

### §214.3

terms and conditions of S nonimmigrant classification will not be or have not been met, or have been violated, the alien is convicted of any criminal offense punishable by a term of imprisonment of 1 year or more, is otherwise rendered deportable, or it is otherwise appropriate or in the public interest to do so, the Commissioner shall proceed to deport an alien pursuant to the terms of 8 CFR 242.26. In the event the Commissioner decides to deport an alien witness or informant in S nonimmigrant classification, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to that decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to deport.

(12) *Change of classification.* (i) An alien in S nonimmigrant classification is prohibited from changing to any other nonimmigrant classification.

(ii) An LEA may request that any alien lawfully admitted to the United States and maintaining status in accordance with the provisions of §248.1 of this chapter, except for those aliens enumerated in 8 CFR 248.2, have his or her nonimmigrant classification changed to that of an alien classified pursuant to section 101(a)(15)(S) of the Act as set forth in 8 CFR 248.3(h).

(u) [Reserved]

(v) *Certain spouses and children of LPRs.* Section 214.15 of this chapter provides the procedures and requirements pertaining to V nonimmigrant status.

(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

### 8 CFR Ch. I (1-1-07 Edition)

Sections Affected, which appears in the Finding Aids section in the printed volume and on GPO Access.

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

(a) *Filing petition*—(1) *General.* A school or school system seeking approval for attendance by nonimmigrant students under sections 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act, or both, shall file a petition on Form I-17 with the district director having jurisdiction over the place in which the school or school system is located. Separate petitions are required for different schools in the same school system located within the jurisdiction of different district directors. A petition by a school system must specifically identify by name and address those schools included in the petition. The petition must also state whether the school or school system is seeking approval for attendance of nonimmigrant students under section 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act or both.

(i) *Filing a petition after the SEVIS mandatory compliance date.* Any school or school system seeking approval for attendance by nonimmigrant students after the SEVIS mandatory compliance date must electronically file a petition for initial approval using the Student and Exchange Visitor Information (SEVIS). To electronically file a petition, the petitioning school must access SEVIS on the Internet and provide the following information: the school's name; the first, middle, and last name of the contact person for the school; and the email address of the contact person. Once this basic information has been submitted, the school will be issued a temporary ID and password in order to access the SEVIS site to complete and submit an electronic Form I-17.

(ii) [Reserved]

(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 non-immigrant 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.

(b) *Supporting documents.* Pursuant to sections 101(a)(15) (F) and (M) of the Immigration and Nationality Act, the Service has consulted with the Department of Education and determined that petitioning institutions must submit certain supporting documents as follows. 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

### §214.3

### 8 CFR Ch. I (1–1–07 Edition)

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.* The Service has also consulted with the Department of Education regarding the following types of institutions and determined that they must submit additional evidence. 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 edu-

cational level within the category described in paragraph (b) (1), (2), or (3) of this section.

(d) *Interview of petitioner.* An authorized representative of the petitioner may be required to appear in person before an immigration officer prior to the adjudication of the petition to be interviewed under oath concerning the eligibility of the school for approval.

(e) *Approval of petition—(1) Eligibility.* To be eligible for approval, the petitioner must establish that—

(i) It is a bona fide school;

(ii) It is an established institution of learning or other recognized place of study;

(iii) It possesses the necessary facilities, personnel, and finances to conduct instruction in recognized courses; and

(iv) It is, in fact, engaged in instruction in those courses.

(2) *General.* Upon approval of a petition, the district director shall notify the petitioner. An approved school is required to report immediately to the district director having jurisdiction over the school any material modification to its name, address, or curriculum for a determination of continued eligibility for approval. The approval is valid only for the type of program and student specified in the approval notice. The approval may be withdrawn in accordance with the provisions of 8 CFR 214.4, and is subject to review every 2 years.

(3) *SEVIS reporting.* Upon approval of a petition, the district director shall update SEVIS to reflect approval of the petition. An e-mail notification will be sent to the principal DSO by SEVIS. An approved school that has been enrolled in SEVIS must immediately update SEVIS to reflect any material changes to its name, address or curriculum for a determination of continued eligibility for approval.

(f) *Denial of petition.* If the petition is denied, the petitioner shall be notified of the reasons therefor and of his right to appeal in accordance with the provisions of part 103 of this chapter.

(g) *Recordkeeping and reporting requirements—(1) Recordkeeping requirements.* An approved school must keep records containing certain specific information and documents relating to each F-1 or M-1 student to whom it has

## Department of Homeland Security

## §214.3

issued a Form I-20A or I-20M while the student is attending the school and until the school notifies the Service, in accordance with the requirements of paragraph (g)(2) of this section, that the student is not pursuing a full course of study. The school must keep a record of having complied with the reporting requirements for at least one year. If a student who is out of status is restored to status, the school the student is attending is responsible for maintaining these records following receipt of notification from the Service that the student has been restored to status. The designated school official must make the information and documents required by this paragraph available to and furnish them to any Service officer upon request. The information and documents which the school must keep on each student are as follows:

- (i) Name.
- (ii) Date and place of birth.
- (iii) Country of citizenship.
- (iv) Current address where the student and his or her dependents physically reside. In the event the student or his or her dependents reside on or off campus and cannot receive mail at that location, the school may provide a mailing address. The school, however, must maintain a record of the physical location of residence of the student and his or her dependents and provide such information to the Service upon request. Once SEVIS is modified, in cases where the mailing and physical address are not the same, the school will be required to report both the student's current mailing and current physical address in SEVIS.
- (v) The student's current academic status.
- (vi) Date of commencement of studies.
- (vii) Degree program and field of study.
- (viii) Whether the student has been certified for practical training, and the beginning and end dates of certification.
- (ix) Termination date and reason, if known.
- (x) The documents referred to in paragraph (k) of this section.
- (xi) The number of credits completed each semester.

- (xii) A photocopy of the student's I-20 ID Copy.

A Service officer may request any or all of the above data 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. If the Service requests information on a student who is being held in custody, the school will respond orally on the same day the request for information is made, and the Service will provide a written notification that the request was made after the fact, if the school so desires. The Service will first attempt to gain information concerning a class of students from the Service's record system.

(2) *Reporting requirements for non-SEVIS students.* At intervals specified by the Service but not more frequently than once a term or session, the Service's processing center shall send each school (to the address given on Form I-17 as that to which the list should be sent) a list of all F-1 and M-1 students who, according to Service records, are attending that school. A designated school official at the school must note on the list whether or not each student on the list is pursuing a full course of study and give, in addition to the above information, the names and current addresses of all F-1 or M-1 students, or both, not listed, attending the school and other information specified by the Service as necessary to identify the students and to determine their immigration status. The designated school official must comply with the request, sign the list, state his or her title, and return the list to the Service's processing center within sixty days of the date of the request. In the case of a student that does not have an electronic record in SEVIS, the Service will notify the school if the student enters the U.S. to attend their institution. No later than 30 days following the deadline for registering for classes, the school is then required to contact the Service if that student fails to register.

### §214.3

### 8 CFR Ch. I (1–1–07 Edition)

(3) *SEVIS reporting requirements.* (i) Within 21 days of a change in any of the information contained in paragraph (e)(3) of this section, schools must update SEVIS with the current information.

(ii) Schools are also required to report within 21 days of the occurrence 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 made by SEVIS with respect to the current status of the student.

(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.

(4) *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) *SEVIS certification and school review—(1) Review of schools for initial enrollment in SEVIS.* Each school that is currently approved for attendance by nonimmigrants under section 101(a)(15)(F)(i) or 101(a)(15)(m)(i) of the Act, is required to apply for review by the Service for continuation of approval and access to SEVIS no later than the SEVIS mandatory compliance date.

(i) *SEVIS certification process.* In order to ensure that the Service has suffi-

cient time to review and adjudicate all submitted Forms I-17 prior to the SEVIS mandatory compliance date, schools must electronically complete a Form I-17 in SEVIS and submit a certification fee of \$580 at least 75 days prior to the SEVIS mandatory compliance date. A school may still submit a Form I-17 any time prior to the SEVIS mandatory compliance date. However schools that file petitions less than 75 days prior to the SEVIS mandatory compliance date may experience a period during which they may not issue Forms I-20 as the Service completes the review process. Schools may begin the review process by accessing the SEVIS website and entering the basic contact information required in order to receive a temporary user ID and password for SEVIS. Using this ID and password, the school official will again access the SEVIS website and complete and submit the electronic Form I-17.

(ii) *Preliminary enrollment in SEVIS.* Schools that were approved for preliminary enrollment by the Service under 8 CFR 214.12 must complete the certification review process, including submission of the required fee, prior to May 14, 2004.

(2) *Service adjudication.* The Service will review the electronic Form I-17 information submitted in SEVIS and will require an on-site visit of the school. If the Service approves the certification request, SEVIS will be updated to reflect the approval and will automatically generate permanent passwords and IDs for all Designated School Officials listed. Upon the discretion of the Service, certain schools may be conditionally enrolled in SEVIS prior to the on-site visit, as provided in §214.12(e). If the Service does allow a school to enroll in SEVIS prior to an on-site review, the school will be subject to a full-scale review and on-site visit at a later date. If the Service denies SEVIS certification, the Service will send electronic notification through SEVIS to the school and mail written notification that includes the reasons for denial and the process for seeking review of such denial.

(3) *Two-year review of school approval.* The Service will review the approval of a school every 2 years and will charge a recertification fee to review a

school's compliance with the reporting requirements of paragraph (g)(2) of this section and continued eligibility for approval pursuant to paragraph (e) of this section. If the Service determines that a recertification should be denied, the school will be notified of the reasons for denial and the process for seeking review of such denial.

(4) *Periodic review of approved schools.* In addition, the Service may, at any time, review the approval of a school to verify compliance with the reporting requirements of paragraph (g)(2) of this section and continued eligibility for approval pursuant to paragraph (e) of this section. The Service shall also, upon receipt of notification, evaluate any changes made to the name, address, or curriculum of an approved school to determine if the changes have affected the school's eligibility for approval. The Service may require the school under review to furnish a currently executed Form I-17 without fee, along with supporting documents, as a petition for continuation of school approval when there is a question about whether the school still meets the eligibility requirements. If upon completion of the review, the Service determines that the school is not eligible for continued access to SEVIS, the Service will institute withdrawal proceedings in accordance with 8 CFR 214.4(b).

(i) *Administration of student regulations by the Immigration and Naturalization Service.* District directors in the field shall be responsible for conducting periodic reviews on the campuses under the jurisdiction of their offices to determine whether students are complying with Service regulations including keeping their passports valid for a period of six months at all times when required. Service officers shall take appropriate action regarding violations of the regulations.

(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 designated school official (DSO) of a school approved by the Service to enroll nonimmigrant students must sign any completed Form I-20 issued for either a prospective or continuing student or a dependent. A Form I-20 issued by an approved school system must state which school within the system the student will attend. The form must only be issued from within the United States. Only a designated official of a Service approved school shall issue a Certificate of Eligibility, 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.

(l) *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.

## §214.4

## 8 CFR Ch. I (1–1–07 Edition)

(ii) Each campus must have one PDSO. The PDSO is responsible for updating SEVIS to reflect the addition or deletion of all designated officials on his or her associated campus. The Service will also 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. In all other respects the PDSO and DSO will share the same responsibilities.

(iii) Each school may have up to 10 designated officials at any one time, including the PDSO. In a multi-campus school, each campus may have up to 10 designated officials at any one time including a required PDSO. In a private elementary or public or private secondary school system, however, the entire school system is limited to 10 designated officials at any one time including the PDSO.

(2) *Name, title, and sample signature.* Petitions for school approval must include the names, titles, and sample signatures of designated officials. An approved school must update SEVIS upon any changes to the persons who are principal or designated officials, and furnish the name and title of the new official within 21 days of the change. Any changes to the PDSO or DSO must be made by the PDSO. In its discretion, the Service may 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 non-immigrant students, change of non-immigrant 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 on GPO Access.

### §214.4 Withdrawal of school approval.

(a) *General—(1) Withdrawal on notice.* If a school's approval is withdrawn on notice as provided in paragraphs (b), (c), (d), (e), (f), (g), (h), (i) (j), and (k) of this section, the school is not eligible to file another petition for school approval until at least one year after the effective date of the withdrawal. The approval by the Service, pursuant to sections 101(a)(15)(F)(i) or 101(a)(15)(M)(i) or both, of the Act, of a petition by a school or school system for the attendance of nonimmigrant students will be withdrawn on notice if the school or school system is no longer entitled to the approval for any valid and substantive reason including, but not limited to, the following:

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

(ii) Failure to comply with §214.3(g)(2).

(iii) Failure of a designated school official to notify the Service of the attendance of an F-1 transfer student as required by §214.2(f)(8)(ii).

(iv) Willful issuance by a designated official of a false statement or certification in connection with a school transfer or an application for employment or practical training.

(v) Any conduct on the part of a designated official which does not comply with the regulations.

(vi) The designation as a designated official of an individual who does not meet the requirements of §214.3(l)(1).

(vii) Failure to provide the Service with the names, titles, and sample signatures of designated officials as required by §214.3(l)(2).

(viii) Failure to submit statements of designated officials as required by §214.3(l)(3).

(ix) Issuance of Forms I-20A or I-20M to students without receipt of proof that the students have met scholastic, language or financial requirements.

(x) Issuance of Forms I-20A or I-20M to aliens who will not be enrolled in or carry full courses of study as defined in §§214.2(f)(6) or 214.2(m)(9).

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

(xii) Failure to employ qualified professional personnel.

(xiii) Failure to limit its advertising in the manner prescribed in §214.3(j).