

Congress of the United States
Washington, DC 20515

July 9, 2020

The Honorable Chad Wolf
Acting Secretary
Department of Homeland Security
245 Murray Lane, SW
Washington, DC 20528

Mr. Matthew T. Albence
Acting Director
U.S. Immigration and Customs Enforcement
500 12th Street, SW
Washington, DC 20536

Dear Acting Secretary Wolf and Acting Director Albence:

We write with great concern regarding U.S. Immigration and Customs Enforcement's (ICE) recently announced modifications to the Student Exchange and Visitor Program (SEVP) affecting nonimmigrant students taking online classes. We request that ICE and the Department of Homeland Security (DHS) clarify these decisions and urge you to reconsider the modifications which cause undue harm to our international students, student bodies, and institutions of higher learning.

On July 6, 2020, ICE announced several modifications to the temporary exemptions for nonimmigrant students taking online classes for the 2020 fall semester. Specifically, ICE declared that nonimmigrant F-1 and M-1 students attending schools operating entirely online or taking only online courses will not be permitted to take a full course load and remain in the United States. The modifications also limited many students at normally operating schools from taking more than one class or three credit hours online in order to remain in the country.

Because ICE failed to provide any justification for its guidance, it is unclear what problems these new rules are designed to solve. It is obvious, however, that the guidance will impede attempts by colleges and universities to respond effectively to the COVID-19 pandemic, thus endangering the health of students, teaching assistants, professors, and others.

Many schools have yet to determine whether they will hold in-person, online, or hybrid classes this fall, and most plan to make that determination based on guidance from States and health experts monitoring the COVID-19 health crisis. Students at these schools are currently in limbo, and they do not know whether they will be able to stay or be forced to leave, making planning for the upcoming semester impossible. This rule could force schools to rush the finalization of their plans or encourage them to reopen prematurely and put more students, staff, and faculty at risk to prevent international student deportation. These decisions should be made based on the safety of students and faculty and should not be influenced by rash immigration policy objectives or with the sole goal of going back to business as usual.

This rule will also require expensive and unnecessary travel, imposing needless additional risks during this pandemic. At a time when flights are already dangerously full and various travel restrictions are in effect, it makes little sense to force students to travel.

Students who are required to depart may be forced to restart the visa application process later if they wish to return to school when in-person classes begin again. For students who are from countries where U.S. embassies and consulates remain closed or visas are otherwise difficult to obtain or renew, this policy will create additional barriers when they try to return to the United States to complete their education when this pandemic is over. For graduate and doctoral students who serve as Teaching Assistants, they may not be able to continue to teach sections of courses, therefore limiting the availability of certain courses for the term.

These modifications have also not thought out the practical challenges of remote learning for international students. Students who must move a continent away or to the other side of the world will have to participate in online classes in time zones hours apart from where they are located, which could have detrimental effects on their education, health, and livelihood. Other students may return to regions where the internet connectivity needed to participate in online classes is inadequate, leaving them unable to receive the full value of the education they are paying for.

For some students, being forced to leave the country may lead them to leave school permanently and fail to receive a degree into which they have put so much time, effort, and tuition dollars. This will also deprive universities of needed revenue at a time of great financial stress, straining resources for the students who remain at schools and make it harder for those with financial challenges to attend. Moreover, forcing students to leave in short order will place financial burdens on them. Many have housing or automobile leases that they cannot break, or other financial obligations in the United States.

The loss of international students only serves to isolate them at a time when they need the support of their faculty and classmates. This policy sends a message to international students that they are not welcome in the U.S. and disregards their well-being and the well-being of student bodies. These modifications will only further disincentivize international students from coming to the U.S. where they enrich campus life and our society through their talents and contributions.

Lastly, the administrative burden requiring campuses to reissue all I-20 forms reflecting changes within 21 days of August 4th is extremely challenging when some schools will have thousands of files to process. Designated school officials would need to know the class enrollment modality of every student to be able to comply with this deadline, even though student schedules are often not finalized until a few weeks into the start of a term.

The announcement also raises questions of how ICE and DHS plan to treat students in various scenarios under the new modifications:

- If a student is taking in-person courses that must suddenly move online due to local orders, will that student be required to leave the country?

- For students attending schools with hybrid in-person and online classes, what is the maximum number of courses and credit hours they are permitted to take?
- Based on the published guidance, schools that offer entirely online classes or programs and will not physically reopen for the fall 2020 semester must complete an operational change plan and submit it to SEVP no later than Wednesday, July 15, 2020. Schools that will not be entirely online but will reopen in the fall must update their operational plans by August 1, 2020. Given these deadlines, when does DHS plan to issue the temporary final rule implementing and explaining the policies and procedures in its guidance?
- Will F-1 students in English language training programs or M-1 students in vocational programs be permitted to take online courses outside of those programs?

Given the consequences the exemption modifications pose for international students and the effect it will have on their legal status, we request answers to these questions as soon as possible.

Our students and schools are facing unprecedented challenges. ICE's announcements only add to these burdens, and potentially put more students at risk. ICE's SEVP exemptions for the spring and summer semesters permitting students to take more online courses than usually permitted was sensible given the risks of the pandemic. The Administration should consider the wisdom of these earlier exemptions and cease the finalization of their modifications.

Sincerely,

Jimmy Panetta
Member of Congress

Linda T. Sánchez
Member of Congress

Susan A. Davis
Member of Congress

Jerrold Nadler
Member of Congress

Zoe Lofgren
Member of Congress