



## ***International Students and Remote Learning in Fall 2020: What You Need To Know***

*Updated August 11, 2020*

### **IMMIGRATION RELATED QUESTIONS**

Disclaimer: On July 15, 2020, the U.S. Immigration and Customs Enforcement (ICE) issued an FAQ. The July 15 FAQ comes on the heels of a resolution reached by ICE and Harvard/MIT in connection with a lawsuit filed challenging the July 6 directive that if implemented would have blocked the ability for many international students to remain in or enter the United States.

Based on the court resolution, ICE agreed to cancel the July 6 directive and revert to a policy that existed in March. On July 24, 2020, ICE issued [Clarifying Questions for Fall 2020](#). On [August 7, 2020](#), ICE issue an FAQ that basically combines the July 15 and July 24 documents by ICE.

This document represents our best reading of the ICE guidance and regulations.

#### **Q1: What is the current policy?**

On July 15, 2020, ICE's Student and Exchange Visitor Program (SEVP) issued an [FAQ document](#) for universities to follow with respect to international students in Fall 2020. This FAQ replaces the now rescinded July 6 directive blocking online only students in the United States. On July 24, 2020, ICE issued clarifying questions to supplement this guidance.

#### **Q2: Does the current policy apply to continuing F-1 international students with an active SEVIS record at Penn State? What are my options for fall 2020?**

Yes. Continuing international students can take classes in various modes: in-person, hybrid, or fully remote from the United States Most universities are following a mixed delivery method like Penn State. Our understanding is that there will be no effect on your SEVIS record as long as you remain enrolled full time and have no other violations of status such as unauthorized employment or unauthorized drop below full-time enrollment.

#### **\*NEW Q3: I am a new international student scheduled to start my studies at Penn State University in fall 2020. Will I be able to start my studies as planned?**

Yes, but take note of the following:

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- New international students outside of the United States may take classes 100% online while they remain outside of the United States.
- International students with an INITIAL SEVIS I-20 **may not enter the United States** to take fully online classes.
- International students with an INITIAL SEVIS I-20 may enter the United States if their schedule is not 100% online. Our best reading is that international students with I-20s marked “initial attendance” taking at least one in-person class (*this could be 100% in person or courses that are a mixed delivery with a meaningful component in person*) may still be able to study in the United States.

**\*NEW Q4: What if I start the fall 2020 semester under an in-person or hybrid model but the class then moves to online during the semester?**

According to the July 24, 2020 guidance, students pursuing studies in the United States for the fall 2020 school term will be able to continue studying from within the United States if a university moves online.

**Q5: Can an F-1 international student with an Active SEVIS record take a fully online course load in fall 2020 at Penn State from inside the United States?**

- Continuing international students may take a fully online course load from the United States, because of the temporary exemptions in place under the July 15 ICE FAQ.
- *International students with INITIAL SEVIS 1-20s who are seeking to enter the United States may not **take** fully online classes in fall 2020 in the United States.*

**Q6: Can a new international student take a fully online course load from outside the United States?**

Yes. An I-20 and active SEVIS record are not required to enroll in online courses from outside the United States. New international students will not be activated in SEVIS in fall 2020, but they will be activated after arrival in the United States and enrollment in in-person classes.

New students who remain outside the U.S. but enroll while overseas should request a new I-20 from DISSA by completing the [DEFERRED ARRIVAL PROCESS in iStart](#) by November 1.

**Q7: Can a continuing F-1 international student take a fully online course load in fall 2020 at Penn State from outside the United States? What happens to my SEVIS record?**



Yes. If you began in summer 2020 or earlier **and** have an active SEVIS record, you can take a fully online course load in fall 2020 from outside the United States. Your SEVIS record will remain active as long as you maintain full-time enrollment.

**Q8. What if I am a continuing F-1 international student with an active SEVIS record who is out of the United States for more than 5 months?**

Based on the outcome in the Harvard/MIT lawsuit and the July 15 FAQ, our reading is that international students with active SEVIS records may keep their active SEVIS status as long as they enroll full-time. When Penn State returns to normal operations, students must return to campus to maintain active SEVIS status.

**Q9. How does the 5-month rule apply to F-1 international students who are transferring from another SEVIS-approved school?**

According to the July 15 FAQ, the five-month rule related to transfer students will not apply to students affected by COVID-19. SEVIS transfer students who exceed the 5-month period should contact an international student adviser by completing a SUBMIT A QUESTION eform in [iStart.gp.psu.edu](https://iStart.gp.psu.edu). Depending on the circumstances, the international student adviser may have to request a data fix from SEVP.

**\*NEW Q10: If a student transfers their SEVIS record to Penn State for fall 2020 will they be considered a continuing or new student for enrollment purposes?**

- If the transfer student is already in the United States or enters the United States and checks in with DISSA at Penn State, the student would be considered a continuing student for enrollment purposes.
- If the transfer student is outside of the United States and does not enter the United States for fall 2020, their SEVIS record will remain in initial status and the student must SUBMIT A QUESTION eform in iStart (see Q9 above).

**\*NEW Q11: What immigration laws govern online and in person learning?**

One important regulation is 8 CFR 214.2 (f)(6)(G) which states in part: “For F-1 students enrolled in classes for credit or classroom hours, no more than the equivalent of one class or three credits per session, term, semester, trimester, or quarter may be counted toward the full course of study requirement if the class is taken on-line or through distance education and does not require the student's physical attendance for classes, examination or other purposes integral to completion of the class. ...”



The July 24 Clarifying Questions by ICE exempts new and continuing international students from the regulation, meaning that they can take more than one class/three credits of online or remote instruction in Fall 2020. For continuing students, this may include a hybrid of online and in-person classes or a completely online course load. For new students, this may include a hybrid of online and in-person classes. However, as stated above, new international students **may not enter the United States** to take fully online courses in fall 2020.

**Q12: What authority does the government have to waive the one course/three-credit requirement in the regulations? Why would ICE exempt some international students from the regulations but not every international student?**

The government used its discretion to allow continuing international students to take online courses in excess of these regulatory requirements due to the pandemic. Discretion is a powerful tool in immigration law and one that has been used historically to protect people during emergencies.

## VISAS

**\*NEW Q13. If I enroll full time while in the U.S. and my visa expires, do I need to renew my visa?**

No. As long as you remain in the United States, you do not need to renew your visa because your valid stay is governed by your I-94 and your I-20 or DS-2019.

**\*NEW Q14. If I am a continuing student and remain outside the United States, do I need to get a new F-1 visa?**

No. If your F-1 visa is still valid, you do not need to apply for a new visa regardless of your SEVIS status.

**Q15. I heard that U.S. visas are being issued. Is this true?**

Yes. The Department of State announced a [phased resumption](#) of routine visa services on July 14, 2020. The resumption of visa services will occur on a post-by-post basis so long as it safe for Department of State personnel to return to work. Students should check with the specific consulate site to its operations by going to <https://www.usembassy.gov/>.

The proclamations from the White House restricting certain travelers from entering the United States due to COVID-19 remain intact. Notably, the Department of State [announced](#) on July 16,



2020 that F-1 international students would be exempt from the proclamations banning certain travelers from the Schengen Area, UK, and Ireland.

**\*NEW Q16: For new students, does DISSA need to re-issue the I-20 to indicate that the student will not have a schedule that is 100% online in order to obtain a visa and enter the United States?** No. Under the July 24 Clarifying Questions by ICE, this is no longer necessary unless there are other substantive changes that would trigger a Form I-20 update.

**\*NEW Q17. The Clarifying Questions from ICE dated July 24 states that international students enrolled in a course of study in the United States on March 9, 2020, and who subsequently left the United States will *likely* remain eligible for a visa since the March 2020 guidance permitted a full online course of study from inside the United States or from abroad. Does this mean I will get a visa?**

Visa issuance is under the jurisdiction of the Department of State and not under SEVP which is under the Department of Homeland Security. While it is 'likely' a continuing student would get a visa, the Department of State has discretion to issue or deny their visa.

## EMPLOYMENT

**Q18: As a continuing student in Active SEVIS status, how does the current situation affect my ability to apply curricular practical training or optional practical training?**

- We do not have a guidance on how CPT and OPT are affected by students enrolled in remote classes, but assume since you remain in active status in fall and are enrolled full-time, that there is no effect.
- You should not be affected as long as you meet the requirement of full-time study for one academic year.

**Q19: I am a *new* student starting in fall 2020, and I plan to enroll remotely while outside the United States my first semester. Will I be eligible for an internship (CPT) in summer 2021?**

- At this time, our response is 'no' that you are not eligible for CPT or even OPT if you are in a one-year program. We are hoping that SEVP provides guidance soon because this is a frequent question.
- Students need to be enrolled full time for two consecutive semesters in F-1 status in the United States to be eligible for CPT and OPT.
- If a graduate program of study requires an internship in the first year, then it is permissible for DISSA to authorize CPT but not recommend OPT.

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**Q20: If I am enrolled full-time overseas with an Active SEVIS record, am I eligible for F-1 Optional Practical Training (OPT)?**

If you meet all of the eligibility requirements, you are still eligible for OPT. However, the application for employment is on the form I-765 which requires you to submit the application while in the United States. OPT applications are processed by USCIS, and USCIS has been consulted by ICE but has not yet provided guidance. When you sign the I-765, you are certifying you are filing the form while you are in the United States.

**Q21: Can I still work on campus remotely and get paid from the university from my home country?**

Working in your home country is not an immigration question. It is a tax and human resources question based on tax law and labor law. Therefore, DISSA cannot answer.

## PENN STATE FIRST

**Q22: Do students need a new I-20 from DISSA if they attend Penn State First – either in Shanghai or Seoul?**

No. An I-20 is not needed for study outside the United States. If students have an I-20 now, they should request a deferral of their start date after September 1, 2020. If students do not yet have an I-20, an I-20 for a January 2021 start date will be issued after September 1.

**Q23: Will a transfer student need a new I-20 for study overseas?**

No. An I-20 is not needed for study outside the United States.

**Q24: Do students in Penn State First – either Shanghai or Seoul – need to purchase health insurance?**

No. Students do not need to meet the Penn State Student Health Insurance Plan (SHIP) until arrival on campus.

## RESOURCES

**Office of Global Programs, Penn State International Students- DISSA: 814-865-6348, Option 2**  
Students can complete Submit a Question in [iStart.gp.psu.edu](https://iStart.gp.psu.edu).

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- [Penn State Law Center for Immigrants' Rights Clinic](#)
- Penn State Office of Global Programs [FAQ](#)
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