

## insights

# Immigration and COVID-19: What does higher ed need to know?

In response to the Coronavirus (COVID-19), many colleges and universities have closed their campuses and shifted to online instruction. From F-1 students to foreign national faculty, physicians and staff, stakeholders across higher ed find themselves in the midst of a constantly evolving immigration environment.

In this post, we will briefly cover a few areas of impact for higher education. As the COVID-19 crisis moves at an extraordinarily rapid pace, we will do our best to update this post as more information becomes available; but please know this information may not immediately reflect the latest guidance from federal agencies.

### Travel restrictions

At this time, foreign nationals holding nonimmigrant statuses (ie. F-1, H-1B, TN, O-1) should not leave the United States without carefully and critically evaluating their circumstances. Because of travel restrictions imposed by governments around the world, including the U.S., there is a distinct possibility that such a foreign national may have a difficult time reentering the U.S.

The Trump Administration has taken action to restrict many foreign nationals traveling from China, Iran and most of Europe. While U.S. citizens and U.S. permanent residents are exempt from the travel restrictions, it would be prudent for these groups to postpone international travel to avoid any requirements to self-quarantine upon return.

These travel bans and restrictions are being implemented quickly and with limited notice.

Additionally, Customs and Border Protection has warned that the agency will cancel the Electronic System for Travel Authorization (ESTA) of any foreign national who is subject to the travel ban and attempts to enter the U.S. pursuant to their ESTA authorization.

Restrictions on nonessential travel between the U.S. and Canada are expected on Friday, March 20, 2020.

On March 19, 2020, the Department of State released a global travel advisory advising that all U.S. citizens refrain from international travel due to the global impact of COVID-19.

### Suspension of visa services

The Department of State announced on March 18, 2020, that visa services have been suspended at most U.S. embassies and consulates abroad. At this time, most U.S. consulates will not be conducting interviews or processing nonimmigrant and immigrant visas. Students or employees waiting on visa issuance abroad may face a considerable delay in completing the visa process.

Consulate services for U.S. citizens abroad remain available.

### Impact on H-1B sponsorship

Employers, including universities and colleges, that sponsor H-1B employees should keep in mind that H-1B employees must be afforded the same working conditions (including work-from-home opportunities) offered to similarly situated U.S. workers.

Additionally, H-1B petitions are worksite specific. When an H-1B employee works from home or is transferred to another worksite, additional steps may be needed to ensure compliance with labor condition application obligations and other H-1B program requirements.

## Online instruction and other considerations

On March 9, 2020, the Student and Exchange Visitor Program (SEVP) advised that schools may temporarily adapt their operations and curriculum to manage public health needs. Such changes, including the transition to online courses, must be provided to SEVP within 10 days of the decision.

In follow-up communication with the National Association of Foreign Student Advisors, SEVP confirmed its commitment to remaining flexible in allowing schools to make temporary procedural adjustments to their curriculum and procedures.

## Conclusion

The pandemic has created an unprecedented disruption for higher education, with many factors still unknown. We will closely watch developments in immigration related to COVID-19. Please do not hesitate to contact us if you need information.

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## About REGucation

Welcome to REGucation, the higher education blog that strives, through practical advice and insight, to help the higher education community manage a fast-changing and increasingly complex regulatory environment.

Our goal is to serve as a practical, concise, and accessible resource for institutions confronting regulatory and policy issues. The blog focuses on the extraordinarily broad and sophisticated set of legal challenges faced by contemporary post-secondary institutions, including those involving real estate, construction, joint ventures, litigation, intellectual property, immigration, taxation, financing, employees and benefits, and government relations, to name a few. We also cover the staggering collection of federal, state, and accrediting agency laws and standards specific to higher education.

If there are topics you would like us to cover, or questions you may have regarding a topic that already has been addressed, please do not hesitate to reach out. Finally, if you would like to contribute a guest article, we would love to hear from you.

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