



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

Updated July 14, 2020

Q1: What is the new policy?

On July 6, 2020, the U.S. Immigration and Customs Enforcement (ICE)'s Student and Exchange Visitor Program (SEVP) [announced](#) that it would no longer provide exemptions for international students taking online classes due to the pandemic during the fall 2020 semester. ICE also issued a [Broadcast Message](#) with slightly more detail, and indicated the rule will be published in the Federal Register as a Temporary Final Rule.

Q2: Can an international student take a full online course load from the United States?

No. With regard to Fall 2020, the press release by SEVP states "Nonimmigrant F-1 and M-1 students attending schools operating entirely online may **not** take a full online course load and remain in the United States. The U.S. Department of State will not issue visas to students enrolled in schools and/or programs that are fully online for the fall semester nor will U.S. Customs and Border Protection permit these students to enter the United States. Active students currently in the United States enrolled in such programs must depart the country or take other measures, such as transferring to a school with in-person instruction to remain in lawful status. If not, they may face immigration consequences including, but not limited to, the initiation of removal proceedings."

Q3: I am an international student scheduled to start my studies at Penn State University in Fall 2020. Does this policy change affect me?

If Penn State maintains a return to campus plan for Fall 2020, our reading is that international students who return to campus taking their courses in person will be fine and not affected by the new policy. On the other hand, if Penn State moves to a fully remote classroom for Fall 2020, the new policy will block the possibility for international students to obtain visas and enter the United States.

Q4: I am international student scheduled or hoping to take my classes under a hybrid model. Does this new policy affect me?

The announcement from SEVP defines "hybrid model" as a mixture of online and in person classes. According to the new guidance, "Students attending schools adopting a hybrid model—that is, a mixture of online and in person classes—will be allowed to take more than one class or three credit hours online. These schools must certify to SEVP, through the Form I-20, "Certificate of Eligibility for Nonimmigrant Student Status," that the program is not entirely online, that the student is not taking an entirely online course load for the fall 2020 semester, and that the student is taking the minimum number of online classes required to make normal progress in their degree program."



Q5: What if I start the Fall semester under an in-person or hybrid model but the class then moves online in the middle of the semester or after Thanksgiving? One of the documents from ICE suggested that these students would have to return home.

We believe the student still falls in the “hybrid model” and can remain in the U.S. because some classes were in person and other classes were online. Under regulations at 8 CFR 214.2 (f)(6)(G) “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.*” Further, the ICE Press Release and Break Out Memo define hybrid model as “a mixture of online and in person classes.” Finally, our interpretation is that a student in a hybrid or in person setting at the start of the semester could remain in the United States if classes go remote after Thanksgiving.

Despite the confusion (and contradiction) caused by one ICE document, we believe the regulations, coupled with the language of the ICE announcements support our conclusion.

Q6: If the University is offering hybrid classes but all of my classes are online, will I have to leave the United States?

Yes. While this new guidance is a departure from the guidance issued in spring and summer to help mitigate the spread of coronavirus, the new rule indicates that students must have in-person classes or a combination of in-person classes and online classes and all of these classes must make normal progress in your degree program.

Q7: If I am in my home country and I take a full course load online, what happens to my SEVIS record?

Penn State is offering a mix of in person and online courses for Fall 2020. As such, in this case, your SEVIS record would be terminated. While all terminations are problematic, Penn State would terminate students in this situation as ‘authorized early withdrawal’ which means that the termination is made for procedural reasons and not due to a violation.

Note: An FAQ issued by ICE contains conflicting information but we are told by SEVP this is an error.

Q8: What immigration laws govern online and in person learning and how does it relate to the new policy?

One important regulation is 8 CFR 214.2 (f)(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. ...” Importantly, the new ICE announcement serves as an exemption to the one class/three credit online limit — in that students who are in a hybrid model – as defined by ICE are in compliance. This exemption is temporary.



Q9: What authority did the government have in March 2020 to relax the online requirements listed in the regulation and why cannot the government extend this now?

The government used its discretion to relax the regulation. [Previously](#), the government allowed 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.

Q10: I am an international student at Penn State already on campus. How does this new policy affect me?

If you take all of your courses in-person in Fall 2020, you are not affected by the rule. On the other hand, if Penn State moves to an entirely remote platform for Fall 2020, international students already on campus will have to leave the United States or take other measures that will aid in their maintenance of status. The policy suggests that students already who do not take these measures may face deportation.

Q11: How can an international student face deportation in the above scenario?

The Immigration and Nationality Act (INA) or immigration statute provides a list of reasons a person may be deported after they have been admitted into the United States. International students who are identified by ICE as violating this new policy could be charged under [237\(a\)\(1\)\(C\)](#), a provision in the INA that makes a person deportable if they failed to maintain nonimmigrant status in the United States. ICE could initiate removal proceedings by filing a charging document known as the Notice to Appear with the immigration court.

Q12: What should I do if all classes are online but there are travel restriction to my home country?

You should consult with an immigration attorney and consider alternate options such as a B-2 visa.

Q13: What should I do if all class are online but I am afraid to return to my home country?

You should consult with an immigration attorney and consider alternate options such as asylum.

Q14: Will my visa be cancelled if I am studying from my home country?

No. If you have an F-1 visa, your visa would not be cancelled if you are studying from your home country even if your SEVIS record is terminated. The SEVIS termination would not affect your F-1 visa.

Q15: Do I need to get a new I-20 to show I will be taking a mix of in-person and online classes?

Yes. Guidance from the Department of Homeland Security indicates we are required to issue you a new I-20 to verify that you are abiding by the ICE guidance. The I-20 must verify:

- Your program of study is not entirely online
- You are not taking only online courses
- You are taking the minimum number of online courses to make normal progress in the degree program

Q16: How does the new policy affect the spouses and minor children of international students?



Spouses and minor children are “derivatives” to a principal nonimmigrant applicant so once the principal is denied a visa or forced to leave the United States, this applies to their spouse and minor children.

Q17: I am enrolled in classes that are designated as mixed (one single course with a combination of in-person and online classes) for the fall 2020 semester. As an international student, does this mean I have to be in-person or is it sufficient that some other students are attending in person?

Our reading based on the regulations and the definition of “hybrid” is that when classes are offered in person, international students should attend class in-person.

Q18: I am a faculty member and want to require in-person attendance for the first class and go remote the rest of the semester. Does this particular class count as in-person for Department of Homeland Security (DHS) purposes?

We believe this model does not satisfy in-person/hybrid for DHS purposes.

Q19: Can I take 100% online courses from outside the United States?

Yes.

Q20: If I take 100% online classes from outside the United States, will my SEVIS record remain active?

ICE has issued conflicting information and we are seeking further guidance. With that said, because we are a hybrid school in the fall, our reading is that students who take online courses from abroad will not remain active in SEVIS. According to the ICE Broadcast Memo: “Only students enrolled at a school that is only offering online coursework can engage in remote learning from their home country. In this case, DSOs should annotate the student’s record to make it clear that the student is outside the US but taking full time online courses as that is the only choice offered by the school.” Thus, only students enrolled in schools that are fully online in the fall may remain active in SEVIS while taking classes online from outside the United States.

Q21: What happens if my SEVIS record and I-20 are terminated and I want to return to Penn State in person in spring 2021 when classes return to all in-person? What about opportunities for practical training?

If your SEVIS record is terminated based on ‘authorized early withdrawal,’ DISSA can request for a reactivation of your SEVIS record. We can make this request no more than 60 days before the next semester start date. In order to request this correction to your SEVIS record, we will need a copy of your flight itinerary and in-person class schedule. A DISSA international student adviser will make a request for a correction in SEVIS. This reactivation is discretionary, but we would not anticipate any problem except that schools around the country will be making the same request for possibly thousands of students so there could be a delay.

Most importantly, however, if your reactivation is approved, you will remain eligible for practical training if you have met the other eligibility requirements.



Q22: Where can I find more 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.

Shoba Sivaprasad Wadhia: Associate Dean for Diversity, Equity, and Inclusion and Director of the Center for Immigrants' Rights Clinic at Penn State Law: ssw11@psu.edu

- [Penn State Law Center for Immigrants' Rights Clinic](#)
- [Immigration in the Time of Trump](#) contains resources for immigrants and the broader community
- Penn State Office of Global Programs [FAQ](#)
- [NAFSA](#)
- [Presidents Alliance on Higher Education](#)