

## **RECENT LEGISLATIVE AND REGULATORY CHANGES AFFECTING FOREIGN STUDENTS AND SCHOLARS**

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Following the first World Trade Center attack in 1993 when one foreign student was found to be involved, Congress mandated a tracking system for foreign students. Due to concern over the status of terrorists involved on September 11, 2001, the tracking system along with many other legislative, regulatory and policy changes were implemented at an unprecedented pace by the Department of State (DOS), Department of Justice (DOJ), the Social Security Administration (SSA), and the Immigration and Naturalization Service (INS) whose duties were taken over by the newly-formed Department of Homeland Security (DHS). Each of these changes (*some* of which are briefly outlined below) have had to be quickly interpreted by the institution's international office staff and relayed to both the foreign nationals affected and to the institution's administration, often requiring immediate changes to internal policies and procedures.

It is also important to remember that immigration officials at the three new Bureaus of the Department of Homeland Security staffing the U.S. ports of entry, regional immigration service centers and the district immigration offices, as well as, visa officers at U.S. consulates and embassies abroad have also had the challenging job of trying to keep up with these rapid changes and of quickly developing appropriate procedures and instructions for all involved.

### **09/30/1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)**

Mandated government tracking of international students passed by Congress in response to the first World Trade Center Attack in 1993

### **10/25/2001 USA Patriot Act**

Amended IIRIRA to require full implementation of foreign student tracking by 1/1/2003

### **03/7/2002 Documentation of Non-immigrants Under the INA, Automatic Visa Revalidation (Interim Final Rule) DOS**

Reentry to U.S. from Canada or Mexico requires valid visa for nationals of state sponsors of terrorism

### **04/12/2002 Interim Final Rule INS**

Visitors to U.S. cannot attend school without changing to student status

**05/07/2002 Presidential Directive, Interagency Panel for Advanced Science and Security (IPASS)**

Proposal to scrutinize applicants for student and exchange visitor visas who want to study or conduct research in certain sensitive science and technology fields that are “uniquely available” in the U.S.

**05/14/2002 “Border Security Act” Legislation Enhanced Border Security and Visa Entry Reform Act**

Restricts issuance of visas; visa applicants must provide background information; institution is notified of visa issuance; requires notification of failure to enroll (no shows)

**05/16/2002 Student and Exchange Visitor Information System (SEVIS) (Proposed Rule) INS**

Regulations regarding implementation and operation of SEVIS, a computerized Internet tracking system; many significant changes and new restriction affecting students and scholars

**06/06/2002 Homeland Security Act (Presidential Proposal)**

Proposed development of new Cabinet-level Department of Homeland Security to include the “legacy” INS

**06/26/2002 Initiatives to Strengthen the Integrity of the Social Security Number (Policy Change) SSA**

Social Security numbers will no longer be issued for ID purposes (applying for a driver’s license); documents of non-immigrants must be verified with INS before SSN will be issued causing delays and hardships especially for those students needing to begin work on campus

**07/01/2002 Allows Eligible Schools to Apply for Preliminary Enrollment in SEVIS (Interim Final Rule) INS**

Establishes criteria for SEVIS certification fees; mandates DHS on-site campus visits to determine compliance with record keeping and reporting requirements, etc.

**08/12/2002 Registration and Monitoring of Certain Nonimmigrants (Final Rule) DOJ**

Special registration requirements for nationals of Iran, Iraq, Libya, Cuba, N. Korea and Sudan

**08/27/2002 Reduced Course Load for Certain F and M Nonimmigrant Students in Border Communities (Interim Final Rule) INS**

Clarifies rules for part-time border commuter students from Canada and Mexico living within 75 miles of U.S. border

**09/06/2002 Registration and Monitoring of Certain Nonimmigrants from Designated Countries (Notice) DOJ**

Officially designates Iran, Iraq, Libya, Sudan and Syria as countries whose nationals are subject to special registration (“NSEERS”), upon arrival in U.S. Requires 30 day and annual in person registration

**09/18/2002 Transitional Foreign Student Monitoring Program (ISEAS) (Interim Final Rule) DOS**

Consulates must receive separate electronic notification by educational institution that visa applicant has been accepted

**09/25/2002 Certification of All Service approved Schools for Enrollment in SEVIS (Interim Final Rule) INS**

Instructions on certification and fees required to be approved for attendance of F and M students

**11/06/2002 Registration of Certain Nonimmigrant Aliens from Designated Countries (Notice) DOJ**

Subjects individuals from certain countries already in the U.S. to NSEERS special registration procedures

**11/22/2002 Registration of Certain Nonimmigrant Aliens (Notice)**

Added nationals from Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, United Arab Emirates, and Yemen to the NSEERS reporting

**11/25/2002 Homeland Security Act (Legislation) DOJ**

Department of Homeland Security created; many shifts in policy and practice as takeover of the Immigration and Naturalization Service (legacy INS) begins

**12/11/2002 SEVIS (Final Rule) INS**

Established regulations regarding the implementation of SEVIS, computerized tracking for F, M and J non-immigrants, effective 1/1/03

**12/12/2002 Exchange Visitor Program SEVIS Regulations (Interim Final Rule) DOS**

Established SEVIS regulations and procedures for the J program, effective immediately

**12/16/2002 Special Registration (Notice) DOJ**

Addition of nationals of Pakistan and Saudi Arabia to NSEERS list

**01/16/2003 Special Registration (Notice) DOJ**

Addition of nationals of Bangladesh, Egypt, Indonesia, Jordan and Kuwait to NSEERS list

**01/31/2003 Removal of Visa and Passport Waiver (Interim Final Rule) INS**

Citizens of commonwealth countries who reside in Canada or Bermuda are no longer eligible to waive visa and passport requirements

**05/21/2003 Border Security Waiver of Personal Appearance (Cable to Consulates) DOS**

Consular offices are now required to interview all nonimmigrant visa applicants

**08/11/2003 Reduced Course Load Requirements (Final rule) DHS**

Border commuter rule allows part-time study for certain citizens of Canada and Mexico

**10/27/2003 Authorized Collection of a Fee ((Proposed Rule) DHS**

Proposed a SEVIS fee of \$100 to be collected before students and scholars apply for a visa to cover expenses of SEVIS

**12/02/2003 Suspending the 30-day and Annual Interview from NSEERS (Interim Final Rule) DHS**

DHS exempts non-immigrants from certain countries from NSEERS 30 day and annual reporting, however, they must still leave through designated ports of departure

**12/16/2003 Evidence Requirement for Assignment of Social Security Numbers to Foreign Students in F-1 Status (Proposed Rule)**

Requires proof of employment before SSN would be issued (problematic for many university payroll systems)

**01/05/2004 US-VISIT DHS**

DHS begins fingerprinting and photographing visitors to the U.S.

**3/4/2004 Cable to Consulates, Subject: The Challenging Work of Student Visas DOS**

Encourages students to apply for visas early, a personal appearance is required, emphasizes importance of student visas in U.S. foreign policy

**4/15/2004 Adjustment of Immigration Benefit Application Fee Schedule (Final Rule) DHS**

Revised fee structure for immigration benefits adding an average of \$55 to applications

**06/23/2004 Discontinuance of Reissuance of Certain Visas in the U.S. (Notice) DOS**

DOS announces discontinuance of certain domestic visa issuance

**07/01/2004 SEVIS Fee (Final Rule) DHS**

DHS levies \$100 fee for F-1 and most J-1 visa applicants to cover cost of SEVIS monitoring program

**07/23/2004 Extension of status for Certain F and J Nonimmigrants subject to H-1B cap (Notice)  
DHS**

DHS extends status of certain F and J students whose employers filed timely H-1B petitions

**09/13/2004 Evidence Requirements for Assignment of Social Security Numbers to F-1 Students  
(Final Rule) SSA**

After 10/13/2004, F-1 students must have proof of on campus employment to be eligible for a U.S. Social Security Number

**12/08/2004 Consolidated Appropriations Act (Legislation)**

New fraud prevention and detection fee of \$500 for all employers for each new H-1B temporary worker petitions filed and 20,000 foreign nationals with master or higher-level degrees from U.S. universities will be exempt from the H-1B cap each year