



U.S. Immigration and Customs Enforcement

STATEMENT

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REGARDING A HEARING ON

***“Strengthening the Integrity of the Student Visa System by Preventing and
Detecting Sham Educational Institutions”***

BEFORE THE

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION,
REFUGEES AND BORDER SECURITY**

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226 Dirksen Senate Office Building**

INTRODUCTION

Chairman Schumer, Ranking Member Cornyn, and distinguished Members of the Subcommittee:

On behalf of Secretary Napolitano and Director Morton, thank you for the opportunity to discuss U.S. Immigration and Customs Enforcement's (ICE) Student and Exchange Visitor Program (SEVP) and the findings of the recently released report by the Government Accountability Office (GAO) entitled "Student and Exchange Visitor Program: DHS Needs to Assess Risks and Strengthen Oversight Functions."

The U.S. Department of Homeland Security (DHS) appreciates GAO's work conducting the review of SEVP and issuing this report, and is pleased to note GAO's recognition of our efforts to develop a risk-based approach to school oversight by SEVP. SEVP is one area that ICE continues to prioritize, and I proudly note that after reviewing GAO's recommendations, we have already made progress in implementing them. SEVP is firmly committed to maintaining national security while keeping the international student and exchange visitor visa issuance process efficient for schools and students.

The Student and Exchange Visitor Program (SEVP)

SEVP, within ICE's Homeland Security Investigations (HSI) directorate, is funded by fees collected from students, exchange visitors, and participating schools. It manages information on nonimmigrants whose primary reason for coming to the United States is to study in a U.S. institution certified for inclusion in the Student and Exchange Visitor Information System (SEVIS) database, which tracks foreign students, exchange visitors, and their dependents during their authorized stays in the United States. SEVIS also monitors the schools that have been approved by DHS to enroll foreign students, and the exchange visitor programs designated by the

U.S. Department of State (DOS) to sponsor exchange visitors. SEVIS contains the records of more than 1.1 million active nonimmigrant students, exchange visitors, and their dependents, as well as nearly 10,000 SEVP-certified institutions. SEVP regulates schools' eligibility to enroll foreign individuals for academic and vocational training purposes, and manages the participation of SEVP-certified schools in the student and exchange visitor program, and nonimmigrant students in the F (academic) and M (vocational) visa classifications and their dependents. DOS manages the Exchange Visitor Program for nonimmigrants in the J visa classification, which enables foreign nationals to come to the United States to teach, study, conduct research, demonstrate special skills, or receive on-the-job training for periods ranging from a few weeks to several years.

SEVP is responsible both for certifying schools and for withdrawing certification from non-compliant schools. The certification process serves the important law enforcement functions of furthering national security and the integrity of our nation's borders by providing consistent, comprehensive oversight while preserving the rich tradition of welcoming nonimmigrant students and exchange visitors. Providing a strong security framework to identify and take action against those who misuse SEVP facilitates the international exchange experience for the foreign students while simultaneously protecting our nation's security.

SEVP collects, maintains, and provides information to interagency partners so that only legitimate foreign students and exchange visitors gain entry to, and remain in, the United States. The result is an easily accessible system that provides timely information to support ICE's law enforcement mission, as well as to our DHS partner agencies, U.S. Customs and Border Protection, and U.S. Citizenship and Immigration Services (USCIS), and other federal agencies. Additionally, the data maintained by SEVP in SEVIS supports the DOS's Bureau of Consular Affairs visa process by providing advanced electronic data on nonimmigrant visa applicants prior to visa issuance.

The student and exchange visitor programs that bring F, J, and M visa holders to the United States are of immense value to all countries involved, as they serve to strengthen relations between our nation and theirs, and foster intercultural understanding. These programs produce economic benefits as well. The U.S. Department of Commerce estimates that foreign students and exchange visitors contributed more than \$21 billion to the U.S. economy through their expenditures on tuition and living expenses during the 2010-2011 academic year.

The Counterterrorism and Criminal Exploitation Unit

ICE HSI's Counterterrorism and Criminal Exploitation Unit (CTCEU) is the first national program dedicated to the enforcement of nonimmigrant visa violations. Under the HSI umbrella, SEVP and CTCEU execute complementary missions to regulate foreign students and exchange visitors and to proactively develop investigations that bolster national security.

Each year, the CTCEU analyzes the records of hundreds of thousands of potential status violators using information from SEVIS and the United States Visitor and Immigrant Status Indicator Technology database, along with other information. The CTCEU resolves these records by further identifying potential violations that would warrant field investigations, establishing compliance, or establishing departure dates from the United States. Since the creation of the CTCEU in 2003, analysts have resolved more than two million such records using automated and manual review techniques. On average, HSI opens approximately 6,000 investigative cases annually and assigns them to our special agents in the field for further investigation.

HSI's special agents and analysts monitor the latest threat reports and proactively address emerging issues. This practice has contributed to HSI's counterterrorism mission by initiating or supporting high-priority national security initiatives based on specific intelligence. The practice is

designed to detect and identify individuals who exhibit specific risk factors based on intelligence reporting and in-depth criminal research and analysis of dynamic social networks.

A critical component to the CTCEU is the SEVIS Exploitation Section, which combats exploitation of SEVP by: analyzing and referring school fraud criminal investigation leads to the field; implementing and managing an Agent/SEVIS School Outreach Program aimed at preventing the criminal exploitation of SEVP by improving direct communications between Designated School Officials (DSOs) and HSI special agents; and lending subject-matter expertise to other initiatives in which exploitation of SEVIS is suspected.

In 2011, HSI developed and implemented Project Campus Sentinel, a school outreach program directed toward SEVP-certified schools that enroll nonimmigrant students. To date, outreach efforts have occurred in all 50 states, as well as Puerto Rico, Guam, and the District of Columbia. For example, in July 2011, HSI's Special Agent in Charge in Denver spoke at the Colorado Association of Institutional Law Enforcement Directors about DHS's perspective on safety and security issues faced by American universities when managing or participating in international studies programs. Similar requests for presentations on these safety and security issues came from the New Hampshire Department of Education, the New England Association of Schools and Colleges, and the Independent Schools Association of Northern New England, and ICE made presentations to each organization.

These outreach sessions have yielded fraud-related leads within various schools' foreign student bodies and by other SEVP-certified schools. To date, Project Campus Sentinel has referred 37 cases to SEVP for administrative sanctions. Additionally, HSI has opened five criminal investigations as a result of the outreach program. The CTCEU, with SEVP participation, is building partnerships between HSI field offices and academic institutions, thereby enabling HSI

to address potential school fraud and visa exploitation, and to identify nonimmigrant student threats.

GAO AUDIT FINDINGS AND SEVP's RESPONSE AND ACTIONS

GAO made eight recommendations with which we have concurred. I am pleased to note GAO's positive recognition of ICE's efforts to develop a risk-based approach to school oversight to ensure that SEVP resources are targeted to the highest-risk programs.

The following are highlights of some of our responses and actions taken:

GAO recommended an increased focus on detecting fraudulent schools. The collaboration between CTCEU and SEVP facilitates processing for millions of legitimate foreign students while ensuring that those who want to defraud our systems or do us harm are not allowed into the United States.

In 2011, HSI's investigation of Tri-Valley University in Pleasanton, California, for issues related to student visa fraud revealed that the school had exploited the foreign student process. To combat student visa fraud, SEVP established the SEVP Analysis and Operations Center (SAOC), which supports SEVP's main goal of preventing exploitation of legitimate student entry paths into the United States and school fraud activity. The SAOC monitors certified schools for compliance with all recordkeeping and other requirements.

As GAO noted, collaboration between SEVP and CTCEU is essential to identify and close loopholes in the issuance of student and exchange visitor visas. SEVP and CTCEU have a process to coordinate on criminal investigations of nonimmigrant students, DSOs, and SEVP-certified schools in order to provide law enforcement with high-quality, timely, analytical information and service support for school compliance and foreign student issues. We are currently reviewing the process to ensure that SEVP and CTCEU are seamlessly coordinating on investigations.

GAO also identified a need for increased communication regarding potential criminal cases. SEVP notifies CTCEU of all schools that SEVP places on its compliance list. Schools are reviewed based on leads from SEVP and HSI field offices, our own internal risk analysis, or information received through other means, such as tips from school employees or students. Schools are vetted based on a complex list of risk factors, and SEVP and CTCEU continue to work to develop additional criteria and ways to strengthen the process so that the programs can more aggressively identify fraud among the noncompliant schools.

SEVP has also taken on several risk-management initiatives to identify and analyze programmatic risk over the past year and half, and prior to GAO's audit of SEVP. This includes the development of a school risk scorecard, a risk-informed compliance methodology, and an analysis of characteristics associated with high-risk schools. Most recently, SEVP conducted an internal controls assessment to ensure that school certification objectives are being met.

To ensure risk-informed decision-making and the integrity of the student visa program, SEVP commenced a risk-assessment initiative on September 14, 2011, designed to eliminate perceived vulnerabilities in its school certification processes. As part of this initiative, SEVP is:

- Developing and implementing a risk indicator scorecard to assess risk profiles for certified schools and to enable prioritization of compliance monitoring based on determined level of risk;
- Developing a data analysis tool in partnership with the DHS Office of Infrastructure Protection's Homeland Infrastructure Threat and Risk Analysis Center (HITRAC) that incorporates predictive analytics and data visualization to identify potential noncompliant schools, based on a school's self-reporting in SEVIS; and
- Designing revised compliance monitoring processes, including red-flag analyses, which incorporate input from scorecards and the HITRAC data analysis tool to determine which schools may be high-risk and the appropriate level of monitoring that is needed to confirm compliance.

These initiatives are currently being implemented and, upon completion of the first phase next month, will produce a risk-informed compliance process, scorecard, and tools. These will be

used to analyze existing SEVIS data to help identify and monitor SEVP-certified schools that have a higher probability of exploiting programmatic vulnerabilities, with the most egregious violations being referred to CTCEU for possible criminal investigations.

In January 2011, SEVP began working with HITRAC to begin exploring the development of a pattern recognition tool. The SAOC was formed in August 2011, and began development of the analysis of characteristics found to be associated with high-risk schools. Since February 2012, 15 additional analytical red flags using 60 criteria that were identified and are being incorporated into the risk-informed compliance methodology.

In September 2011, SEVP began developing the school certification risk scorecard, a risk-informed certification tool that assists in the identification of schools with characteristics similar to those schools that were identified as non-compliant and with possible fraudulent intentions. The scorecard has been implemented, and will be augmented within the next few months with along with predictive analytics, data visualization and compliance red flag analyses tools, as a part of the integrated risk-informed compliance methodology.

As GAO noted, flight schools have a unique set of risks and, as such, this comprehensive risk-analysis work will also be applied to SEVP-certified flight schools. SEVP is currently working with the Federal Aviation Administration (FAA) to ensure that all SEVP-certified flight schools obtain the required FAA certification.

In coordination with the FAA, SEVP has developed a list of all SEVP-certified flight schools that do not have the required FAA certification. SEVP has contacted flight schools that do not have the required FAA certification and, in consultation with the FAA, is developing time frames to require those schools to re-obtain the required FAA certification. Schools that do not meet the time frames will have their certification withdrawn. SEVP and the FAA have also developed a process to ensure that SEVP becomes aware of any future loss of required FAA

certification by a SEVP-certified flight school. The FAA is working with SEVP to provide SEVP access to its internal website, which monitors FAA certification.

GAO also noted in its report that determining whether a school meets certification requirements can be complex and may change over time. A key part of SEVP's mission is to certify schools that enroll F and M nonimmigrant foreign students. With the general exception of English language programs, which will be required to be accredited starting in December 2013, schools are not required to have national accreditation (i.e., accreditation from an accrediting agency recognized by the U.S. Department of Education), in order to obtain SEVP certification.

If a petitioning school claims national accreditation, SEVP requires evidence of accreditation. Some states impose their own licensing requirements on educational programs. Therefore, SEVP is developing procedures to require validation of any state license or national accreditation information provided to SEVP.

GAO offered recommendations concerning SEVP record-keeping. When SEVP was established in 2003, it inherited a large amount of decades-old paper records from the former U.S. Immigration and Naturalization Service, which has presented a challenge in terms of records management. SEVP has worked diligently since receipt of the more than 10,000 school files to review and digitize the historical files. To date, SEVP has developed a list of all missing school case files and has established an ongoing working group to correct deficiencies. SEVP has also been in contact with USCIS field offices to request any files they may have pertaining to school records. USCIS is a valuable partner and often assists ICE by providing missing documentation. SEVP is categorizing the remaining missing files using the risk-based approach described earlier. Additionally, as schools update their records or go through the mandatory recertification process, they will provide updated records and fill in any identified gaps.

CONCLUSION

We appreciate the assistance of GAO's findings and, as stated earlier, we have already made progress on many of the recommendations and are working diligently to fully address any remaining concerns. With thousands of colleges, universities, and other institutions of higher learning, the United States remains the "gold standard" in education around the world. We encourage a growing and robust foreign student population, but maintain our unwavering commitment to protecting the nation's security.

Thank you again for the opportunity to testify today and for allowing me to share the improvements we have made to SEVP, and our plans to move the program forward.

I would be pleased to answer your questions.