

will be deemed to have violated CW-1 or CW-2 status.

(ii) *Re-entry*. An alien with CW-1 or CW-2 status who travels abroad from the CNMI will require a CW-1 or CW-2 or other appropriate visa to be re-admitted to the CNMI.

(iii) *Direct Guam transit*—(A) *Travel from the CNMI to the Philippines*. An alien with CW-1 or CW-2 status who is a national of the Philippines may travel to the Philippines via a direct Guam transit without being deemed to violate that status.

(B) *Travel from the Philippines to the CNMI*. An alien who is a national of the Philippines may travel to the CNMI via a direct Guam transit under the following conditions: If an immigration officer determines that the alien warrants a discretionary exercise of parole authority, the alien may be paroled into Guam via direct Guam transit to undergo preinspection outbound from Guam for admission to the CNMI pursuant to 8 CFR 235.5(a) or to proceed for inspection upon arrival in the CNMI. During any such preinspection, the alien will be admitted in CW-1 or CW-2 status if the immigration officer in Guam determines that the alien is admissible to the CNMI. A condition of the admission is that the alien must complete the direct Guam transit. DHS, in its discretion, may exempt such alien from the provisions of 8 CFR 235.5(a) relating to separation and boarding of passengers after inspection.

(iv) *Employment authorization*. An alien with CW-1 nonimmigrant status is only authorized employment in the CNMI for the petitioning employer. An alien with CW-2 status is not authorized to be employed.

(23) *Expiration of status*. CW-1 status expires when the alien violates his or her CW-1 status (or in the case of a CW-1 status violation caused solely by termination of the alien's employment, at the end of the 30 day period described in section 214.2(w)(7)(v)), 10 days after the end of the petition's validity period, or at the end of the transitional worker program, whichever is earlier. CW-2 nonimmigrant status expires when the status of the related CW-1 alien expires, on a CW-2 minor child's 18th birthday, when the alien violates his or her status, or at the end

of the transitional worker program, whichever is earlier. No alien will be eligible for admission to the CNMI in CW-1 or CW-2 status, and no CW-1 or CW-2 visa will be valid for travel to the CNMI, after the transitional worker program ends.

(24) *Waivers of inadmissibility for applicants lawfully present in the CNMI*. An applicant for CW-1 or CW-2 nonimmigrant status, who is otherwise eligible for such status and otherwise admissible to the United States, and who possesses appropriate documents demonstrating that the applicant is lawfully present in the CNMI, may be granted a waiver of inadmissibility under section 212(d)(3)(A)(ii) of the Act, including the grounds of inadmissibility described in sections 212(a)(6)(A)(i) and 212(a)(7)(B)(i)(II) of the Act, as a matter of discretion for the purpose of granting the CW-1 or CW-2 nonimmigrant status. Such waiver may be granted without additional form or fee. Appropriate documents required for such a waiver include a valid unexpired passport and other documentary evidence demonstrating that the applicant is lawfully present in the CNMI, such as an "umbrella permit" or a DHS-issued Form I-94. Evidence that the applicant possesses appropriate documents may be provided by an employer to accompany a petition, by an eligible spouse or minor child to accompany the Form I-539 (or such alternative form as USCIS may designate), or in such other manner as USCIS may designate.

(Title VI of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484; 90 Stat. 2303); secs. 103 and 214, Immigration and Nationality Act (8 U.S.C. 1103 and 1184))

[38 FR 35425, Dec. 28, 1973]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 214.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 214.3 Approval of schools for enrollment of F and M nonimmigrants.

(a) *Filing petition*—(1) *General*. A school or school system seeking initial or continued authorization for attendance by nonimmigrant students under sections 101(a)(15)(F)(i) or

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101(a)(15)(M)(i) of the Act, or both, must file a petition for certification or recertification with SEVP, using the Student and Exchange Visitor Information System (SEVIS), in accordance with the procedures at paragraph (h) of this section. The petition must state whether the school or school system is seeking certification or recertification for attendance of nonimmigrant students under section 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act or both. The petition must identify by name and address each location of the school that is included in the petition for certification or recertification, specifically including any physical location in which a nonimmigrant can attend classes through the school (*i.e.*, campus, extension campuses, satellite campuses, etc.).

(i) *School systems.* A school system, as used in this section, means public school (grades 9–12) or private school (grades kindergarten–12). A petition by a school system must include a list of the names and addresses of those schools included in the petition with the supporting documents.

(ii) *Submission requirements.* Certification and recertification petitions require that a complete Form I–17, Petition for Approval of School for Attendance by Nonimmigrant Student, including supplements A and B and bearing original signatures, be included with the school’s submission of supporting documentation. In submitting the Form I–17, a school certifies that the designated school officials (DSOs) signing the form have read and understand DHS regulations relating to: Nonimmigrant students at 8 CFR 214.1, 214.2(f), and/or 214.2(m); change of nonimmigrant classification for students at 8 CFR 248; school certification and recertification under this section; withdrawal of school certification under this section and 8 CFR 214.4; that both the school and its DSOs intend to comply with these regulations at all times; and that, to the best of its knowledge, the school is eligible for SEVP certification. Willful misstatements may constitute perjury (18 U.S.C. 1621).

(2) *Approval for F–1 or M–1 classification, or both—(i) F–1 classification.* The following schools may be approved for

attendance by nonimmigrant students under section 101(a)(15)(F)(i) of the Act:

(A) A college or university, *i.e.*, an institution of higher learning which awards recognized bachelor’s, master’s doctor’s or professional degrees.

(B) A community college or junior college which provides instruction in the liberal arts or in the professions and which awards recognized associate degrees.

(C) A seminary.

(D) A conservatory.

(E) An academic high school.

(F) A private elementary school.

(G) An institution which provides language training, instruction in the liberal arts or fine arts, instruction in the professions, or instruction or training in more than one of these disciplines.

(ii) *M–1 classification.* The following schools are considered to be vocational or nonacademic institutions and may be approved for attendance by nonimmigrant students under section 101(a)(15)(M)(i) of the Act:

(A) A community college or junior college which provides vocational or technical training and which awards recognized associate degrees.

(B) A vocational high school.

(C) A school which provides vocational or nonacademic training other than language training.

(iii) *Both F–1 and M–1 classification.* A school may be approved for attendance by nonimmigrant students under both sections 101(a)(15)(F)(i) and 101(a)(15)(M)(i) of the Act if it has both instruction in the liberal arts, fine arts, language, religion, or the professions and vocational or technical training. In that case, a student whose primary intent is to pursue studies in liberal arts, fine arts, language, religion, or the professions at the school is classified as a nonimmigrant under section 101(a)(15)(F)(i) of the Act. A student whose primary intent is to pursue vocational or technical training at the school is classified as a nonimmigrant under section 101(a)(15)(M)(i) of the Act.

(iv) *English language training for a vocational student.* A student whose primary intent is to pursue vocational or technical training who takes English language training at the same school

solely for the purpose of being able to understand the vocational or technical course of study is classified as a non-immigrant under section 101(a)(15)(M)(i) of the Act.

(v) The following may not be approved for attendance by foreign students:

- (A) A home school,
- (B) A public elementary school, or
- (C) An adult education program, as defined by section 203(l) of the Adult Education and Family Literacy Act, Public Law 105-220, as amended, 20 U.S.C. 9202(l), if the adult education program is funded in whole or in part by a grant under the Adult Education and Family Literacy Act, or by any other Federal, State, county or municipal funding.

(3) *Eligibility.* (i) The petitioner, to be eligible for certification, must establish at the time of filing that it:

- (A) Is a bona fide school;
- (B) Is an established institution of learning or other recognized place of study;
- (C) Possesses the necessary facilities, personnel, and finances to conduct instruction in recognized courses; and
- (D) Is, in fact, engaged in instruction in those courses.

(ii) The petitioner, to be eligible for recertification, must establish at the time of filing that it:

- (A) Remains eligible for certification in accordance with paragraph (a)(3)(i) of this section;
- (B) Has complied during its previous period of certification or recertification with recordkeeping, retention, and reporting requirements and all other requirements of paragraphs (g), (j), (k), and (l) of this section.

(b) *Supporting documents.* Institutions petitioning for certification or recertification must submit certain supporting documents as follows, pursuant to sections 101(a)(15)(F) and (M) of the Act. A petitioning school or school system owned and operated as a public educational institution or system by the United States or a State or a political subdivision thereof shall submit a certification to that effect signed by the appropriate public official who shall certify that he or she is authorized to do so. A petitioning private or parochial elementary or secondary

school system shall submit a certification signed by the appropriate public official who shall certify that he or she is authorized to do so to the effect that it meets the requirements of the State or local public educational system. Any other petitioning school shall submit a certification by the appropriate licensing, approving, or accrediting official who shall certify that he or she is authorized to do so to the effect that it is licensed, approved, or accredited. In lieu of such certification a school which offers courses recognized by a State-approving agency as appropriate for study for veterans under the provisions of 38 U.S.C. 3675 and 3676 may submit a statement of recognition signed by the appropriate official of the State approving agency who shall certify that he or she is authorized to do so. A charter shall not be considered a license, approval, or accreditation. A school catalogue, if one is issued, shall also be submitted with each petition. If not included in the catalogue, or if a catalogue is not issued, the school shall furnish a written statement containing information concerning the size of its physical plant, nature of its facilities for study and training, educational, vocational or professional qualifications of the teaching staff, salaries of the teachers, attendance and scholastic grading policy, amount and character of supervisory and consultative services available to students and trainees, and finances (including a certified copy of the accountant's last statement of school's net worth, income, and expenses). Neither a catalogue nor such a written statement need be included with a petition submitted by:

- (1) A school or school system owned and operated as a public educational institution or system by the United States or a State or a political subdivision thereof;
- (2) A school accredited by a nationally recognized accrediting body; or
- (3) A secondary school operated by or as part of a school so accredited.

(c) *Other evidence.* If the petitioner is a vocational, business, or language school, or American institution of research recognized as such by the Secretary of Homeland Security, it must submit evidence that its courses of

study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective, and are not avocational or recreational in character. If the petitioner is a vocational, business, or language school, or American institution of research recognized as such by the Attorney General, it must submit evidence that its courses of study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective, and are not avocational or recreational in character. If the petitioner is an institution of higher education and is not within the category described in paragraph (b) (1) or (2) of this section, it must submit evidence that it confers upon its graduates recognized bachelor, master, doctor, professional, or divinity degrees, or if it does not confer such degrees that its credits have been and are accepted unconditionally by at least three such institutions of higher learning. If the petitioner is an elementary or secondary school and is not within the category described in paragraph (b) (1) or (3) of this section, it must submit evidence that attendance at the petitioning institution satisfies the compulsory attendance requirements of the State in which it is located and that the petitioning school qualifies graduates for acceptance by schools of a higher educational level within the category described in paragraph (b) (1), (2), or (3) of this section.

(d) *Interview of petitioner.* The petitioner or an authorized representative of the petitioner may be required to appear in person before or be interviewed by telephone by a DHS representative prior to the adjudication of a petition for certification or recertification. The interview will be conducted under oath.

(e) *Notices to schools related to certification or recertification petitions or to out-of-cycle review—(1) General.* All notices from SEVP to schools or school systems related to school certification, recertification, or out-of-cycle review (including, but not limited to, notices related to the collection of evidence, testimony, and appearance pertaining to petitions for recertification encompassing compliance with the record-keeping, retention and reporting, and other requirements of paragraphs (f),

(g), (j), (k), and (l) of this section, as well as to eligibility) will be served in accordance with the procedures at 8 CFR 103.2(b)(1), (4)–(16), (18) and (19), with the exception that all procedures will be conducted by SEVP, the SEVP Director, and the Assistant Secretary, ICE, as appropriate, and except as provided in this section. All such notices will be served (*i.e.*, generated and transmitted) through SEVIS and/or by e-mail. The date of service is the date of transmission of the e-mail notice. DSOs must maintain current contact information, including current e-mail addresses, at all times. Failure of a school to receive SEVP notices due to inaccurate DSO e-mail addresses in SEVIS or blockages of the school's e-mail system caused by spam filters is not grounds for appeal of a denial or withdrawal. The term “in writing” means either a paper copy bearing original signatures or an electronic copy bearing electronic signatures.

(2) *SEVP approval notification and SEVIS updating by certified schools.* SEVP will notify the petitioner by updating SEVIS to reflect approval of the petition and by e-mail upon approval of a certification or recertification petition. The certification or recertification is valid only for the type of program and nonimmigrant classification specified in the certification or recertification approval notice. The certification must be recertified every two years and may be subject to out-of-cycle review at any time. Approval may be withdrawn in accordance with 8 CFR 214.4.

(3) *Modifications to Form I-17 while a school is SEVP-certified.* Any modification made by an SEVP-certified school on the Form I-17 at any time after certification and for the duration of a school's authorization to enroll F and/or M students must be reported to SEVP and will be processed by SEVP in accordance with the provisions of paragraphs (f)(1), (g)(2) and (h)(3)(i) of this section.

(4) *Notice of Intent to Withdraw (NOIW) SEVP certification—(i) Automatic withdrawal.* SEVP will serve the school with an NOIW 30 days prior to a school's SEVP certification expiration date if the school has not submitted to

SEVP a completed recertification petition, in accordance with paragraph (h)(2) of this section. The school will be automatically withdrawn immediately, in accordance with 8 CFR 214.4(a)(3), if it has not submitted a completed recertification petition by the school's certification expiration date.

(ii) *Withdrawal on notice.* SEVP will serve a Withdrawal on Notice, in accordance with 8 CFR 214.4(b), if SEVP determines that a school reviewed out-of-cycle has failed to sustain eligibility or has failed to comply with the recordkeeping, retention, reporting and other requirements of paragraphs (f), (g), (j), (k), and (l) of this section. When a school fails to file an answer to an NOIW within the 30-day period, SEVP will withdraw the school's certification and notify the DSOs of the decision, in accordance with 8 CFR 214.4(d). Such withdrawal of certification may not be appealed.

(5) *Notice of Denial.* A Notice of Denial will be served to a school when SEVP denies a petition for initial certification or recertification. The notice will address appeals options. Schools denied recertification must comply with 8 CFR 214.4(i).

(6) *Notice of Automatic Withdrawal.* Schools that relinquish SEVP certification for any of the reasons cited in 8 CFR 214.4(a)(3) will be served a Notice of Automatic Withdrawal.

(7) *Notice of Withdrawal.* A school found to be ineligible for continued SEVP certification as a result of an out-of-cycle review will receive a Notice of Withdrawal. Schools withdrawn must comply with 8 CFR 214.4(i).

(8) *Notice of SEVIS Access Termination Date.* The Notice of SEVIS Access Termination Date gives the official date for the school's denial or withdrawal to be final and SEVIS access to be terminated. In most situations, SEVP will not determine a SEVIS access termination date for that school until the appeals process has concluded and the initial denial or withdrawal has been upheld, in accordance with 8 CFR 214.4(i)(3). The school will no longer be able to access SEVIS and SEVP will automatically terminate any remaining Active SEVIS records for that school on that date.

(f) *Adjudication of a petition for SEVP certification or recertification—(1) Approval.* The school is required to immediately report through SEVIS any change to its school information upon approval of a petition for SEVP certification or recertification. Modification to school information listed in paragraph (h)(3) of this section will require a determination of continued eligibility for certification. The certification or recertification is valid only for the type of program and student specified in the approval notice. The certification may be withdrawn in accordance with the provisions of 8 CFR 214.4, is subject to review at any time, and will be reviewed every two years.

(2) *Denial.* The petitioner will be notified of the reasons for the denial and appeal rights, in accordance with the provisions of 8 CFR part 103 and 8 CFR 214.4, if SEVP denies a petition for certification or recertification.

(g) *Recordkeeping and reporting requirements—(1) Student records.* An SEVP-certified school must keep records containing certain specific information and documents relating to each F-1 or M-1 student to whom it has issued a Form I-20, while the student is attending the school and until the school notifies SEVP, in accordance with the requirements of paragraphs (g)(1) and (2) of this section, that the student is not pursuing a full course of study. Student information not required for entry in SEVIS may be kept in the school's student system of records, but must be accessible to DSOs. The school must keep a record of having complied with the reporting requirements for at least three years after the student is no longer pursuing a full course of study. The school must maintain records on the student in accordance with paragraphs (g)(1) and (2) of this section if a school recommends reinstatement for a student who is out of status. The school must maintain records on the student for three years from the date of the denial if the reinstatement is denied. The DSO must make the information and documents required by this paragraph available, including academic transcripts, and must furnish them to DHS representatives upon request. Schools must maintain and be able to provide an academic

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transcript or other routinely maintained student records that reflect the total, unabridged academic history of the student at the institution, in accordance with paragraph (g)(1)(iv) of this section. All courses must be recorded in the academic period in which the course was taken and graded. The information and documents that the school must keep on each student are as follows:

(i) Identification of the school, to include name and full address.

(ii) Identification of the student, to include name while in attendance (record any legal name change), date and place of birth, country of citizenship, and school's student identification number.

(iii) Current address where the student and his or her dependents physically reside. In the event the student or his or her dependents cannot receive mail at such physical residence, the school must provide a mailing address in SEVIS. If the mailing address and the physical address are not the same, the school must maintain a record of both mailing and physical addresses and provide the physical location of residence of the student and his or her dependents to DHS upon request.

(iv) Record of coursework. Identify the student's degree program and field of study. For each course, give the periods of enrollment, course identification code and course title; the number of credits or contact hours, and the grade; the number of credits or clock hours, and for credit hour courses the credit unit; the term unit (semester hour, quarter hour, etc.). Include the date of withdrawal if the student withdrew from a course. Show the grade point average for each session or term. Show the cumulative credits or clock hours and cumulative grade point average. Narrative evaluation will be accepted in lieu of grades when the school uses no other type of grading.

(v) Record of transfer credit or clock hours accepted. Type of hours, course identification, grades.

(vi) Academic status. Include the effective date or period if suspended, dismissed, placed on probation, or withdrawn.

(vii) Whether the student has been certified for practical training, and the

beginning and end dates of certification.

(viii) Statement of graduation (if applicable). Title of degree or credential received, date conferred, program of study or major.

(ix) Termination date and reason.

(x) The documents referred to in paragraph (k) of this section.

NOTE TO PARAGRAPH (g)(1): A DHS officer may request any or all of the data in paragraphs (g)(1)(i) through (x) of this section on any individual student or class of students upon notice. This notice will be in writing if requested by the school. The school will have three work days to respond to any request for information concerning an individual student, and ten work days to respond to any request for information concerning a class of students. The school will respond orally on the same day the request for information is made if DHS requests information on a student who is being held in custody, and DHS will provide a written notification that the request was made after the fact, if the school so desires. DHS will first attempt to gain information concerning a class of students from DHS record systems.

(2) *Reporting changes in student and school information.* (i) Schools must update SEVIS with the current information within 21 days of a change in any of the information contained in paragraphs (f)(1) and (h)(3) of this section.

(ii) Schools are also required to report within 21 days any change of the information contained in paragraph (g)(1) or the occurrence of the following events:

(A) Any student who has failed to maintain status or complete his or her program;

(B) A change of the student's or dependent's legal name or U.S. address;

(C) Any student who has graduated early or prior to the program end date listed on SEVIS Form I-20;

(D) Any disciplinary action taken by the school against the student as a result of the student being convicted of a crime; and

(E) Any other notification request not covered by paragraph (g)(1) of this section made by DHS with respect to the current status of the student.

(F) For F-1 students authorized by USCIS to engage in a 24-month extension of OPT under 8 CFR 214.2(f)(10)(ii)(C):

(1) Any change that the student reports to the school concerning legal name, residential or mailing address, employer name, or employer address; and

(2) The end date of the student's employment reported by a former employer in accordance with 8 CFR 214.2(f)(10)(ii)(C)(6).

(iii) Each term or session and no later than 30 days after the deadline for registering for classes, schools are required to report the following registration information:

(A) Whether the student has enrolled at the school, dropped below a full course of study without prior authorization by the DSO, or failed to enroll;

(B) The current address of each enrolled student; and

(C) *The start date of the student's next session, term, semester, trimester, or quarter.* For initial students, the start date is the "program start date" or "report date." (These terms are used interchangeably.) The DSO may choose a reasonable date to accommodate a student's need to be in attendance for required activities at the school prior to the actual start of classes when determining the report date on the Form I-20. Such required activities may include, but are not limited to, research projects and orientation sessions. The DSO may not, however, indicate a report date more than 30 days prior to the start of classes. The next session start date is the start of classes for continuing students.

(D) *Adjustment to the program completion date.* Any factors that influence the student's progress toward program completion (e.g., deferred attendance, authorized drop below, program extension) must be reflected by making an adjustment updating the program completion date.

(3) *Administrative correction of a student's record.* In instances where technological or computer problems on the part of SEVIS cause an error in the student's record, the DSO may request the SEVIS system administrator, without fee, to administratively correct the student's record.

(h) *SEVP certification, recertification, out-of-cycle review, and oversight of schools—(1) Certification.* A school seeking SEVP certification for attendance

by nonimmigrants under section 101(a)(15)(F)(i) or 101(a)(15)(m)(i) of the Act must use SEVIS to file an electronic petition (which compiles the data for the Form I-17) and must submit the nonrefundable certification petition fee on-line.

(i) *Filing a petition.* The school must access the SEVP Web site at <http://www.ice.gov/sevis> to file a certification petition in SEVIS. The school will be issued a temporary ID and password in order to access SEVIS to complete and submit an electronic Form I-17. The school must submit the proper nonrefundable certification petition fee as provided in 8 CFR 103.7(b)(1).

(ii) *Site visit, petition adjudication and school notification.* SEVP will conduct a site visit for each petitioning school and its additional schools or campuses. SEVP will contact the school to arrange the site visit. The school must comply with and complete the visit within 30 days after the date SEVP contacts the school to arrange the visit, or the petition for certification will be denied as abandoned. DSOs and school officials that have signed the school's Form I-17 petition must be able to demonstrate to DHS representatives how they obtain access to the regulations cited in the certification as part of the site visit. Paper or electronic access is acceptable. DSOs must be able to extract pertinent citations within the regulations related to their requirements and responsibilities. SEVP will serve a notice of approval and SEVIS will be updated to reflect the school's certification if SEVP approves the school's certification petition.

(iii) *Certification denial.* SEVP will serve a notice of denial in accordance with paragraph (f)(2) of this section if a school's petition for certification is denied.

(2) *Recertification.* Schools are required to file a completed petition for SEVP recertification before the school's certification expiration date, which is 2 years from the date of their previous SEVP certification or recertification expiration date. The school must submit the proper nonrefundable recertification petition fee as provided in 8 CFR 103.7(b)(1)(ii)(B). SEVP will

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review a petitioning school's compliance with the recordkeeping, retention, and reporting, and other requirements of paragraphs (f), (g), (j), (k), and (l) of this section, as well as continued eligibility for certification, pursuant to paragraph (a)(3) of this section.

(i) *Filing of petition for recertification.* Schools must submit a completed Form I-17 (including supplements A and B) using SEVIS, and submit a paper copy of the Form I-17 bearing original signatures of all officials. SEVP will notify all DSOs of a previously certified school 180 days prior to the school's certification expiration date that the school may submit a petition for recertification. A school may file its recertification petition at any time after receipt of this notification. A school must submit a complete recertification petition package, as outlined in the submission guidelines, by its certification expiration date. SEVP will send a notice of confirmation of complete filing or rejection to the school upon receipt of any filing of a petition for recertification.

(A) Notice of confirmation assures a school of uninterrupted access to SEVIS while SEVP adjudicates the school's petition for recertification. A school that has complied with the petition submission requirements will continue to have SEVIS access after its certification expiration date while the adjudication for recertification is pending. The school is required to comply with all regulatory recordkeeping, retention and reporting, and other requirements of paragraphs (f), (g), (j), (k), and (l) of this section during the period the petition is pending.

(B) Notice of rejection informs a school that it must take prompt corrective action in regard to its recertification petition prior to its certification expiration date to ensure that its SEVIS access will not be terminated and its petition for recertification will be accepted for adjudication.

(ii) *Consequence of failure to petition.* SEVP will serve an NOIW to the school 30 days prior to a school's certification expiration date. SEVP will no longer accept a petition for recertification from the school and will immediately withdraw the school's certification if

the school does not petition for recertification, abandons its petition, or does not submit a complete recertification petition package by the certification expiration date, in accordance with the automatic withdrawal criteria in 8 CFR 214.4(a)(3). The school must comply with 8 CFR 214.4(i) upon withdrawal.

(iii) *School recertification process—(A) General.* School recertification reaffirms the petitioning school's eligibility for SEVP certification and the school's compliance with recordkeeping, retention, reporting and other requirements of paragraphs (f), (g), (j), (k), and (l) of this section since its previous certification.

(B) *Compliance.* Assessment by SEVP of a school petitioning for recertification will focus primarily on overall school compliance, but may also include examination of individual DSO compliance as data and circumstances warrant. Past performance of these individuals, whether or not they continue to serve as principal designated school officials (PDSOs) or DSOs, will be considered in any petition for recertification of the school.

(C) *On-site review for recertification.* All schools are subject to on-site review, at the discretion of SEVP, in conjunction with recertification. The school must comply with and complete an on-site review within 30 days of the notification by a DHS representative of a school that it has been selected for an on-site review for recertification, or the petition for recertification will be denied as abandoned, resulting in the school's withdrawal from SEVIS.

(iv) *Recertification approval.* SEVP will serve a notice of approval if a school's petition for recertification is approved. The date of the subsequent recertification review will be two years after the school's certification expiration date from this petition cycle.

(v) *Recertification denial.* SEVP will serve a notice of denial if a school's petition for recertification is denied, in accordance with 8 CFR 103.3(a)(1)(i).

(vi) *Adjustment of certification expiration date.* Schools eligible for recertification before March 25, 2009 will, at a minimum, have their certification expiration date extended to March 25,

2009. SEVP may extend the certification expiration date beyond this date during the first cycle of recertification.

(3) *Out-of-cycle review and oversight of SEVP-certified schools.* (i) SEVP will determine if out-of-cycle review is required upon receipt in SEVIS of any changes from an SEVP-certified school to its Form I-17 information. The Form I-17 information that requires out-of-cycle review when changed includes:

- (A) Approval for attendance of students (F/M/both);
- (B) Name of school system; name of main campus;
- (C) Mailing address of the school;
- (D) Location of the school;
- (E) School type;
- (F) Public/private school indicator;
- (G) Private school owner name;
- (H) The school is engaged in;
- (I) The school operates under the following Federal, State, Local or other authorization;
- (J) The school has been approved by the following national, regional, or state accrediting association or agency;
- (K) Areas of study;
- (L) Degrees available from the school;
- (M) If the school is engaged in elementary or secondary education;
- (N) If the school is engaged in higher education;
- (O) If the school is engaged in vocational or technical education;
- (P) If the school is engaged in English language training;
- (Q) Adding or deleting campuses;
- (R) Campus name;
- (S) Campus mailing address; and
- (T) Campus location address.

(ii) SEVP may request a school to electronically update all Form I-17 fields in SEVIS and provide SEVP with documentation supporting the update. The school must complete such updates in SEVIS and submit the supporting documentation to SEVP within 10 business days of the request from SEVP.

(iii) SEVP may review a school's certification at any time to verify the school's compliance with the record-keeping, retention, reporting and other requirements of paragraphs (f), (g), (j), (k), and (l) of this section to verify the school's continued eligibility for SEVP certification pursuant to paragraph

(a)(3) of this section. SEVP may initiate remedial action with the school, as appropriate, and may initiate withdrawal proceedings against the school pursuant to 8 CFR 214.4(b) if non-compliance or ineligibility of a school is identified.

(iv) *On-site review.* SEVP-certified schools are subject to on-site review at any time. SEVP will initiate withdrawal proceedings against a certified school, pursuant to 8 CFR 214.4(b), if the certified school selected for on-site review prior to its certification expiration date fails to comply with and complete the review within 30 days of the date SEVP contacted the school to arrange the review.

(v) *Notice of Continued Eligibility.* SEVP will serve the school a notice of continued eligibility if, upon completion of an out-of-cycle review, SEVP determines that the school remains eligible for certification. Such notice will not change the school's previously-determined certification expiration date unless specifically notified by SEVP.

(vi) *Withdrawal of certification.* SEVP will institute withdrawal proceedings in accordance with 8 CFR 214.4(b) if, upon completion of an out-of-cycle review, SEVP determines that a school or its programs are no longer eligible for certification.

(vii) *Voluntary withdrawal.* A school can voluntarily withdraw from SEVP certification at any time or in lieu of complying with an out-of-cycle review or request. Failure of a school to comply with an out-of-cycle review or request by SEVP will be treated as a voluntary withdrawal. A school must initiate voluntary withdrawal by sending a request for withdrawal on official school letterhead to SEVP.

(i) *Administration of student regulations.* DHS officials may conduct out-of-cycle, on-site reviews on the campuses of SEVP-certified schools to determine whether nonimmigrant students on those campuses are complying with DHS regulations pertaining to them, including the requirement that each maintains a valid passport. DHS officers will take appropriate action regarding violations of the regulations by nonimmigrant students.

(j) *Advertising.* In any advertisement, catalogue, brochure, pamphlet, literature, or other material hereafter printed or reprinted by or for an approved school, any statement which may appear in such material concerning approval for attendance by nonimmigrant students shall be limited solely to the following: This school is authorized under Federal law to enroll nonimmigrant alien students.

(k) *Issuance of Certificate of Eligibility.* A DSO of an SEVP-certified school must sign any completed Form I-20 issued for either a prospective or continuing student or a dependent. A Form I-20 issued by a certified school system must state which school within the system the student will attend. Only a DSO of an SEVP-certified school may issue a Form I-20 to a prospective student and his or her dependents, and only after the following conditions are met:

(1) The prospective student has made a written application to the school.

(2) The written application, the student's transcripts or other records of courses taken, proof of financial responsibility for the student, and other supporting documents have been received, reviewed, and evaluated at the school's location in the United States.

(3) The appropriate school authority has determined that the prospective student's qualifications meet all standards for admission.

(4) The official responsible for admission at the school has accepted the prospective student for enrollment in a full course of study.

(1) *Designated Official.* (1) Meaning of term *Designated Official.* As used in §§ 214.1(b), 214.2(b), 214.2(f), 214.2(m), and 214.4, a *Designated Official*, *Designated School Official (DSO)*, or *Principal Designated School Official (PDSO)*, means a regularly employed member of the school administration whose office is located at the school and whose compensation does not come from commissions for recruitment of foreign students. An individual whose principal obligation to the school is to recruit foreign students for compensation does not qualify as a designated official. The PDSO and any other DSO must be named by the president, owner, or head of a school or school system. The PDSO

and DSO may not delegate this designation to any other person.

(i) A PDSO and DSO must be either a citizen or lawful permanent resident of the United States.

(ii) Each campus must have one PDSO. The PDSO is responsible for updating SEVIS to reflect the addition or deletion of any DSO on his or her associated campus. SEVP will use the PDSO as the point of contact on any issues that relate to the school's compliance with the regulations, as well as any system alerts generated by SEVIS. SEVP may also designate certain functions in SEVIS for use by the PDSO only. The PDSO of the main campus is the only DSO authorized to submit a Form I-17 for recertification. The PDSO and DSO will share the same responsibilities in all other respects.

(iii) School officials may nominate as many DSOs in addition to PDSOs as they determine necessary to adequately provide recommendations to F and/or M students enrolled at the school regarding maintenance of nonimmigrant status and to support timely and complete recordkeeping and reporting to DHS, as required by this section. School officials must not permit a DSO or PDSO nominee access to SEVIS until DHS approves the nomination.

(2) *Name, title, and sample signature.* Petitions for SEVP certification, review and recertification must include the names, titles, and sample signatures of designated officials. An SEVP-certified school must update SEVIS upon any changes to the persons who are principal or designated officials, and furnish the name, title and e-mail address of any new official within 21 days of the change. Any changes to the PDSO or DSO must be made by the PDSO within 21 days of the change. DHS may, at its discretion, reject the submission of any individual as a DSO or withdraw a previous submission by a school of an individual.

(3) *Statement of designated officials.* A petition for school approval must include a statement by each designated official certifying that the official is familiar with the Service regulations relating to the requirements for admission and maintenance of status of nonimmigrant students, change of nonimmigrant status under part 248 of this

chapter, and school approval under §§ 214.3 and 214.4, and affirming the official's intent to comply with these regulations. At the time a new designated official is added, the designated official must make the same certification.

[30 FR 919, Jan. 29, 1965]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 214.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 214.4 Denial of certification, denial of recertification, or withdrawal of SEVP certification.

(a) *General*—(1) *Denial of certification.* The petitioning school will be notified of the reasons and its appeal rights if a petition for certification is denied, in accordance with the provisions of 8 CFR 103.3(a)(1)(iii). A petitioning school denied certification may file a new petition for certification at any time.

(2) *Denial of recertification or withdrawal on notice.* The school must wait at least one calendar year from the date of denial of recertification or withdrawal on notice before being eligible to petition again for SEVP certification if a school's petition for recertification is denied by SEVP pursuant to 8 CFR 214.3(h)(3)(v), or its certification is withdrawn on notice pursuant to paragraph (b) of this section. Eligibility to re-petition will be at the discretion of the Director of SEVP. SEVP certification of a school or school system for the attendance of nonimmigrant students, pursuant to sections 101(a)(15)(F)(i) and/or 101(a)(15)(M)(i) of the Immigration and Nationality Act, will be withdrawn on notice subsequent to out-of-cycle review, or recertification denied, if the school or school system is determined to no longer be entitled to certification for any valid and substantive reason including, but not limited to, the following:

(i) Failure to comply with 8 CFR 214.3(g)(1) without a subpoena.

(ii) Failure to comply with 8 CFR 214.3(g)(2).

(iii) Failure of a DSO to notify SEVP of the attendance of an F-1 transfer student as required by 8 CFR 214.2(f)(8)(ii).

(iv) Failure of a DSO to identify on the Form I-20 which school within the system the student must attend, in compliance with 8 CFR 214.3(k).

(v) Willful issuance by a DSO of a false statement, including wrongful certification of a statement by signature, in connection with a student's school transfer or application for employment or practical training.

(vi) Conduct on the part of a DSO that does not comply with the regulations.

(vii) The designation as a DSO of an individual who does not meet the requirements of 8 CFR 214.3(1)(1).

(viii) Failure to provide SEVP paper copies of the school's Form I-17 bearing the names, titles, and signatures of DSOs as required by 8 CFR 214.3(1)(2).

(ix) Failure to submit statements of DSOs as required by 8 CFR 214.3(1)(3).

(x) Issuance of Forms I-20 to students without receipt of proof that the students have met scholastic, language, or financial requirements as required by 8 CFR 214.3(k)(2).

(xi) Issuance of Forms I-20 to aliens who will not be enrolled in or carry full courses of study, as defined in 8 CFR 214.2(f)(6) or 214.2(m)(9).

(xii) Failure to operate as a bona fide institution of learning.

(xiii) Failure to employ adequate qualified professional personnel.

(xiv) Failure to limit advertising in the manner prescribed in 8 CFR 214.3(j).

(xv) Failure to maintain proper facilities for instruction.

(xvi) Failure to maintain accreditation or licensing necessary to qualify graduates as represented in the school's Form I-17.

(xvii) Failure to maintain the physical plant, curriculum, and teaching staff in the manner represented in the Form I-17.

(xviii) Failure to comply with the procedures for issuance of Forms I-20 as set forth in 8 CFR 214.3(k).

(xix) Failure of a DSO to notify SEVP of material changes, such as changes to the school's name, address, or curricular changes that represent material change to the scope of institution offerings (e.g., addition of a program, class or course for which the school is issuing Forms I-20, but which