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DHS limits ability of international students to take courses online in the U.S.

By Jason M. Gerrol

On July 6, 2020, the Department of Homeland Security (DHS) [announced](#) that international students will not receive a student visa (F-1 or M-1), be permitted to enter the U.S., or be allowed to remain in the U.S. if they are attending a U.S. school operating entirely online as a result of COVID-19. DHS plans to publish the rules as a Temporary Final Rule in the *Federal Register*.

Specifically, for the fall 2020 semester, the following temporary rules apply:

1. International students attending a U.S. school operating entirely online will not be issued a student visa (F-1 or M-1), will not be permitted to enter the U.S., and will not be permitted to remain in the U.S. if currently in the U.S. International students currently in the U.S. and enrolled in an entirely online program will need to depart the U.S., or “take other measures,” such as transferring to a school with in-person classes. An international student enrolled in a school offering online-only courses may engage in remote learning from their home country.
2. International students attending schools offering “normal in-person classes” will be bound by existing regulations, which allow for a maximum of one online class or three online credit hours to be counted toward the full course of study requirement.
3. International students attending schools with a “hybrid model” of online and in-person classes will be permitted to take more than one online class or three online credits so long as the school certifies the program is not entirely online, the international student is not taking entirely online courses, and that the “student is taking the minimum number of online classes required to make normal progress in their degree program.”

F-1 students in English language programs or M-1 students pursuing vocational degrees are not permitted to enroll in any online courses.

If a school begins the fall semester offering normal in-person classes or a hybrid model, but later switches to online only classes, international students in such programs will not be allowed to remain in the U.S. Schools that modify their operational plans will be required to report such changes within 10 calendar days.

Schools should note the revised reporting and procedural requirements, which include (1) submitting an operational change plan to the Student and Exchange Visitor Program by July 15, 2020, if offering entirely online classes (or will not open for the fall semester); or (2) updating their

operational plans by August 1, 2020, if offering in-person classes, delayed or shortened sessions, or a hybrid of in-person and online classes. Similarly, schools must issue new Forms I-20 by August 4, 2020, to reflect changes in program enrollment and student information.

The announcement marks a reversal of the [relaxed international student rules](#) announced for the 2020 spring and summer semesters, but is consistent with existing regulations limiting online instruction to one class or three credit hours. The announcement nevertheless puts U.S. schools in the difficult position of deciding to hold in-person classes (possibly in contravention of local ordinances), or continuing to pursue online-only courses and risk the loss of both revenue and the cultural diversity offered by international students.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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