

SEVIS under this section—including flight schools—will have to apply for certification under the Interim Certification Rule, pay the certification fee, and undergo a full certification review including an on-site visit, prior to being allowed to enroll in SEVIS.

[67 FR 44346, July 1, 2002]

§ 214.13 SEVIS fee for certain F, J, and M nonimmigrants.

(a) *Applicability.* Except as otherwise provided for in this section, the following aliens are required to submit a payment of \$100 to the Department of Homeland Security (DHS) in advance of obtaining nonimmigrant status as a student or exchange visitor, in addition to any other applicable fees:

(1) An alien who applies for F-1 or F-3 nonimmigrant status in order to enroll in a program of study at a DHS-approved institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965, as amended, or in a program of study at any other DHS-approved academic or language-training institution including private elementary and secondary schools and public secondary schools;

(2) An alien who applies for J-1 nonimmigrant status in order to commence participation in an exchange visitor program designated by the Department of State (DOS), with a reduced fee for certain exchange visitor categories as provided in paragraphs (b)(1) and (c) of this section; and

(3) An alien who applies for M-1 or M-3 nonimmigrant status in order to enroll in a program of study at a DHS-approved vocational educational institution, including a flight school.

(b) *Aliens not subject to a fee.* No SEVIS fee is required with respect to:

(1) A J-1 exchange visitor who is coming to the United States as a participant in an exchange visitor program sponsored by the Federal government, identified by a program identifier designation prefix of G-1, G-2, or G-3;

(2) Dependents of F, M, or J nonimmigrants. The principal alien must pay the fee, when required under this section, in order for his/her qualifying dependents to obtain F-2, J-2, or M-2 status. However, an F-2, J-2, or M-2 dependent is not required to pay a sepa-

rate fee under this section in order to obtain that status or during the time he/she remains in that status.

(3) A nonimmigrant described in paragraph (a) of this section whose Form I-20 or Form DS-2019 for initial attendance was issued on or before August 31, 2004.

(c) *Special Fee for Certain J-1 Nonimmigrants.* A J-1 exchange visitor coming to the United States as an au pair, camp counselor, or participant in a summer work/travel program is subject to a fee of \$35.

(d) *Time for payment of SEVIS fee.* An alien who is subject to payment of the SEVIS fee must remit the fee directly to DHS as follows:

(1) An alien seeking an F-1, F-3, J-1, M-1, or M-3 visa from a consular officer abroad for initial attendance at a DHS-approved school or to commence participation in a Department of State-designated exchange visitor program, must pay the fee to DHS before issuance of the visa.

(2) An alien who is exempt from the visa requirement described in section 212(d)(4) of the Act must pay the fee to DHS before the alien applies for admission at a U.S. port-of-entry to begin initial attendance at a DHS-approved school or initial participation in a Department of State-designated exchange visitor program.

(3) A nonimmigrant alien in the United States seeking a change of status to F-1, F-3, J-1, M-1, or M-3 must pay the fee to DHS before the alien is granted the change of nonimmigrant status, except as provided in paragraph (e)(4) of this section.

(4) A J-1 nonimmigrant who is applying for a change of program category within the United States, in accordance with 22 CFR 62.42, must pay the fee associated with that new category, if any, prior to being granted such a change.

(5) A J-1 nonimmigrant initially granted J-1 status to participate in a program sponsored by the Federal government, as defined in paragraph (b)(1) of this section, and transferring in accordance with 22 CFR 62.42 to a program that is not similarly sponsored, must pay the fee associated with the new program prior to completing the transfer.

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(6) A J-1 nonimmigrant who is applying for reinstatement after a substantive violation of status, or who has been out of program status for longer than 120 days but less than 270 days during the course of his/her program must pay a new fee to DHS, if applicable, prior to being granted a reinstatement to valid J-1 status.

(7) An F or M student who is applying for reinstatement of student status because of a violation of status, and who has been out of status for a period of time that exceeds the presumptive ineligibility deadline set forth in 8 CFR 214.2(f)(16)(i)(A) or (m)(16)(i)(A), must pay a new fee to DHS prior to being granted a return to valid status.

(8) An F-1, F-3, M-1, or M-3 nonimmigrant who has been absent from the United States for a period that exceeds 5 months in duration, and wishes to reenter the United States to engage in further study in the same course of study, with the exception of students who have been working toward completion of a U.S. course of study in authorized overseas study, must pay a new fee to DHS prior to being granted student status.

(e) *Circumstances where no new fee is required.* (1) Extension of stay, transfer, or optional practical training for students. An F-1, F-3, M-1, or M-3 nonimmigrant is not required to pay a new fee in connection with:

(i) An application for an extension of stay, as provided in 8 CFR 214.2(f)(7) or (m)(10);

(ii) An application for transfer, as provided in 8 CFR 214.2(f)(8) or (m)(11);

(iii) A change in educational level, as provided in 8 CFR 214.2(f)(5)(ii); or

(iv) An application for post-completion practical training, as provided in 8 CFR 214.2(f)(10)(ii) or (m)(14).

(2) Extension of program or transfer for exchange visitors. A J-1 nonimmigrant is not required to pay a new fee in connection with:

(i) An application for an extension of program, as provided in 22 CFR 62.43; or

(ii) An application for transfer of program, as provided in 22 CFR 62.42.

(3) Visa issuance for a continuation of study. An F-1, F-3, J-1, M-1, or M-3 nonimmigrant who has previously paid the fee is not required to pay a new fee in order to be granted a visa to return

to the United States as a continuing student or exchange visitor in a single course of study, so long as the nonimmigrant is not otherwise required to pay a new fee in accordance with the other provisions in this section.

(4) Certain changes in student classification.

(i) No fee is required for changes between the F-1 and F-3 classifications, and no fee is required for changes between the M-1 and M-3 classifications.

(ii) Institutional reclassification. DHS retains the discretionary authority to waive the additional fee requirement when a nonimmigrant changes classification between F and M, if the change of status is due solely to institutional reclassification by the Student and Exchange Visitor Program during that nonimmigrant's course of study.

(5) Re-application following denial of application by consular officer. An alien who fully paid a SEVIS fee in connection with an initial application for an F-1, F-3, M-1, or M-3 visa, or a J-1 visa in a particular program category, whose initial application was denied, and who is reapplying for the same status, or the same J-1 exchange visitor category, within 12 months following the initial notice of denial is not required to repay the SEVIS fee.

(6) Re-application following denial of an application for a change of status. A nonimmigrant who fully paid a SEVIS fee in connection with an initial application for a change of status within in the United States to F-1, F-3, M-1, or M-3 classification, or for a change of status to a particular J-1 exchange visitor category, whose initial application was denied, and who is granted a motion to reopen the denied case is not required to repay the SEVIS fee if the motion to reopen is granted within 12 months of receipt of initial notice of denial.

(f) [Reserved]

(g) *Procedures for payment of the SEVIS fee.* (1) *Options for payment.* An alien subject to payment of a fee under this section may pay the fee by any procedure approved by DHS, including:

(i) Submission of Form I-901, to DHS by mail, along with the proper fee paid by check, money order, or foreign draft drawn on a financial institution in the

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United States and payable in United States currency, as provided by 8 CFR 103.7(a)(1);

(ii) Electronic submission of Form I-901 to DHS using a credit card or other electronic means of payment accepted by DHS; or,

(iii) A designated payment service and receipt mechanism approved and set forth in future guidance by DHS.

(2) *Receipts.* DHS will provide a receipt for each fee payment under paragraph (g)(1) of this section until such time as DHS issues a notice in the FEDERAL REGISTER that paper receipts will no longer be necessary. Further receipt provisions include:

(i) DHS will provide for an expedited delivery of the receipt, upon request and receipt of an additional fee;

(ii) If payment was made electronically, both DHS and the Department of State will accept a properly completed receipt that is printed-out electronically, in lieu of the receipt generated by DHS;

(iii) If payment was made through an approved payment service, DHS and the Department of State will accept a properly completed receipt issued by the payment service, in lieu of the receipt generated by DHS.

(3) *Electronic record of fee payment.* DHS will maintain an electronic record of payment for the alien as verification of receipt of the required fee under this section. If DHS records indicate that the fee has been paid, an alien who has lost or did not receive a receipt for a fee payment under this section will not be denied an immigration benefit, including visa issuance or admission to the United States, solely because of a failure to present a paper receipt of fee payment.

(4) *Third-party payments.* DHS will accept payment of the required fee for an alien from an approved school or a designated exchange visitor program sponsor, or from another source, in accordance with procedures approved by DHS.

(h) *Failure to pay the fee.* The failure to pay the required fee is grounds for denial of F, M, or J nonimmigrant status or status-related benefits. Payment of the fee does not preserve the lawful status of any F, J, or M nonimmigrant that has violated his or her status in some other manner.

(1) For purposes of reinstatement to F or M status, failure to pay the required fee will be considered a “willful violation” under 8 CFR 214.2(f)(16) or (m)(16), unless DHS determines that there are sufficient extenuating circumstances (as determined at the discretion of the Student and Exchange Visitor Program).

(2) For purposes of reinstatement to valid J program status, failure to pay the required fee will not be considered a “minor or technical infraction” under 22 CFR 62.45.

[69 FR 39825, July 1, 2004; 69 FR 41388, July 9, 2004]

§ 214.14 Alien victims of certain qualifying criminal activity.

(a) *Definitions.* As used in this section, the term:

(1) *BIWPA* means Battered Immigrant Women Protection Act of 2000 of the Victims of Trafficking and Violence Protection Act of 2000, div. B, Violence Against Women Act of 2000, tit. V, Pub. L. 106-386, 114 Stat. 1464, (2000), *amended by* Violence Against Women and Department of Justice Reauthorization Act of 2005, tit. VIII, Pub. L. 109-162, 119 Stat. 2960 (2006), *amended by* Violence Against Women and Department of Justice Reauthorization Act—Technical Corrections, Pub. L. 109-271, 120 Stat. 750 (2006).

(2) *Certifying agency* means a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity. This definition includes agencies that have criminal investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Equal Employment Opportunity Commission, and the Department of Labor.

(3) *Certifying official* means:

(i) The head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency; or

(ii) A Federal, State, or local judge.

(4) *Indian Country* is defined as: