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## SEVP Announces Modifications to Temporary COVID-19 Exemptions for Nonimmigrant Students Taking Online Classes

**Legal Update**

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By Immigration Group

On July 6, 2020, the Student and Exchange Visitor Program (SEVP) announced significant modifications to temporary exemptions for nonimmigrant students taking online classes due to the pandemic. For background, in spring 2020, due to COVID-19, SEVP instituted a temporary exemption regarding online courses for the spring and summer semesters, permitting students to exceed federal guidelines for online learning due to the emergency. SEVP has now changed course and requires a certain amount of in-class instruction for the fall 2020 semester. The new student exemptions for the fall 2020 semester are:

- Students in F-1 or M-1 status may not take a full online course load and remain in the U.S., even if the university does not offer alternatives. The U.S. State Department will not issue student visas to such students, and CBP will not permit them to enter the country. Active students in the U.S. enrolled in such programs must depart or transfer to a school with in-person instruction.
- F-1 students are bound by existing federal regulations and may only take a maximum of one class (or three credit hours) online.
- A mixture of online and in-person classes are allowed for schools which have adopted a “hybrid model,” and such schools must certify to SEVP (for each student) that the course program is not entirely online and that students are taking the minimum number of online classes to make normal progress in their degree program.

Schools are required to update information in the SEVIS system within 10 days of any changes from in-person to online classes. This directive has created chaos and upheaval for foreign students and universities across the U.S. who are unable to comply, and Harvard and MIT have already filed a lawsuit as a result. Both institutions, as well as many others, had previously decided to offer most of their fall 2020 classes online, relying in part on the government’s previous statement that the F-1 exemption for online classes would remain “in effect for the duration of the emergency.”

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This new directive is being challenged on the premise that there was no notice and comment period for the new ruling and that universities are in effect being forced to choose between reopening without sufficient time to manage all of the logistics of doing so, endangering their students and communities, or abandoning their international student populations.