Accrediting Council for Continuing Education and Training (ACCET)

Pre-submitted Questions and Answers

Oct. 27, 2015

Note: The following questions have been edited for grammar and stylistic elements. The content has not been changed.

Q1: If President Obama signed the Accreditation of English Language Training Programs Act (Accreditation Act), which amended Section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), to state that F-1 nonimmigrant students pursuing a course of study in English language training must enroll in an English language training program accredited by a regional or national accrediting agency recognized by the U.S. Department of Education, and as a result, the Student and Exchange Visitor Program (SEVP) is responsible for reviewing SEVP-certified English language training programs for compliance with the accreditation requirements as set forth in the law with the implied purpose of streamlining the certification process—making accreditation bodies responsible for ensuring Intensive English Programs (IEPs) follow the basic standards for accreditation—why can SEVP not approve and grant certification immediately after a school has obtained accreditation and paid the necessary fees? What is the need to have an inspection prior to obtaining certification?

   A. If a school is applying for initial certification, there are regulations in addition to accreditation that a school must comply with. If the questioner has additional concerns, please contact the SEVP Response Center (SRC) at 703-603-3400 or SEVP@ice.dhs.gov.

Q2: Schools have had lengthy delays for adding branch campuses to their Form I-17, “Petition for Approval of School for Attendance by Nonimmigrant Student.” Is there anything schools can do to get these additional locations approved more quickly? What is SEVP doing to ensure consistent timeframes for adding these additional locations so that institutions can effectively plan their business objectives?

   A. SEVP is working as quickly and efficiently as possible to address this issue. SEVP is also working to streamline its approval and adjudication processes to ensure timely responses.

Q3: Can SEVP please clarify the regulations related to opening a branch location for schools that have an SEVP-certified main branch? Schools filing an update to add a branch campus have been sent a denial letter from SEVP explaining that the school’s branch campus must be up and running, and engaged in instruction of their certified programs.

   Our understanding, based on discussions with SEVP reported by members at last year’s NAFSA conference, is that the “engaged in instruction” requirement does not apply to schools that already have a main branch with the authorization to issue the Form I-20, “Certificate of Eligibility for
Nonimmigrant Student Status,” because the school as a whole is already engaged in instruction of its certified programs.

A. SEVP gives consideration to those schools whose new program is currently accredited by a Department of Education-recognized accreditation agency, even if the program has not yet begun. If your school has a program of study that is accredited by a Department of Education-recognized accreditation agency and meets all other requirements for the addition of a new program, but has not yet begun instruction, please submit an update for consideration by SEVP.

Q4: If a student does not need a student visa for avocational/recreational programs, and students can get a tourist visa for six months and extend it, why should schools apply for SEVP certification? My school only offers avocational English Language programs. The “Nonimmigrants: Who Can Study?” document at ICE.gov/SEVP says that B visa holders, “may engage in study that is avocational or recreational in nature.”

A. B-2 visitors may engage in avocational or recreational study (i.e., with no intent to enroll in a course of study). However, a B-2 visitor who has been enrolled in any kind of study and is requesting a change of status to F-1 or M-1 can anticipate having the change of status denied by U.S. Citizenship and Immigration Services (USCIS). Such study while the student is in the United States on a B-2 visa may be perceived as circumventing the F-1 or M-1 admissions process. Stakeholders with additional questions should contact U.S. Customs and Border Protection or USCIS.

Q5: It is clearly written that “denial of an update is not subject to appeal.” In our case, it is obvious that an error was made in the denial. As we pointed out in our conversation with SEVP, the program was denied because the program had not enrolled students; however, our program is only for international students, so we cannot enroll students until we receive SEVP approval. SEVP instructed us to submit our changes again. Is there a more efficient and practical way to address perceived errors in Form I-17 update denials, since Form I-17 updates take up to seven months to process?

A. SEVP is adjudicating updates to the Form I-17 as quickly and efficiently as possible, given our current resources. Schools may not appeal the denial of an update. A school may submit the update(s) again at any time.

Q6: Information on concurrent enrollment indicates that the degree-granting institution controls the Form I-20. For bridge pathway programs, students are conditionally accepted into the university upon successful completion of an English as a Second Language (ESL) portion of the bridge program. Often, the pathway program includes classes offered by the university as part of the program, which are fully transferrable to the student’s degree upon successful completion of the program. However, the ESL school may offer a bridge program itself. In these cases, should the university or ESL school issue the
Form I-20? Does the answer change depending on who teaches the content classes (e.g., taught by university staff or taught by qualified staff not necessarily employed directly by the university)?

A. There is currently no final guidance on pathway programs. SEVP understands that guidance on pathway programs is a priority to our ESL stakeholders. We are in the process of using stakeholder feedback on the 2014 pathway guidance documents to develop additional guidance on the subject. While our ability to issue this guidance is dependent on the program addressing Government Accountability Office recommendations and Presidential Executive Orders, we remain committed to developing and releasing guidance on this subject to the academic community. Schools should send case-specific questions to SEVP@ice.dhs.gov.

Q7: SEVP has issued draft guidance for pathway programs, which includes definitions for both “pathway programs” and “bridge programs.” We have member institutions that have been using these words for years to refer to full-time academic ESL programs, generally for students who are preparing for American universities. Will the marketing and advertising of these ESL programs as “pathway” or “bridge” be an issue given the new definitions, or can schools continue to market these academic ESL programs as university pathway or academic bridge programs?

A. There is currently no final guidance on pathway programs. SEVP understands that guidance on pathway programs is a priority to our ESL stakeholders. We are in the process of using stakeholder feedback on the 2014 pathway guidance documents to develop additional guidance on the subject. While our ability to issue this guidance is dependent on the program addressing Government Accountability Office recommendations and Presidential Executive Orders, we remain committed to developing and releasing guidance on this subject to the academic community. Schools should send case-specific questions to SEVP@ice.dhs.gov.

Q8: There are three possible enrollment scenarios for pathway programs: 1) the ESL school enrolls the student for the entire full-time program and contracts the non-remedial coursework with a partner university, which has provided a student with conditional acceptance upon completion of the program; 2) the student is enrolled concurrently in two part-time programs, one at the ESL school and one at the university; and 3) the university enrolls the student for the entire full-time program and contracts the language training coursework with a partner language school. Are all of these three scenarios permissible?

If the third option is allowed, there are issues for accreditation, since the ESL school must be offering a program and enrolling students in order to be accredited. If the school is only contracting education with a third party, it does not have control over the enrollment of those students, and therefore cannot meet some of the accreditation standards, including Recruitment and Enrollment, and possibly Student Progress and Attendance, as they relate to student probation and termination. If the school is offering multiple programs, then those other programs would be included in the accreditation, but if a
school is only contracting coursework for a pathway program, that school would not be eligible for accreditation, as it is not offering any programs.

This also has implications for currently-accredited schools. Currently, accredited schools have locations on university campuses that cannot be included in the accreditation, since they are only offering contracted education and therefore do not have any students enrolled at their institution, only at the university partner. The Pathway Program guidance states that, “All schools involved in the ESL portion of the program must be in compliance with the Accreditation of English Language Training Programs Act (Accreditation Act).” Does that apply to the specific locations of a currently-accredited school? We then run into the above issue of that location not actually having students enrolled, as enrollment is controlled by a third party.

A. There is currently no final guidance on pathway programs. SEVP understands that guidance on pathway programs is a priority to our ESL stakeholders. We are in the process of using stakeholder feedback on the 2014 pathway guidance documents to develop additional guidance on the subject. While our ability to issue this guidance is dependent on the program addressing Government Accountability Office recommendations and Presidential Executive Orders, we remain committed to developing and releasing guidance on this subject to the academic community. Schools should send case specific questions to SEVP@ice.dhs.gov.

Q9: We are an avocational ESL institution interested in offering our students the opportunity to engage in a formal volunteer program, and we wanted to receive more guidance on how we might offer this program in accordance with SEVP regulations.

The immigration attorneys we spoke to expressed the opinion that such a program might violate SEVP regulations and be considered an unpaid internship program. We are well aware that F-1 ESL students are not permitted to work during their program of study with very few exceptions. The attorneys felt that such a program would be defined in the federal regulations as curricular practical training (CPT) and while certain students are permitted to apply for CPT work authorization after completing one year in an F-1 program, 8 C.F.R. 214.2(f)(10) specifically states: “Students in English language training programs are ineligible for practical training.”

Further, the attorneys stated that if we certified an F-1 student for CPT or promoted an unauthorized internship, we could risk losing our SEVP certification.

However, in our research we came across accredited ESL institutions operating volunteer programs very similar to the type of program we would like to create. These programs place volunteers in different industries and are not limited to the nonprofit sector.

Thus, if we wished to craft our own volunteer program, what sort of parameters/guidelines should we follow to ensure compliance with the regulations?
A. If your school is SEVP-certified, the SEVP School Certification Unit needs specific details of your proposal. Please submit your request as an update to your Form I-17 to initiate formal adjudication. If your school is a “avocational ESL institution” that enrolls students in B-2 visitor status, there is no provision for employment in this status. Please provide additional details so that SEVP can provide an effective response.

Q10: SEVP indicates that students on a B-1 or B-2 Visa can take a short course of study if it is under 18 hours per-week. Is it the school’s responsibility to ensure that students in full-time programs are on a student visa? Or is it the student’s responsibility to follow the terms of their visa status, so schools can enroll any student in a full-time program, if that is what is requested?

A. For an international student in a full-time program, it is the student’s responsibility to obtain the correct visa (either F-1 or M-1) prior to arriving in the United States. Furthermore, it is up to the school to ensure that the students enrolled at their institution have the appropriate documents, which include the correct F-1 or M-1 visa. Prior to arrival, the student should be issued a Form I-20 from an SEVP-certified school that contains the school's name, along with the student's name and their F-1 or M-1 status. Once a student arrives at their institution, the principal designated school official (PDSO) or designated school official (DSO) should ensure the student’s paperwork is correct and in order before the student begins their studies.

Q11: What is a school’s responsibility for recruiting students internationally in terms of visa status, and is it different from the school’s responsibility for enrolling students? My school advertises full-time programs as being exclusive to F-1 students, but other schools advertise full-time programs and do not mention visa status, and I know from agents that they are recruiting all students.

A. An institution may only recruit and accept students for the visa they are approved for. If your school is certified by SEVP to only accept F-1 students, then you may only recruit F-1 students (and vice versa for M-1 students). If your institution is approved by SEVP to accept both F-1 and M-1 students, then you may recruit both visa types.

Q12: Could SEVP please provide clarification of what constitutes a full-course of study for ESL students, regardless of the location of the program? Some programs located on college campuses are registering ESL students for 12 hours of study per week with the justification that language training is taking place on an academic campus; therefore, students are under the 12 credit hour regulation for full-time study. One credit equals one hour of study at these schools; however, the program of study is ESL on these campuses, the courses are non-degree credit, are not part of a bridge program and are not part of a degree program. Students in these courses have not demonstrated sufficient proficiency to begin any academic course work. Full-time ESL programs at private language programs (and many university IEPs) register students for a minimum of 18 hours per week. Unless a student is in a bridge program, shouldn’t the minimum number of hours per week be 18 for full-time ESL study in a properly accredited ESL program?
A. The commenter is correct. Per federal regulation, ESL study must "consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester or quarter hour systems, where all undergraduate students who are enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or are considered full-time for other administrative purposes." (See 8 CFR 214.2(f)(6)(i)(B)).

Additionally, per federal regulation, “Study in any other language, liberal arts, fine arts or other nonvocational training program must be certified by a designated school official to consist of at least eighteen clock hours of attendance a week if the dominant part of the course of study consists of classroom instruction, or to consist of at least twenty-two clock hours a week if the dominant part of the course of study consists of laboratory work.” (See 8 CFR 214.2(f)(6)(i)(D)).

A school that enrolls students for less than the required level of hours jeopardizes its students' nonimmigrant status and the school's continued SEVP-certification.

Q13: With Form I-17 updates taking so long to process, it is not practical for DSOs to submit successive needed updates. Additionally, for multiple changes submitted at one time, if one item is denied, then all the items are denied. Can SEVP change this process so if one item is denied, then it does not impact the other requested updates?

A. SEVP does not have the capability to complete line-by-line adjudications at this time.

Q14: My school filed for recertification before our certification expired on Aug. 8, 2012. Three years later, we are still under recertification and keep receiving responses from SEVP that it is still under review. The most recent response stated:

“Currently, your recertification petition is under review by an adjudicator. SEVP is unable to provide an estimated time of approval for recertification because every school is unique and has a unique set of requirements during the recertification review process. Please note you met the [Certification Expiration Date] CED requirements when you received the Notice of Completion. This simply means that you successfully filed a recertification package prior to your CED, and not that your recertification petition has been approved. There is nothing further required from you at this time and your school may continue to operate as usual. Should the recertification team require further information from your school in order to proceed with the recertification process we will contact you with the details. You will be notified by e-mail once your school is recertified.”

Still being in the recertification process means that we are unable to make important updates to our Form I-17 and cannot add new branches. How can we receive specific information about when the recertification process will be complete and what is SEVP doing to ensure that this significant delay does not occur in the future?
A. SEVP is unable to comment on the specifics of your particular petition; however, we are working to streamline our processes. Please send an email to recert.sevis@ice.dhs.gov with your school name and school code, as well as a detailed description, and someone will look at your specific petition.

Q15: Can a school issue a one year Form I-20 for a student if the student may be enrolled for less than that time, and then shorten it to the actual program end date as the student finishes studying?

A. Yes. A school can issue a Form I-20 for a period of one year. If the student completes the program in less than one year, the school can shorten the program so the program dates reflect the time of the student’s enrollment.

Q16: Can the proof of funds provided by the student for the one-year Form I-20 show a balance that is less than the estimated cost of study for the whole year on the school’s I-17?

A. If the student’s Form I-20 is for one year, the proof of funds should reflect the amount listed on the Form I-17 for one year. If the Form I-20 is for less than one year, the proof of funds should reflect the pro-rated amount for the amount of time that the student will be enrolled.

Q17: We have a degree program where students are required to do a six-month practicum in order to earn their degree. Because the students are not enrolled in class abroad, the practicum is not considered study abroad. Therefore, these students are subject to invalidating their F-1 Visa status if they are outside of the United States for more than five months.

We have heard verbally and by mail from different SEVP officials that programs like this should be subject to the five-month rule. Can SEVP issue a memo that confirms enrolled students perusing a required practicum outside of the United States are exempt from the five-month rule?

A. As this question is described as a "PRACTICUM," it could qualify as CPT, which, if the student is engaged in a full-time course of study, would not require them to enroll in classes. The student would need to remain in Active status in the Student and Exchange Visitor Information System (i.e., prior to program completion). SEVP is currently developing specific guidance to address this circumstance in greater detail.

Q18: How is consistency measured in the SRC when determining approval or denial of tickets or correction requests? To what scope is personal opinion allowed to play a role when SEVP staff determines the approval or denial? We have had a few correction requests from errors on SEVP’s end that appear to have been dealt with inconsistently (e.g., first request denied, identical second request approved).

A. During the adjudication of tickets or correction requests, personal opinion does not play a role for the analyst who is adjudicating the ticket or correction request. In cases such as the one
described, we recommend that the submitting PDSO or DSO contact the SRC for clarification regarding the ticket/correction request.

Q19: My school has been in the recertification process since August 2013 and still has not received recertification. What can we do to move along the process?

A. SEVP is unable to answer specific inquiries about a school’s recertification application. Schools should send case-specific questions to recert.sevis@ice.dhs.gov.

Q20: A school had an inspection for SEVP certification on May 21, 2015 for which the inspector indicated that the school staff were knowledgeable and well-organized about immigration policies. The school was then told by the SEVP inspector that they should allow 16 weeks for adjudication. Now that the 16 weeks have passed, the school inquired about the case and was told that it will take nine to 12 months to process. The school is wondering whether there is anything they can do to move this process along.

A. SEVP is unable to answer specific inquiries about a submitted Initial certification application. Schools should send case-specific questions to SEVP@ice.dhs.gov.