

Policy Matters – The Immigration Lens, Episode 4: Understanding F-1 Visa Challenges: SEVIS Termination and Visa Revocation

(This transcript was generated through AI technology.)

Dani Mayer

Hello and welcome to our podcast, The Immigration Lens. My name is Dani Mayer. I'm an attorney here at Seyfarth on the Global Immigration & Mobility team. Today, I'm joined by Leon Rodriguez, a partner here at Seyfarth. Our practice specializes in helping multinational organizations develop and manage comprehensive global mobility programs. To learn about our practice and our team, please visit [Seyfarth.com](https://www.seyfarth.com) or check out our blog. We're thrilled today to speak with Leon about F-1 students and the SEVIS records.

Welcome to The Immigration Lens, Leon. Could you give us an introduction to yourself and your practice?

Leon Rodriguez

Sure, I've been a partner in the Immigration Group at Seyfarth for the last eight years. I am one of the co-chairs of our Immigration Compliance & Enforcement team, and also the chair of the firm's Government Relations & Policy group. And I joined Seyfarth after having served for three years from 2014 to 2017, as Director of US Citizenship and Immigration Services, also known as USCIS.

Dani Mayer

So Leon, we're hearing a lot in the news about F-1 student visas and revocations, but can we start from the beginning? Can we talk about what is an F-1 visa and what's a SEVIS record?

Leon Rodriguez

An F-1 visa is a visa that allows its holder to study in the United States. It could be at a secondary school, but it could also be in a university or graduate program. And typically, the length of validity of an F-1 visa is however long it takes them to complete whatever program that's in. So for example, if they're in a four year college, they might have either a four year validity or have something called duration of status, in other words, for as long as they're here. And, you know, they're still studying, they're still actively enrolled and participating in the program. SEVIS is what is called the Student in Exchange Visitor Information System. And this points to, from an immigration perspective, a particularly unique aspect of student visas in that a significant part of the administration of student visas involves not just the Department of Homeland Security, but also the school itself where the student is attending, and both

Homeland Security and the school administer the student's record in the Student and Exchange Visitor Information System, and that record, or the evidence of that record, is something called a Form I-20, which is very important for that to be valid and available in order for that student to be able to participate in their program of study.

Dani Mayer

And can you give us an example of the life cycle of an F-1 student from admissions into an academic program to OPT or STEM OPT work authorization?

Leon Rodriguez

Right, so, student visas not only allow the student to engage in a course of study, but they also allow the student to engage in work that is supportive of their program of study. And so in the first instance, students can work for up to 20 hours a week on campus. They can't work more than that, that actually potentially becomes a problem for their visa. And then, as they progress in their education, they can engage in two types of work. One is CPT, Curricular Practical Training, that generally occurs while the student is still actively enrolled in school. And once they graduate, they can participate in Optional Practical Training where they're actually working out in the workplace, in something directly related to their field of study. And then for STEM students, our STEM graduates, rather, there is STEM OPT, which is a further additional period of time that those students can be in the United States working under their F-1 visa. And it represents a long standing policy to really promote supporting STEM graduates, and in many cases, hopefully having them integrated into the US economy.

Dani Mayer

And in that vein, what does SEVIS termination or visa revocation mean, not only for international students, but employers, if those students are working after graduation?

Leon Rodriguez

Well, what it means for those students, if their SEVIS record is terminated, that means it actually- let's back up, because I think it's good to sort of distinguish between termination of SEVIS, which is termination, basically of their status, their ability to engage in the activities that are authorized under the F-1 visa, which is to study, and depending on where they are in the cycle, to work. And then a visa being revoked. Visa is actually their travel document. And what is being revoked, if their visa is revoked, is their..., should they depart the United States, the revocation of their visa prevents them from returning to the United States, at least under that original visa. In theory, they can apply for another visa, depending on a bunch of other circumstances that may apply. The employer doesn't necessarily get notified of that, so it does introduce an area where employers do need to be cautious. I think are what we should probably go to next in terms of what students need to do if, in fact, they find that their SEVIS record is terminated.

Dani Mayer

And what options do international students or their employers have if their F-1 is revoked, or their SEVIS record is terminated?

Leon Rodriguez

So there are two things that they can do. One is they can seek, while the student is in the United States, seek to have their SEVIS enrollment reinstated. And in order to do that, that really depends on being able to figure out why it got terminated in the first place, which is not so easy. And so right now, the schools are seeing very, very general, high level reasons. The biggest, most common reason that we've been seeing is that a criminal background check has yielded information that places that student out of status. Now, criminal background check can mean as little as the student was arrested but never charged, charged but never actually convicted. So it doesn't necessarily mean that the student was convicted of a crime, but a large number of the ones do involve students who actually have some identified criminal justice involvement in the United States, but a good number of them, there's really no clue as to what actually happened. We do know that the Department of Homeland Security has been using AI tools to scan social media, and therefore, if there is social media activity that is in some way linked to potential inadmissibility because of, for example, potentially supporting terrorist organizations or engaging in other conduct that the government deems undesirable, that is also something that potentially initiates that path. But so, then the first thing they can do, working, you know, they should be working with their counsel, is to seek to have it reinstated. It's also possible to take legal action in federal district court in order to one, have the government really articulate its reason why the SEVIS record was terminated, and then to press for the reversal of the reinstatement to the reversal of that termination. The big upshot of that is, you know, students should either be leaving or immediately consulting with counsel to see how they can challenge the F-1, the termination of SEVIS, or the cancelation of their visa, if that's, in fact, what occurs.

Dani Mayer

And how can companies plan for this impact on their workforce?

Leon Rodriguez

First of all, I think it's important to understand, as scary and concerning as this phenomenon has been for a lot of people, it's still a relatively confined phenomenon. So the latest data is about 600 individuals out of an overall F-1 population of about a million have had their, either their SEVIS records terminated or their visas revoked. So I think just understanding the scope of this issue is important. It's also good to then just have some awareness of who's working for you and how significant a part of your workforce are F-1 students and maintain some awareness of this vulnerability. Beyond that, there's really not much you can do until such time as you learn that a student has actually had their visa revoked, in which case, then you can understand the reasons for it, what actions the student might be taking, consult with counsel as to what steps might be available to you. So, you know, I think the main thing for employers to do is just have an understanding of what's going on and who's working for them.

Dani Mayer

And is there any current litigation pending impacting the broader approach to these revocations?

Leon Rodriguez

There is. One, there are a number... have been a number of individual court challenges to specific students, SEVIS record terminations, and there's now a class action that was just filed. I imagine that involved in that is some challenge to the processes by which these termination decisions are being made, and the need for at least some semblance of due process, some semblance of an ability for the student to address the reasons why the record is terminated before they actually find themselves in a situation where they have to depart the country.

Dani Mayer

Alright, well, thanks for joining us today. This was very informative about F-1 students.

To our listeners, thanks for tuning in to The Immigration Lens. We hope you enjoyed today's episode. If you enjoyed this episode, please subscribe, leave us a review, and if you're interested in tuning into the conversation, follow our blog at bigimmigrationlawblog.com or check out our practice page at Seyfarth.com. Thank you.