

Department of Homeland Security

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revocation of an alien's T-1 status will have no effect on the annual cap described in paragraph (j) of this section.

(n) *Removal proceedings.* Nothing in this section prohibits DHS from instituting removal proceedings for conduct committed after admission, or for conduct or a condition that was not disclosed prior to the granting of T nonimmigrant status, including misrepresentations of material facts in the application for T-1 nonimmigrant status or in an application for derivative T nonimmigrant status, or after revocation of T nonimmigrant status.

(o) *USCIS employee referral.* Any USCIS employee who, while carrying out his or her official duties, comes into contact with an alien believed to be a victim of a severe form of trafficking in persons and is not already working with an LEA should consult, as necessary, with the ICE officials responsible for victim protection, trafficking investigations and prevention, and deterrence. The ICE office may, in turn, refer the victim to another LEA with responsibility for investigating or prosecuting severe forms of trafficking in persons. If the alien has a credible claim to victimization, USCIS may advise the alien that he or she can submit an application for T nonimmigrant status and seek any other benefit or protection for which he or she may be eligible, provided doing so would not compromise the alien's safety.

(p) *Restrictions on use and disclosure of information relating to applicants for T nonimmigrant classification.* (1) The use or disclosure (other than to a sworn officer or employee of DHS, the Department of Justice, the Department of State, or a bureau or agency of any of those departments, for legitimate department, bureau, or agency purposes) of any information relating to the beneficiary of a pending or approved application for T nonimmigrant status is prohibited unless the disclosure is made in accordance with an exception described in 8 U.S.C. 1367(b).

(2) Information protected under 8 U.S.C. 1367(a)(2) may be disclosed to federal prosecutors to comply with constitutional obligations to provide statements by witnesses and certain other documents to defendants in pending federal criminal proceedings.

(3) Agencies receiving information under this section, whether governmental or non-governmental, are bound by the confidentiality provisions and other restrictions set out in 8 U.S.C. 1367.

(4) DHS officials are prohibited from making adverse determinations of admissibility or deportability based on information obtained solely from the trafficker, unless the alien has been convicted of a crime or crimes listed in section 237(a)(2) of the Act.

[81 FR 92304, Dec. 19, 2016, as amended at 85 FR 46925, Aug. 3, 2020; 85 FR 49941, Aug. 17, 2020]

§ 214.12 [Reserved]

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

(a) *Applicability.* The aliens in paragraphs (a)(1) through (3) of this section are required to submit a payment in the amount indicated for their status to the Student and Exchange Visitor Program (SEVP) in advance of obtaining nonimmigrant status as an F or M student or J exchange visitor, in addition to any other applicable fees, except as otherwise provided for in this section:

(1) An alien who applies for F-1 or F-3 status in order to enroll in a program of study at an SEVP-certified 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 SEVP-certified academic or language training institution, including private elementary, middle, and secondary schools and public secondary schools, the amount of \$350;

(2) An alien who applies for J-1 status in order to commence participation in an exchange visitor program designated by the Department of State, the amount of \$220, 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 status in order to enroll in a program of study at an SEVP-certified vocational educational institution, including a flight school, in the amount of \$350.

(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, G–3, or G–7;

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

(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 an SEVP-certified 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 an SEVP-certified 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.

(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).

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

(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 a certified 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, as amended at 73 FR 55704, Sept. 26, 2008; 84 FR 23979, May 23, 2019; 87 FR 75911, Dec. 12, 2022]

§ 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:

(i) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(ii) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(iii) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

(5) *Investigation or prosecution* refers to the detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.

(6) *Military Installation* means any facility, base, camp, post, encampment, station, yard, center, port, aircraft, vehicle, or vessel under the jurisdiction of the Department of Defense, including any leased facility, or any other location under military control.

(7) *Next friend* means a person who appears in a lawsuit to act for the benefit of an alien under the age of 16 or incapacitated or incompetent, who has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity. The next friend is not a party to the legal proceeding and is not appointed as a guardian.

(8) *Physical or mental abuse* means injury or harm to the victim’s physical person, or harm to or impairment of the emotional or psychological soundness of the victim.