S. The USA PATRIOT Act of 2001 amended section 641 of IIRIRA to require full implementation of SEVIS by 1/1/2003. The Enhanced Border Security and Visa Entry Reform Act of 2002 added the requirement that educational institutions report any failure of an international student to enroll no later than 30 days after the registration deadline to ensure that individuals entering the U.S. on student visas actually report to their intended schools (Fact Sheet 2). For a more comprehensive list of many of the other numerous post 9/11 legislative and regulatory measures, see “Recent Legislative and Regulatory Changes Affecting Foreign Students and Scholars”. (Kless, Attachment A)

Roadblocks to Pursuing Study in the U.S.

These post 9/11 measures have created numerous roadblocks to international students pursuing study in the U.S., including increased interviews, background checks, security clearances, additional fees, forms, new databases and other technological tools that DHS has implemented, often before they were completely ready, leading to

confusion and delays for students trying to study in the U.S. A more detailed explanation of some of these follows.

Visa Interviews Now Required of All Non-immigrants

As of August 1, 2003, virtually all foreigners are required to have personal face-to-face visa interviews, which during the last year greatly increased the waiting period for an interview appointment, in some cases six to eight weeks or more (Economist.com). Student visa applicants have almost always required in-person interviews, but with tourist and other business visitors needing appointments the lines increased exponentially. Consulates process 7.5 million non-immigrant visas each year, plus 500,000 immigrant visas and 7.8 million passports for American citizens (Meissner 4). Good news came recently from the State Department, which announced that an additional 350 consular officers have been hired since 2002 to meet this increased demand (Harty). There are still concerns about the training of consular visa officers and the State Department also admits that their data systems remain inadequate. Individual consular officers sometimes interview 100-200 applicants per day. Department of State representatives have estimated that the average visa interview is about 1-2 minutes in length. Many prospective students who have been denied visas complain that they did not have enough time to fairly explain their case and individual circumstances.

University admissions offices and international offices are now spending a lot of time preparing individuals for their visa interviews. Assistance to prospective students might include suggesting documentation to bring to the visa interview or reviewing how to overcome the regulatory presumption that all non-immigrant visitors to the U.S. intend to settle here permanently. This presumption of

immigrant intent is often referred to by its regulation subsection, “214B”. Overcoming 214B, or proving non-immigrant intent, means presenting a plausible plan (with supporting documentation) that the individual plans to return home after completing his or her degree. Some consider such coaching as skirting an ethical boundary, while others see it as part of an advisor’s responsibility to assure that the admitted student is able to get a visa and gain entrance into the U.S. to begin their program of study.

A March 4, 2004 State Department Cable, presumably issued in response to complaints by institutions on the high rate of visa denials, addresses this issue by admitting that it may be difficult for young adults to prove such ties. The cable to consular officers states:

“It is important to keep in mind that students are generally younger and by definition are just starting out in their adult lives and careers. Many do not have concrete plans on what they will do after graduation from a U.S. school. One of the reasons they are seeking education in the United States is to broaden the opportunities they have later in life. A student cannot be expected to detail his or her post-graduate plans entirely when applying for a student visa.”(NAFSA, UNCLAS State 070079)

This cable certainly shows that the State Department is rethinking their internal policies, however, individual students who presented a copy of this memo at their visa interview when asked to prove strong ties to the home country this past summer were still denied visas due to inability to prove nonimmigrant intent. This was particularly frustrating at our institution in which one graduate department admitted only two Chinese students last fall and each was denied a visa. The department delayed offering enrollment to others while these two Chinese students reapplied unsuccessfully for their visas, paying the nonrefundable \$100 visa fees each time. One of the students said that although her first

choice was to study in the U.S, she was going to change her plans and attend a university in the United Kingdom where it was easier to get a visa.

The March 4 cable adds this encouraging statement, which we hope that consular officials will take to heart and use in practice:

“Processing student visa applications is an increasingly important part of the mission of U.S. embassies and consulates overseas, and is growing in visibility at home. The foreign student plays an important role within the U.S. educational community, in the U.S. economy, and in understanding abroad of U.S. society and values. Adjudicating student visas is perhaps one of the most challenging aspects of consular work. Consular managers should place a high priority on ensuring that students have the opportunity to apply for their visas in a timely manner.” (NAFSA, UNCLAS State 070079)

Visa Delays, Security Clearance and Name Checks

Delays, denials and frustrations accompanying the recent changes have been well documented by the world press. “Faculty representatives in the Federal Demonstration Partnership – an organization of 11 federal research agencies and 90 universities – say that the post-September 11 visa denials and delays have proved costly for graduate student recruitment, retention and departmental research.” (Research Day) “The American Institute of Physics reported that nearly a quarter of foreign students who applied to study toward a Ph.D. in physics in the United States in 2002 were initially denied a visa” and three-quarters of all delayed students were in physical sciences, biological sciences or engineering. (Brumfiel)

There have been both institutional and personal hardships for researchers and students delayed abroad for months and unable to either begin or return to their programs in the U.S. Many institutions whose international students and scholars returned home for winter break in 2002 or summer break in 2003 were delayed from returning to the U.S. for two to five months due to security clearance issues. Students delayed overseas still had rent payments and other obligations to meet in the U.S., and academic departments had the dilemma of unfilled teaching assistant positions and interrupted research studies. Chinese students have been especially affected. “Scientists from China have borne the brunt of the new policy – even though its nationals have never been implicated in terrorism against U.S. targets. The Association of International Educators, for instance, found that more than one-third of all visiting students whose entry to the United States was delayed were from China.” Indians and Russians are also experiencing significant visa delays and denials along with students and scholars from Middle Eastern countries. (Brumfiel)

The list of possible reasons for delays or visa denials includes a positive match in the Consular Lookout and Support System (CLASS), or a security clearance required by the Visa Mantis System, which carries out interagency security checks due to citizenship, nationality or country of birth and field of study which could trigger screening due to involvement in high-technology fields or the Technology Alert List (TAL). More familiar reasons for visa denials include lack of ability to prove funding, lack of English ability or the inability to prove that they plan to return home upon completion of studies. These delays and denials cause hardships and uncertainty for institutions, especially those that have invested significant time and effort admitting that student, and have caused many programs, especially at the graduate level, to reevaluate their international student admissions programs.

International students have additional hurdles to manage before they can begin their studies in the U.S. (including increased visa fees and additional forms such as I-157 and I-158 requesting personal information on military service, membership or contributions to professional, charitable or social organizations, employment history, etc.). On a personal basis, this increased scrutiny as well as the atmosphere in many consulates is not a welcoming introduction to the U.S. for those attempting to apply for a U.S. student or scholar visa.

While there have been some developments since it was published, the article “Travelers Beware: A Travel Primer for Foreign Nationals” gave an outstanding summary of “the significant processing delays and changes in procedure at consulates and embassies” and is still one of the most comprehensive and readable summaries of these issues. (Fragomen and Bell 222) Institutions are now advising students pursuing degrees in fields listed on the Technology Alert List to travel with detailed letters from their academic advisors outlining the specific (non-military) purposes of their programs and research. Some consular websites have requested that for all science, engineering and high technology fields of study, a detailed research proposal of study or research plan in the U.S. is required for the visa application.

On a positive note, the State Department recently issued a report that the long security delays for most individuals are a thing of the past. They state that 98% of Security Advisory Opinions are now being cleared within 14 to 30 days of application. The interagency screening process which often involved the FBI, CIA and any number of other interested governmental agencies has been streamlined and has been handled much more efficiently over the last few months. A backlog of over 2000 cases was recently cleared. The process has become automated, eliminating the possibility of cases being “lost”. (Harty) This is a major

improvement and must be communicated to prospective students abroad. 98% is good but still not much comfort for the 2%, which ends up being about 18,000 current individual applicants who are directly impacted and subject to delays. Unfortunately even as things improve, we may be paying for the current fallout and perceptions for years to come. Current students, studying in over 200 fields subject to security clearances, who must apply to renew visas at U.S. Consulates abroad, are still concerned about traveling home or to international conferences. These students often are only given 1-2 weeks leave by their graduate departments, while many students are still delayed abroad a minimum of 4-6 weeks counting travel time, waiting for a visa appointment to submit their application and for their security clearance.

Individual cases of hardship abound since 9/11. Some students have lost funding by not getting back in time for grant deadlines including at least one student who went home to get married, and after an unexpected 5 month security clearance delay, was told he had been dropped by the program and told not to return. Many students have also been penalized by having to pay higher airfares since return dates cannot be scheduled in advance when booking a roundtrip ticket. Students who have returned home during the 2004/05 winter break and are delayed from returning, even though warned of possible delays are still frustrated by the real hardships this creates. Many have no place to stay for extended periods at home, are jeopardizing their research, missing grant deadlines, etc. Institutions have difficult decisions on whether to continue to pay research fellowships for students delayed abroad who are unable to do their work, through no fault of their own. The University of California at Berkeley reported that 37 percent of their international students had altered research plans because of visa problems. (Teicher) Unfortunately these individual stories continue to be told to friends and

relatives and other prospective students adding to the negative perceptions about the difficulties of studying in the U.S.

The toll in anxiety produced for students and scholars by these new procedures since 9/11 has been high. Many have had to turn down invitations to attend or present their research at international conferences. Wendy White, who directs the Board on Scientific Organizations at the U.S. National Academies recently said, “You can’t go to a large international scientific meeting without visas being the issue on everyone’s mind.” (Brumfriel)

Many current students visit their international offices repeatedly just to make sure their documents are in order or to try to get assurances that they will get their visas renewed. The frustration for advisors is that there is no guarantee they can offer the student or their academic departments whether or not they will be delayed for security clearance, or be taken into secondary inspection at the port of entry, possibly missing connecting flights or even being denied reentry to the U.S. There is no consistency in the visa process.

There is, however, more good news on the visa front. U.S. consulates and embassies now are posting their “wait” times for visa appointments on their websites many of which have also been made much more user friendly. The State Department also recently reported that Visa Mantis Security Clearances have been extended for one year and may be extended for the length of program of studies; this would certainly ease the problems for students who need to travel frequently. NAFSA, Association of International Educators has supported a prescreening process for current students and scholars already in the U.S. which would allow them the assurance of traveling home or to conferences and being able to avoid delays abroad, although there seems

to be no announced plans for this at the current time. Consulates and visa interviews are logically the first lines of national defense and integral to increased national security efforts. However, there needs to be a streamlined system that will allow for necessary checks without discouraging legitimate travelers. NAFSA recommends creating a “timely, transparent and predictable visa process” (NAFSA, Recommendations and Implementation Updates, Attachment C) so that visa outcomes are more predictable for both students and institutions.

SEVIS Fee

Of concern are the many financial costs of SEVIS, to the U.S. government, to universities, and to each international student. A SEVIS fee was mandated by Congress to cover the costs to the government of monitoring international students and scholars in the U.S. The 1996 IIRIRA authorized the collection of a fee of up to \$100, even though a study by KPMG, hired by the former INS, determined \$54 would be adequate. On 9/1/2004, the \$100 SEVIS fee went into effect for most students and scholars issued initial visa documents after that date. *Neither the \$100 visa fee nor \$100 SEVIS fee is refundable if the visa is denied.* Rather than collecting the fee at the same time the visa fee is collected, an elaborate fee payment system and instructions have been developed. The DHS has a 57-page manual covering questions and instructions for paying this one fee. The Department of State has announced it is planning to test the option of paying the SEVIS and visa fees together in several countries which would make this less burdensome and confusing for all involved. Meanwhile, students must receive instructions from their schools regarding the fee and may apply online or by Western Union with a credit card or by check and wait for a receipt to be sent by mail. Students without credit cards are forced to pay by mail, which causes concern due to “unreliable and theft-prone

international postal systems.” (Johnson) Individuals must carry their receipt of payment to the consular interview and present it at the port of entry. Overall, while benefiting the U.S. by providing funds to maintain SEVIS, the fee may also serve as an additional barrier to study in the U.S. because of the confusion concerning it and the realization that students are paying for their own monitoring system.

Institutions are making internal policy decisions about whether to pay the fee for their students and scholars. Some institutions are considering paying the fee as a recruiting tool. Other institutions, such as Cornell, have chosen to allow individual departments to make that decision for their admitted students and scholars. The University of Rochester’s Undergraduate Admissions Office has decided to cover the fee up front for incoming freshmen while graduate programs are leaving it up to the individual students. Some institutions have decided to reimburse students for the SEVIS fee upon arrival (to avoid paying a prospective student’s fee who ends up attending another school). The University of Texas at Austin has publicly announced that they will pay the fee for all their students and scholars. Most institutions participating in a recent survey however are not inclined to pay this fee. Since September when the fee was instituted, a number of problems have been noted. There have been some instances of consulates unable to verify that the fee was paid causing some delays in visa issuance. Some students have not printed out their receipt so had some problems at U.S. ports of entry. Other students have been allowed to enter the U.S. without paying the fee causing concern that this will affect their later status.

U.S. VISIT and Machine Readable Passports

Beginning in January 2004, the Department of Homeland Security's new U.S. VISIT (United States Visitor and Immigrant Status Indicator Technology) program required fingerprints and photographs of all visitors to the U.S. in addition to the standard review of documents and routine questioning at the ports of entry and consulates. The fingerprints and photographs are compared to security databases and the visitors are either admitted or sent to secondary screening. Canadians and visitors from 27 Visa Waiver countries do not currently go through this process, however, citizens from Visa Waiver countries were required to have to have new machine-readable passports with biometric indicators by 10/26/04. (Murthy)

National Security Entry Exit Registration System (NSEERS)

The National Security Entry Exit Registration System (NSEERS) has caused international students and scholars additional concerns and difficulties since it was first announced and implemented on 9/11/2002. Individuals from 25 predominantly Arab and Muslim countries were made subject to NSEERS inspection when they entered the U.S. at ports of entry or if they were already in the U.S. were required to report to the closest immigration office for inspection. This included, in many cases, fingerprinting, photographs, an interrogation under oath and a three page written questionnaire. They were then required to report to their closest INS (now ICE) District Office for 30-day and one-year re-registrations (a hardship for many students whose schools were far away from the district office). NSEERS registrants are also required to leave the U.S. through designated ports of departure. On December 2, 2003, with the introduction of the new US VISIT system, the NSEERS requirement for 30 day and one-year re-registration was terminated,

however, individuals subject to NSEERS registration will still have to leave through designated ports of departure, a hardship for some students resulting in higher airfares or longer travel routes home. In addition, they must also continue to report any change of U.S. address directly to the DHS within 10 days of moving.

New Restrictions on Study for Visitors In B-2 Status

On April 12, 2002, INS issued a regulation that prohibits visitors to the U.S. on B-2 tourist visas from “enrolling in a course of study”. Visitors in B-2 status can now only take casual, short-term classes that do not teach a potential vocation until a change in status to F, J or M student status is officially approved. This regulation has had a marked negative affect on English as a Second Language Schools. At question is the institution’s responsibility for allowing visitors to enroll, if they choose to do so, and how aggressively to enforce this new requirement, which ultimately is the individual’s, not the institution’s immigration concern. If the B-2 visa is stamped “prospective student” it means the applicant declared their intentions to study at the consulate before arriving in the U.S. and will more easily be able to change to student status. Some institutions are allowing B-2 visitors to study so long as they have signed a waiver stating they have been advised of the regulations prohibiting their study. Other schools expressly prohibit visitors in B-2 status from attending school full-time or part-time beyond casual or recreational purposes, although the enforceability of such prohibitions depends on the specific enrollment and identification verification procedures in place.

Border Commuters Students

Because of the large number of border commuter students affected by the change in B-2 visitor visa rules, the F-3 visa was created. The F-3 visa status allows students within 75 miles of the U.S. border in Canada or Mexico (that maintain their citizenship and residence in those countries) to commute on a part-time basis to study in the U.S. Now monitored through SEVIS, new I-20s must be issued each semester for these students, an additional burden for schools with large numbers of international commuter students.

Difficulties for Spouses of Students

Many individual students, who have tried to bring their spouses to the U.S. to be with them during their studies, have had their dependent's visas denied on the grounds of nonimmigrant intent. However, students admitted to the U.S. for an academic program sometimes up to a 5-7 year doctoral program should not be expected to have to be separated from their wives, husbands and children for that length of time. This type of visa denial creates a real hardship for many families and is a policy, although not new since 9/11 that adds to the negative perceptions of studying in the U.S. and needs further scrutiny. Under the new F rules, F-2 spouses who do get their visas to enter the U.S. are not allowed to work in the U.S. or to enroll in a full or part-time course of study until an official change to student status has been approved. Change of status applications are taking up to three months or more at USCIS Service Centers, delaying the start of the academic program for these individuals. This causes hardship for both academic departments who might want to admit them and for the spouses they admit who sometimes miss the start of classes due to delays in processing the change of status. While Canada has chosen to give international

spouses permission to work while the student attends school, F-2 spouses in the U.S. do not have work permission and now cannot even be part-time students.

Travel to Canada

While, historically, a weekend “road trip” for international students studying near our northern border was often routine, travel to Canada has become more difficult. Those who are landed immigrants of Canada from Commonwealth Countries now need a valid U.S. visa for entry to the U.S. International students whose student visas may have expired while in the U.S. are only allowed to reenter the U.S. after a brief visit to Canada (less than 30 days) and only if they had *not* applied for a new U.S. visa at a Consulate there. Students who apply for a U.S. visa at an American consulate in Canada could be subjected to security clearance and delayed from returning to the U.S. up to 2 months or if denied a visa would have to go directly home to apply rather than being allowed to reenter the U.S. to resume their studies.

New Immigration Regulations and SEVIS

The NAFSA Advisor’s Manual, an indispensable resource for international student advisors, correctly states “SEVIS represents the biggest change in almost 40 years in how advisors practice their profession.” (15-1) Over 7,000 U.S. institutions admit international students and scholars; some have less than 10 students and some over 5,000. Most schools have had to reevaluate their international programs and services and their business practices to find ways to meet the SEVIS reporting requirements. SEVIS is managed by the U.S. Immigration and Customs Enforcement (ICE), the largest investigative arm of DHS and is considered to be a critical homeland security mission. ICE puts a large

burden on schools and their international office staff for accurate and timely reporting of information on their students and scholars to SEVIS. Since SEVIS's inception, ICE's Compliance Unit reports that this system has led to 3,342 investigative leads on potential SEVIS violations resulting in 558 arrests. So the concern for accurate reporting is very real.

No later than 30 days after the start of classes each term, schools have to report to SEVIS whether each student has enrolled at the school, dropped below a full course of study without authorization by the DSO, or failed to enroll; they must also report the current address of each enrolled student and the start date of the student's next term. Within 21 days of the following changes, schools are required to report any student who has failed to maintain status, completed their program when anticipated, changed their legal name or address, completed their program early, had disciplinary action taken against them by a school as a result of the student being convicted of a crime, and any other notification request made by SEVIS about a student's status.

The new regulations require that all immigration documents must now be issued through, and approved by, SEVIS. Small schools with few international students find this reporting more manageable than large decentralized universities with hundreds or thousands of international students, studying at various degree levels with varying term start and end dates, spread over several campuses. Collecting and coordinating the required information for SEVIS from various offices across campuses has been a daunting task and many schools are still in the process of refining their flow of information to the international office so that it can be sent to SEVIS timely and accurately.

While many improvements have been made in the SEVIS system during the last year, and the system overall is working, problems still exist. Many schools have been waiting months for individual data fixes from the SEVIS Help Desk. The Help Desk does not answer direct phone calls on pending issues. Callers must leave a message, which in many cases is not returned promptly or at all. Students are stuck in limbo, not being able to resolve a variety of issues. For example, one data fix case that was requested in July 2004 was just resolved in January 2005. During that time the student's status was in question, she could not travel without difficulty, and could not accept her graduate award. Her academic department was greatly concerned on her behalf and repeated calls to the Help Desk by the international office resulted only in "Please leave a message."

Clarification on a number of SEVIS procedures is still "pending" even a year later. NAFSA has a list of liaison calls with the State Department and DHS that basically say, "We'll get back to you on that question." Which means that during the meantime, there is no answer on how to handle an immediate student problem. It not only makes advisors look uninformed to their students and their institutions but also does not put our government in a favorable light. This causes great concern for advisors who want to be able to give students a correct answer to their questions, and who do not want their students to get in trouble with ICE. Advisors are held accountable and are expected to accurately report on their students but are not given clear or full instructions on how to do this. It is obvious from listserv discussions from many schools that data is often entered differently and there is much variation in interpreting how to enter the data. Because of the lack of full instructions for interpreting regulations and differences in SEVIS data entry, as well as the fact that it currently takes months to

“fix” the incorrect data that has been entered, the integrity of the SEVIS system has to be questioned.

Schools that batch larger amounts of information to SEVIS have noted some problems. At least one school’s batch of information for 30 students was lost by the system, and instead of doing data fixes for those students, SEVIS is requiring the students to apply for reinstatement. At issue is whether the school should pay the \$195 per student since it was not the student’s fault, however it is not the schools fault either but rather a technical problem with SEVIS. Also of concern is having a termination and reinstatement in the student’s record, again which was not the student’s fault.

Institutions are concerned that there is varying access to SEVIS data by the 3 branches of the DHS, and their inability in some cases to interact and resolve SEVIS problems. This causes endless confusion for students and advisors trying to help them. Human error can and does happen and advisors are very concerned that the data that they enter into SEVIS can unfairly jeopardize their students and their own role as advisors.

Other issues include increased tax liability and audits by the Internal Revenue Service (IRS) for both international students and scholars working on-campus and the universities who hire them. There are also heightened concerns about institutional I-9 compliance; especially given the increased institutional contacts with various government agencies including the specter of DHS site visits for SEVIS re-certification every 2 years. Schools are currently awaiting the overdue regulations addressing these re-certification procedures.

International Student Office Service Fees

Some schools with a smaller number of students (usually 100 or less) have been able to comply with SEVIS reporting requirements by sending daily information on individual students directly via "real-time-interactive" (RTI) on the web. Schools with larger international student populations are spending huge amounts of money for increased staff, new software, computers, IT assistance and training to use the "batch" system which processes large amounts of information at once and avoids the error-prone and time consuming need for double data entry. The government estimated in the proposed SEVIS regulations that the total cost to an institution for SEVIS would only be \$580, \$230 to file an application to be a SEVIS school and \$350 for a site visit. However, many schools, especially those with large numbers of international students, have had to spend many thousands of dollars to manage the transition to SEVIS, the ongoing reporting requirements, additional software and personnel costs. Some institutions have long had fees in place to cover the costs of running the international offices on campus and many more institutions are now evaluating adding an international service fee to cover their additional expense for SEVIS.

While traditionally international students are not known for protesting and speaking out, that perception may be changing. An article in the *Government Executive* by Shane Harris described an angry throng of over 100 students at the University of Wisconsin at Madison. Harris reported that both American and international students protested before a panel of school administrators about a proposed fee to cover university costs (estimated at upwards of \$300,000 per year) for complying with SEVIS. Protesters thought that the school should cover the cost and that international students should not have to individually pay a fee to be monitored by the U.S. government (Harris). Students at

the University of Massachusetts at Amherst protested against the \$65 per semester service fee to cover SEVIS costs and an arbitrator ruled that the fee must be rescinded (Smallwood). On the other hand, the State University of New York at Binghamton recently prevailed in a legal challenge to its new international student fee.

Educating Students and University Administrators About SEVIS

Educating international students about the new requirements, as well as faculty, staff and administration throughout the institution, presents a significant challenge, not only in terms of logistics (especially at large, decentralized universities) but also in terms of accuracy of information and helping constituents appreciate the significance of the changes. SEVIS reporting is a continuous requirement and staff changes challenge the international office to keep personnel up to date on regulations and procedures. For example, all new academic advisors or mental health counselors must be informed of the consequences of recommending a reduced course load for academic difficulties or mental health issues without the student getting advance permission from the international office. A department administrator taking a three-week vacation, and not training a back up in SEVIS requirements, resulting in missing the 21-day reporting deadline for certain SEVIS events could jeopardize the student and the institution.

While most institutions try hard to treat all students the same, different rules do apply to international students and scholars. They do not all enjoy the same privileges that U.S. citizens and permanent residents do. International students cannot just “drop a class,” “take a semester off,” “work at McDonalds to earn a few extra dollars,” or “join a student club bus trip to Canada for the weekend”. The consequences for doing the above without proper documents or advanced authorization

from the international office can range from status violations and reinstatement processes to detention and deportation.

Undeserved Hardships Created by New Social Security Policy

To enhance national security, the Social Security Administration has also tightened up its policies relating to international students. After June of 2002, Social Security numbers (SSN's) are not to be issued unless immigration documents are verified by DHS through a system called Systematic Alien Verification Enrollments (SAVE). This delays the issuing of Social Security numbers from eight to twelve weeks in some cases, especially if information was incorrectly entered in SAVE at the ports of entry although most SSN's are processed in two to three weeks. Another major change is that as of 10/13/2004, F-1 students are not eligible for a U.S. Social Security Number unless they have secured an on campus job and can provide proof of employment. The proof must either be a pay stub or an employer's original letter on letterhead listing the student's supervisor, dates of employment and position. International advisors are now required to give each student an original letter (on letterhead) or verification on the employer's letter confirming that the student is in status, registered at the institution and eligible to work and also confirming the job offer. Social Security has also started copying all immigration documents. These new procedures and rules complicate and may end the SSN sign-ups which many institutions host on campus as part of international student orientation programs. Many arriving international students will not have jobs and so will be ineligible to apply.

The Council of Graduate Schools is concerned about this new rule because many graduate students do not seek employment during their studies, especially many Master's of Business Administration (MBA)

students or students who may be sponsored by organizations outside the U.S. (Stewart)

Schools with payroll systems such as People Soft, that require a SSN to issue paychecks face the challenge of either not issuing paychecks until the student has a SSN or setting up special procedures. Many schools have had to change policies and allow graduate assistantship paychecks to be issued for a limited time without the SSN. This, of course, means much more work for the payroll office to accommodate international students.

New international students are extremely frustrated upon arrival in the U.S. since banks, phone and cell phone companies, insurance companies, landlords, utilities, etc., all ask for the SSN which the student might not be eligible for. Even though the SSN is only supposed to be used for employment purposes, international students have a difficult time understanding or explaining this to various businesses as they go through the process of getting settled in the U.S. This change in Social Security policies has certainly had a significant negative impact on new students when they arrive in the U.S. and in many ways affects their daily lives more so than any of the recently changed immigration regulations.

Summary of The Competition for Foreign Students and the Challenges Ahead

“One-half of the world’s population is under 20 years of age. We in the developed world are going to have to find ways to provide access to these students or we will be faced with great instability.” states John Ebersole, a Dean at Boston University. (Teicher) Steps some institutions have taken to improve student access include streamlining and speeding

up the application process for international students, looking for ways to offer more international scholarships, forming formal partnerships with universities abroad to foster exchanges, contacting alumni abroad to spread information about their positive experiences in the U.S., paying the SEVIS fee for their students, and actively advocating for reforms in government policies.

NAFSA: Association of International Educators in its publication, *“Internationalizing the Campus 2004: Profiles of Success at Colleges and Universities,”* highlights 13 institutions that demonstrated a deep commitment to internationalization of the campus and the value of effective international education. Each institution demonstrated administrative support across divisions, through the curriculum, in research and exchanges, and in support of its international faculty, scholars and students with exemplary practices and model approaches. The timeliness of this focus on the positives of international education cannot be understated. In the midst of unprecedented strains and stresses in campus international offices, of public opinion against foreigners in the U.S., and of numerous roadblocks to studying in the U.S., the rewards to the U.S. for welcoming internationals to our campuses are championed. The benefits for our American students who lack international experiences and to our communities to foster international understanding are highlighted.

There are many issues facing universities ahead. Most international educators will agree that tighter regulations and closer monitoring of international students was long overdue. However, we all must work to make international students and scholars admitted to our institutions feel welcome on our campuses and in our communities since they not only enrich American culture and expand our American students’ experience and perception of the world, they also represent the

best and brightest from abroad. Many will be future government and business leaders in their home countries who will have the opportunity to influence foreign opinions about the U.S. Robert M. Gates, President of Texas A & M University and the Director of the Central Intelligence Agency from 1991 to 1993 has observed how critical this discussion is, “Beyond the risk to economic, scientific and political interests, we risk something more: alienating our allies of the future.” (Gates)

We applaud the steps over the last year that the State Department and the Department of Homeland Security have taken to bring a more balanced and transparent approach to visa issuance and immigration services for international students and scholars, however much remains to be done. It is critical that our educational institutions and educational associations continue to advocate for support of international education and for effective immigration policies with the focus on “secure borders – open doors”. The alternative is potentially, “altering the global balance of scientific power” as other countries compete for the world’s top students and scholars who may perceive that U.S. visas are too difficult to get or that the U.S. is not such a welcome place. (Brumfiel)

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