



The Extensive Abuse of the Student (F-1) Visa

By David North

There are both blue-collar and white-collar ways to enter America illegally. A disproportionate amount of media attention goes to the illicit crossings of our borders, which is a physical, blue-collar activity.

Too little attention is paid to fraud in the immigration system, as opposed to swimming (or wading) the Rio Grande. One of the white-collar ways to beat our immigration system is the avenue provided by the student (F-1) visa.

Let me note, at the start, that there are many useful elements of the foreign student program. Many aliens come to the United States, get a degree, and return home with fond memories of this nation. Some of them move on to leadership positions in their home countries. This is well known.

On another positive note, many years ago I was a foreign student, an American in New Zealand on the Fulbright program. It was a delightful experience, but I did not stay beyond my time.

Background on the F-1 Program. Many aliens fraudulently use the F-1 visa after arriving in the United States, and our migration-management system makes this all too easy. About 40 percent of the illegal alien population of 11 or 12 million have arrived with visas and then overstayed or otherwise abused them. The visa most likely to be abused is the tourist visa, and the second most likely is the student visa. In addition to the main student visa, the F-1, there is also a smaller category, M-1, for students in vocational schools and another, J-1, for exchange visitors.

How many foreign students do we have in the United States? DHS, of course, is not interested in estimating the size of the population, so we have to look for other measurements.

According to the Institute for International Education (IIE) of New York, in the academic year 2014-2015 there were 974,926 foreign students in traditional colleges and universities,¹ the kind of entities that IIE serves and from which it collects information. In addition, there must be scores if not hundreds of thousands of students in K-12 schools, in English language schools, and in vocational schools, teaching such skills as cosmetics and horseshoeing. All are here legally, but are not counted by IIE.

So the number of F-1 students is certainly well over a million and the number of *former* F-1 students, who have moved into illegal status, is not known, but may be approaching the size of the legal student population. (A current student is unlikely to be here for more than four or five years, a former one in illegal status can be here for the rest of his or her life.)

The supervisory framework for this program is remarkably weak, which is one of the reasons why it is abused so easily. A tertiary unit in the Department of Homeland Security, a subset of Immigration and Customs Enforcement, the Student and Exchange Visitor Program (SEVP), is supposed to monitor the foreign students in the United States. SEVP's activities are funded by fees paid by foreign students, and as we pointed out some time ago,² SEVP appears to be reluctant to use much of the money made available to it for program monitoring.

SEVP, through a formal but not very rigorous process, issues licenses to some 10,000 academic entities — from Harvard University to the Casey & Son Horseshoeing School in Lafayette, Ga. — allowing all of them to issue the I-20 form, which an alien can then take to an American consulate or embassy to seek an F-1 or M-1 visa. SEVP

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formerly had no field staff at all to monitor these schools, and now has a tiny one. It is a sleepy agency that seems loath to terminate a license for any organization on its long list.

Given the pattern of I-20 issuance, the only governmental screening of incoming foreign students must be done by our over-worked consular officers. They are the ones who issue or deny the F and M visas. (More than one out of seven applications for student visas, a relatively high percentage for such decisions, were rejected by the State Department in FY 2014.)

How the Foreign Student Program Is Abused and Distorted. There are four ways that the foreign student program is used that are contrary to the public interest. The program is subject to both retail (one at a time) abuse by foreign students and wholesale (illegals in bunches) abuse, and the program is also subject to severe distortion both by individual institutions and, most importantly, by the administration.

Retail Abuse. While most foreign students actually study in the States, others, once they are admitted, scamper into illegal status. Still others study for a while, maybe years, and then drift into the underground labor market. All of this happens one alien at a time, but, over the years, the numbers become large. Unless one of these visa abusers commits a crime, he or she is highly unlikely to be bothered by DHS.

Wholesale Abuse. A much smaller, but more dramatic, problem occurs when a marginal educational institution decides to let in large groups of “students” who pay some fees to the entity and then disappear into the illegal alien population. These so-called “visa mills” often have a small, legitimate study program and a list of faculty members, but many to most of those enrolled are busy seeking or holding down illegal jobs.

I have watched and, in one case, visited, these entities over the years and the five most prominent recent candidates for the title “visa mill” had the same configuration: All said that they were teaching high-tech subjects, all had a predominantly Indian student population, and all were Chinese-owned or -operated.

Four of these are in the Bay Area of California and a fifth, the University of Northern Virginia, operated out of an English basement in a small office building (with many other tenants) in Annandale, Va., near Washington. This “university”, which operated for years, had a grand total of four classrooms. SEVP denied it the I-20 issuing authority, but only after the equally sleepy Commonwealth of Virginia regulatory body had yanked its state license.

The U.S. attorneys’ offices in California have jailed the former presidents, CEOs, and owners of Tri-Valley University and Herguan University in the Bay Area on immigration fraud and other charges.³ Tri-Valley is closed, Herguan still operates.

Two other somewhat similar institutions in the Bay Area, Northwestern Polytechnic University and Silicon Valley University, are seeing some of their Indian, would-be students denied admission to the United States on the grounds that they really are not coming to the United States to study.⁴ Both institutions remain, however, on the SEVP list of entities that can issue the I-20. NPU, which has 501(c)3 status, took in \$40 million in tuition payments and racked up a profit of \$29 million in 2014.⁵

Institutional Distortion. This is a grey area. The F-1 program is supposed to be about education. But some DHS-licensed entities provide nothing but graduate degrees and only hold classes on weekends. Since they are in graduate school, all of the students are automatically and instantly eligible for the DHS-created OPT program, to be discussed shortly, allowing them to take on full-time, Monday-to-Friday jobs. This sounds like a disguised foreign worker program to me.

Other borderline institutions have this approach to their F-1 drop-outs: If the former student keeps paying tuition they are not reported to DHS, whether they are attending class or not. If they do not pay, they get reported.

Distortion by the Administration. Perhaps the most harmful part of the foreign student program has nothing to do with aliens breaking the rules — it deals with the government’s creation, out of whole cloth, of the OPT program without a shred of congressional input.

The Optional Practical Training program was invented by the second Bush administration and then enlarged and promoted by the Obama administration. It waves a magic wand and converts college grads back into college students, and then makes it possible for those ex-students to work in the United States outside the parameters of all the foreign worker programs. Further, it gives the employers of OPTs a substantial tax break for hiring OPT alumni rather than hiring an equally, or more qualified, resident college grad at the same basic salary.

The tax break, of as much as \$12,000 to the employer (and an equal amount for the alien ex-student), comes because payroll taxes are not charged against “student” workers. Were the employer to hire a citizen or a green card holder (or an H-1B) worker, the normal FICA and Medicare taxes would be in effect. This not only creates an uneven playing field for American college grads, it prevents an estimated payment of more than \$1 billion a year into the trust funds for the elderly.

OPT status, incidentally, is granted by SEVP-listed universities, not directly by the government.

In 2013-2014, the IIE survey of colleges and universities showed that they had authorized 105,997 OPT grants; this number increased to 120,287 the following year. This is, by definition, an under-count as IIE does not secure OPT information on some of the more marginal educational institutions (though they are licensed by DHS).

The president is seeking to extend the length of OPT status for alien grads with science, technology, engineering, and math (STEM) degrees from the current 29 months to 36 months.⁶

There are scores of visa categories and subcategories, some much more conducive to fraud than others. We have shown here how many problems exist within just one of them.

End Notes

¹ Number is for students in the 2014-2015 academic year. The source is the Institute for International Education’s annual [“Open Doors”](#) report.

² See David North, [“Migration Enforcement Agency Discourages Funds for its Own Work”](#), Center for Immigration Studies *Background*, January 2013.

³ See Karen de Sá, [“Jerry Wang, CEO of Herguan University, sentenced to prison”](#), *San Jose Mercury-News*, September 16, 2015.

⁴ See Chidanand Rajghatta, [“University of Manavallu’ in Silicon Valley: A Dodgy Chinese-Telegu Alliance”](#), *Times of India*, December 23, 2015. Manavallu is — I think — a satirical reference to a region of southern India, where Telegu is the local language. According to the article, Telugu is the lingua franca of the campus of Northwestern Polytechnic University in Fremont, Calif. The Indian press has paid much, much more attention to these developments than the U.S. press has.

⁵ This surplus is reported on NPU’s 2014 annual financial report ([form 990](#)) filed with the Internal Revenue Service. Forms 990 are public documents.

⁶ See David North, [“Let’s Use a More Accurate Set of Initials for the OPT program: AAA”](#), Center for Immigration Studies blog, December 15, 2015. AAA stands for “Asian Alumni Association”, as all OPT workers are graduates and more than 80 percent of them are from Asia.