

ICE Reverses Course Again – International Students May Now Attend Online-Only Institutions in the U.S. During the Fall 2020 Semester

As we reported last week, on July 6, 2020, U.S. Immigration and Customs Enforcement (ICE) announced that F-1 and M-1 nonimmigrant students attending schools operating entirely online were not permitted to remain in the U.S. and take a full online course load during the fall 2020 semester. As a result of this directive, students in the U.S. currently enrolled in entirely online schools and/or programs for the fall 2020 semester would have had to depart the U.S. or transfer to another institution with in-person instruction to remain in valid student status. Further, this modification would have applied: (i) where a school pivoted from in-person or hybrid instruction to online-only instruction mid-semester (like what occurred during the spring 2020 semester); and/or (ii) where a nonimmigrant student changed their course selections from a combination of in-person and online courses to online-only courses.

As indicated in our [information memo](#) from last week, Harvard and MIT filed a lawsuit in the U.S. District Court for the District of Massachusetts seeking to block ICE's implementation of the policy directive regarding international students and online learning during the fall 2020 semester. Additional suits were filed by the state of New York, a consortium of colleges and universities in the western part of the U.S., Johns Hopkins University and a coalition of 17 other states and their attorneys general. Further, amici briefs were filed in the Harvard and MIT lawsuit by educational associations, including the American Council on Education and the Presidents' Alliance on Higher Education and Immigration, as well as technology giants Facebook, Google and Microsoft. Following this flurry of legal activity and during a hearing in the Harvard and MIT case on Tuesday, July 14, 2020, U.S. District Judge Allison D. Burroughs announced that the schools and the federal government had reached an agreement to settle the litigation. As a result of the settlement, ICE will revert back to the guidance it issued on March 9, 2020 that permitted international students to remain in the U.S. and take a full online course load during the COVID-19 pandemic. The settlement specifically precludes enforcement of the July 6, 2020 ICE directive and accompanying frequently asked questions on a nationwide basis and renders the other pending cases in New York, California and elsewhere moot.

The settlement in the Harvard and MIT case is a huge victory for the over one million international students in the U.S. and the colleges and universities who have altered their traditional instruction models for the upcoming academic year in light of the ongoing pandemic.

Should you have additional questions, please contact [Joanna L. Silver](#), any of the [attorneys](#) in the [Immigration](#) practice, or the attorney in the firm with whom you are regularly in contact.



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