

S. HRG. 112-925

**STRENGTHENING THE INTEGRITY OF THE STUDENT VISA SYSTEM BY PREVENTING AND DETECTING SHAM EDUCATIONAL INSTITUTIONS**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION,  
REFUGEES AND BORDER SECURITY

OF THE

**COMMITTEE ON THE JUDICIARY**

**UNITED STATES SENATE**

ONE HUNDRED TWELFTH CONGRESS

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# CONTENTS

## STATEMENTS OF COMMITTEE MEMBERS

	Page
Schumer, Hon. Chuck, a U.S. Senator from the State of New York .....	1
Grassley, Hon. Charles, a U.S. Senator from the State of Iowa .....	3
prepared statement .....	22
Feinstein, Hon. Dianne, a U.S. Senator from the State of California .....	3

## WITNESSES

Witness List .....	21
Gambler, Rebecca, Acting Director, Homeland Security and Justice, U.S. Government Accountability Office, Washington, DC .....	5
prepared statement .....	25
Woods, John P., Assistant Director, National Security Investigations, Homeland Security Investigations, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security, Washington, DC .....	6
prepared statement .....	37

## QUESTIONS

Questions submitted by Senator Grassley for Rebecca Gambler .....	47
Questions submitted by Senator Grassley for John P. Woods .....	48

## ANSWERS

Responses of Rebecca Gambler to questions submitted by Senator Grassley ....	50
Responses of John P. Woods to questions submitted by Senator Grassley (redacted) .....	55



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**TUESDAY, JULY 24, 2012**

U.S. SENATE,  
SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND  
BORDER SECURITY,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:10 a.m., in Room SD-226, Dirksen Senate Office Building, Hon. Charles E. Schumer, Chairman of the Subcommittee, presiding.

Present: Senators Schumer, Feinstein, and Grassley.

**OPENING STATEMENT OF HON. CHARLES E. SCHUMER, A U.S.  
SENATOR FROM THE STATE OF NEW YORK**

Chairman SCHUMER. The hearing will come to order, and I want to thank my colleagues for coming. The majority of people here are Chucks.

Senator FEINSTEIN. Are what?

Chairman SCHUMER. Chucks: Chuck Schumer, Chuck Grassley. [Laughter.]

Chairman SCHUMER. Okay. All right. Well, thank you and good morning. Today's hearing is on strengthening the integrity of the student visa system by preventing and detecting sham educational institutions, and I want to thank both my colleagues, the three of us, along with Senator McCaskill, who asked for a GAO report, oh, about nine months ago. And I think the GAO is now going to report to us. I have seen it, and I think you have done a very good job.

It is an incredibly important topic. There are currently more than 850,000 active foreign students in the United States enrolled at over 10,000 schools, and by and large, the student visa system provides an enormous benefit to the U.S. It allows us to attract the world's top talent to our country to study and hopefully to live here and create new companies, technologies, and jobs. Foreign students also stimulate our economy by spending money in our stores, restaurants, and providing our universities with additional capital in the form of full tuition payments.

But as with all our immigration laws, we must balance the clear economic benefits of the Student Visa Program with the need to keep our country secure. It is well known by now that one of the September 11th terrorists entered the country on a student visa

and subsequently attended flight school. Two of the September 11th terrorists received visitor visas and after entering the country illegally attended flight schools. And recently there has been a recurring problem in our immigration system; that is, the illegal use of student visas by foreign nationals to attend sham schools. These sham schools are not real institutions of learning, but rather operate solely for the purpose of manipulating immigration law to admit foreign nationals into the country.

The latest phenomenon occurs in my colleague Senator Feinstein's State, the Tri-Valley University in Pleasanton, California—I know she has been involved in this—where over 1,500 students from foreign countries obtained visas to enroll in an unaccredited school that failed to provide education.

In my home State of New York, an English language school known as "Accent on Language" was recently shut down in April for being a sham school.

So to get hold of the problem, Senators Feinstein, Grassley, McCaskill, and I asked the GAO to study the Student Visa Program to determine whether we are doing a good enough job to stop sham schools, and what the GAO found was very troubling.

GAO found that ICE has not implemented fraud prevention practices to verify the legitimacy and eligibility of schools giving out student visas, both during their initial certification and after these schools begin accepting foreign students.

GAO found that a significant number of schools certified to give out visas to international students are not even licensed by the State in which they operate.

Most shockingly, of 434 flight schools that provide student visas, an astounding 167, 38 percent—let me repeat that—38 percent are not accredited by the FAA. This finding is especially worrisome since two of the 9/11 hijackers successfully applied for student visas to attend flight schools.

GAO's report found out a lot about the Tri-Valley case and that it is part of a larger trend of sham schools defrauding the Student Visa Program.

In 2004, we required DHS to complete an audit of the 10,000 schools in the U.S. that provide student visas. GAO found that eight years after the deadline for the completion of the audit, federal authorities only recertified 19 percent of the visa-issuing schools.

In light of this report, Senators Grassley, Feinstein, McCaskill, and I will be introducing legislation that will combat sham schools. Our legislation, when passed, will achieve the following objectives: Require flight schools to be accredited by the FAA; require all schools to show proof of appropriate State licensure before they are able to give student visas; increase penalties for directors, officers, and managers of sham universities; and prevent top officials affiliated with a university shut down by ICE from being a director, officer, or manager of another school to avoid them opening up a new one after the old one is closed.

It will require the officer at each university in charge of helping ICE give out student visas and ensure compliance to have a background check, undergo training, and go through e-verify before they can serve as a designated school officer; and, finally, require ICE

to visit every non-accredited school that gives students visas within a year of enactment to ensure legitimacy of the school.

These are much-needed steps that dramatically reduce fraud and restore confidence in our Student Visa Program.

With that, let me call on Senator Grassley, and then I will call on Senator Feinstein, each for opening statements.

**STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR  
FROM THE STATE OF IOWA**

Senator GRASSLEY. You have had so many factual statements that I am not going to repeat, so I will put that portion of my statement in the record.

Chairman SCHUMER. Without objection.

[The prepared statement of Senator Grassley appears as a submission for the record.]

Senator GRASSLEY. I will just give a short summation here.

I am glad that we have Mr. Woods here from Immigration and Customs Enforcement to explain how two departments under his purview have allowed for sham schools to operate. I want to hear assurances that interagency disagreements are a thing of the past and that counterterrorism officials and program officers are working together to root out fraud.

I want to know what changes have been made by Secretary Napolitano's Department since the report was initiated, including efforts to rein in crooked designated school officials.

I want to know why the Department has not yet required background checks of designated school officials and why the Department has not yet changed its rules to kick a school out of the program if it is not complying.

I want to know why non-FAA-certified schools continue to be a part of the program, continue to have access to the SEVIS data base, and are still allowed to bring in foreign students.

I am also calling on Secretary Napolitano to immediately improve the oversight of schools and implement the GAO recommendations. The Department needs to get its act together, complete the recertification process, and use the resources more effectively.

Additionally, and last, I am interested in hearing what legislative changes need to be made. Senator Schumer has already talked about the proposed legislation. This hopefully can be enacted promptly, and so far it looks like it is going to be in a bipartisan manner, and I hope that will continue so that we can salvage the integrity of our Foreign Student Visa Program and ensure safety for our citizens.

Thank you.

Chairman SCHUMER. Thank you, Senator Grassley.  
Senator Feinstein.

**STATEMENT OF HON. DIANNE FEINSTEIN, A U.S. SENATOR  
FROM THE STATE OF CALIFORNIA**

Senator FEINSTEIN. Thank you very much, Mr. Chairman, first of all, for this hearing, you and Senator Grassley for the willingness to work together, and, I think, the recognition that we have a continuing problem.

I started on this right after 9/11, and looking at sham schools, there was one right next to my office in San Diego, and my staff pointed it out. And a number of arrests were made in California in the San Diego area.

The thing is it continues on, and if you look at the Tri-Valley situation, which is 10 years after 9/11—and as you said, 38 percent—well, let me not confuse it, but let me say something about Tri-Valley.

School officials enrolled 1,500 foreign students until a federal investigation exposed the school as a scam in February 2011. The school was authorized to only accept 30, but by May 2010, when ICE began its investigation, they had 939 international students, and by the fall of 2010, there were 1,555 students for a school that did not exist. They were caught giving student visas to undercover agents posing as foreign nationals who explicitly professed no intention of attending classes. So the federal agents said they did not intend to attend classes, but they still were accepted.

Now, the 9/11 hijackers would not have been able to carry out attacks in the United States if they had been unable to enter the country from the beginning. They received valid visas to enter the United States in order to harm our Nation. And one of them, Hani Hanjour, entered the United States on a student visa in December 2000 to attend an English-language school in my backyard, Oakland, California. After entering the United States, he never attended the English-language school but instead took refresher pilot training lessons at a flight school in Arizona. Flight schools were teaching people how to take off but not to land, and no one thought it was strange.

And I think what Senator Schumer has just said, that 38 percent of these flight schools do not have the required FAA certification, there ought to be a strong penalty for that. They ought to be prohibited from operating without FAA certification and supervision, in my view.

So now the Student Exchange Visitor Program is often unaware of when the FAA revokes certification for flight training providers, and we understand that your agency is working to correct this problem.

I think the time has come, Senator Grassley and Mr. Chairman, to really get tough. We have had 10 years. It has been “try and fail.” And I am for some very strict criminal penalties. So I look forward to working with you in this regard.

Chairman SCHUMER. Thank you, Senator Feinstein. We appreciate your long-term leadership on this issue, and with this legislation maybe we can finally do what is needed to be done, and the report helps importune us on.

We now have two witnesses today. The first is Rebecca Gambler. She is the Director of Homeland Security and Justice Issues at the GAO, the Government Accountability Office, which did our report. She joined GAO in 2002, has worked on a wide range of issues related to homeland security and justice, including border security, immigration, DHS management and transformation, and I have heard you testify before, and you are excellent. You know, you are the best of government employees, hard-working, and we are glad that you are in the GAO. And I am also proud that you have three

master's degrees, one of which is from Syracuse University School of International Relations.

John Woods is the Assistant Director of National Security Investigations for the Immigration and Customs Enforcement, ICE, and he, I am proud to say, is a native New Yorker. I do not want to be too chauvinistic here. If you have California or Iowa connections, please state them in your opening remarks. But, in any case, he is a career enforcement officer, began in 1987 as an INS special agent. For the last 25 years, he has worked his way up to his current position. He is now chief of a 450-person division, manages a \$160 million operational budget which oversees ICE's investigative, regulatory, and technological programs. He is in charge of targeting transnational and national security threats arising from illicit travel, trade, and finance.

So, with that, each of your statements will be read into the record, and we are first going to call on—it is logical to have the issuer of the report come first and then the response from Mr. Woods.

Ms. Gambler, you may proceed.

**STATEMENT OF REBECCA GAMBLER, ACTING DIRECTOR,  
HOMELAND SECURITY AND JUSTICE, U.S. GOVERNMENT AC-  
COUNTABILITY OFFICE, WASHINGTON, D.C.**

Ms. GAMBLER. Good morning, Chairman Schumer and Members of the Subcommittee. I appreciate the invitation to testify at today's hearing to discuss GAO's work on the Student and Exchange Visitor Program, or SEVP.

Within the Department of Homeland Security, ICE is responsible for managing the program to ensure that foreign students comply with the terms of their admission. ICE also certifies schools to be eligible to enroll foreign students in academic and vocational programs. As of January 2012, more than 850,000 active foreign students were enrolled at over 10,000 certified schools in the United States.

I would like to focus my remarks this morning on two areas related to ICE's management of SEVP. First, I will discuss the extent to which ICE has identified and assessed program risks. Second, I will discuss the extent to which ICE has implemented procedures to detect and prevent fraud and noncompliance on the part of certified schools.

With regard to the first area, ICE does not have a process to identify and assess risks posed by schools in SEVP. In particular, we reported that SEVP has not evaluated information on prior and suspected cases of school fraud and noncompliance to identify lessons learned from such cases. For example, as of March 2012, ICE reported that it had withdrawn 860 schools from the program since 2003, at least 88 of which were withdrawn for noncompliance issues. However, SEVP has not evaluated these schools' withdrawals to determine potential trends in their noncompliant activities. We reported that such information could help SEVP focus its compliance efforts.

Additionally, SEVP has not obtained and analyzed information from ICE criminal investigators on school fraud cases. Information from investigations could help provide SEVP with insights on the

characteristics of schools that have committed fraud and the nature of those schools' fraudulent activities. ICE is beginning to study the potential risks posed by schools in SEVP, but these efforts are in the early stages of implementation.

With regard to the second area, we identified weaknesses in ICE's monitoring and oversight of SEVP-certified schools related to four key program controls.

First, we reported that ICE has not consistently verified certain evidence initially submitted by schools in lieu of accreditation.

Secondly, ICE has not consistently maintained certain evidence of selected schools' eligibility for SEVP. Specifically, in our random sample of 50 school case files, 30 files did not contain at least one piece of required evidence, and ICE was unable to produce two school case files.

Third, ICE does not have a process to monitor schools' State licensing status and non-language schools' accreditation status.

Finally, we reported that some SEVP-certified schools that offer flight training do not have the FAA certifications required by SEVP policy to be eligible to offer flight training to foreign students. The specific FAA certifications are required by SEVP because FAA directly oversees these flight schools on an ongoing basis. As of December 2011, we found that about 38 percent of SEVP schools certified to offer flight training to foreign students did not have the required FAA certifications.

ICE is taking actions to address these issues, such as working with the FAA to determine which schools have not met the requirements, and taking withdrawal actions against those schools as appropriate.

In closing, ICE aims to facilitate study in the United States for hundreds of thousands of foreign students each year. Effective oversight of SEVP entails balancing this objective against the program's potential risks. ICE has taken some steps to assess program risks and develop policies for certifying and monitoring schools. However, we reported that the program continues to face significant challenges and that ICE should take additional actions to improve its ability to prevent and detect potential school noncompliance and fraud. We have made a number of recommendations to ICE to strengthen its management and oversight of the program, and ICE has agreed with our recommendations.

This concludes my oral statement, and I would be pleased to answer any questions the Members may have.

[The prepared statement of Ms. Gambler appears as a submission for the record.]

Chairman SCHUMER. Thank you, Ms. Gambler.

Mr. Woods.

**STATEMENT OF JOHN P. WOODS, ASSISTANT DIRECTOR, NATIONAL SECURITY INVESTIGATIONS, HOMELAND SECURITY INVESTIGATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, D.C.**

Mr. WOODS. Chairman Schumer, Ranking Member Grassley, and Senator Feinstein, thank you for the opportunity to discuss the

Student and Exchange Visitor Program, or SEVP, and our response to the GAO findings in its recently released report.

SEVP is one area that ICE continues to prioritize, and after reviewing GAO's recommendations, we have already made progress in implementing them. SEVP is committed to maintaining national security while keeping the international student and exchange visitor visa issuance process efficient for schools and students.

As you know, SEVP, within ICE's Homeland Security Investigations 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, or SEVIS. This data base 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 Department of State to sponsor these visitors. SEVP regulates schools' eligibility to enroll foreign individuals for academic and vocational training purposes and manages the participation of SEVP-certified schools in the program and nonimmigrant students in the F, J, and M visa classifications and their dependents.

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

Each year, the CTCEU analyzes the records of hundreds of thousands of potential status violators using information from SEVIS and the US-VISIT data base, along with other information. The CTCEU resolves these records by further identifying potential violations that would warrant field investigations, and many times resulting in establishing compliance, or establishing departure dates from the United States, or effecting the arrest and removal of an individual violator.

In its report, GAO made eight recommendations with which we have concurred.

First, the 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 to remain in the United States.

To combat student visa fraud, we established a School Exploitation Section of CTCEU and later the SEVP Analysis and Operations Center, which supports HSI's main goal of preventing exploitation of legitimate student pathways into the United States and school fraud activity.

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, designated school officials, and SEVP-certified schools in order to pro-

vide law enforcement with high-quality, timely, analytical information and service support for school compliance and foreign student issues.

The GAO also identified the 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 noncompliant schools.

As GAO outlined in its report, flight schools have a unique set of risks. SEVP is currently working with the 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 certifications. SEVP has contacted those flight schools that do not have the required certification and, in consultation with the FAA, is developing time frames to require those schools to re-obtain their FAA certification. Schools that do not meet the time frames will have their SEVP certification withdrawn.

GAO also noted that determining whether a school meets certification or accreditation requirements can be complex and may change over time. A key part of SEVP's mission is to certify that all enrolled F and M nonimmigrant students are in status. With the general exception of English language programs, which will be required to be accredited in December 2013, schools are not required to have national accreditation in order to obtain SEVP certification.

If a petitioning school claims national accreditation, SEVP requires evidence of such accreditation. Some States impose their own licensing requirements on educational programs. Therefore, we are developing procedures to require validation of any State license or other accreditation information they provide to us.

GAO also had recommendations concerning recordkeeping. When SEVP was established in 2003, it inherited a large amount of decades-old paper records from the former 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 these historical record. Working through the update and recertification process, we are ensuring that these files are updated, complete, and correct.

Again, we appreciate the assistance of GAO's findings, and we are working diligently to fully address the remaining concerns. With thousands of colleges, universities, and other institutions of higher learning in the United States, we remain the gold standard in education around the world. While we encourage a growing and robust foreign student population, we must also maintain our unwavering commitment to protecting our Nation's security.

Again, thank you for the opportunity to testify today, and I would be pleased to answer any questions that you have.

[The prepared statement of Mr. Woods appears as a submission for the record.]

Chairman SCHUMER. Let me thank both witnesses.

I will try to keep the questioning to five minutes so that we can have second rounds and because Senator Grassley has another appointment.

First, I want to ask each of you, you have heard what our bill will do; you have seen our bill. Do you think the provisions of the bill will positively address the vulnerabilities in the Student Visa Program? And what might you add? First, Ms. Gambler.

Ms. GAMBLER. We have had a chance to review the provisions of the bill, and those provisions certainly address a number of areas that we pointed out were challenges in ICE's management of the program, including looking at how the accreditation process is certified and reviewed by SEVP and also looking at the extent to which ICE is monitoring whether or not flight schools have the required FAA certification.

Chairman SCHUMER. Do you think we are leaving anything out? Is there anything that you would add or change in the bill?

Ms. GAMBLER. I think the bill certainly addressed the different challenges that we pointed out with the program.

Chairman SCHUMER. Good. Thank you, Ms. Gambler.

And what about you, Mr. Woods? I do not know what kind of constraints you are under, but what is your—does your Department have an opinion on our bill? And do you have a personal opinion on our bill?

Mr. WOODS. First of all, I had the chance to review the bill, and as a law enforcement agency, we appreciate the legislature's efforts to enhance our law enforcement efforts.

In due time, when it comes out for comment, we would be glad to provide an official stance from the agency, but at this time I would like to encourage your staff to work with our staff to ensure that—

Chairman SCHUMER. But do you think it is going in the right—this is your own personal opinion. You—

Mr. WOODS. My personal opinion is it is going in the right direction, yes.

Chairman SCHUMER. All right. Second question—for you, Mr. Woods. What is the status of DHS' actions to address noncompliant flight schools that remain SEVP certified?

Mr. WOODS. Like I said in my opening statement, we have initiated work with the FAA to identify those schools that do not have the proper—which would be the 141—classification or certification to remain in SEVP, to remain a SEVP-certified school.

As of now, we have identified, of the 469 schools that we have SEVP certified for flight training programs, 153 that do not have the proper FAA certifications. But when you drill that number down further, you will find 30 of these institutions have closed completely and are withdrawn from the program; 61 do not even offer flight training anymore as part of their curriculum. Although they have been certified by SEVP to offer flight training, they have

to take their I-17 and take that off their certification process. So that is an update issue.

Chairman SCHUMER. Will it interfere with them granting visas when they should not? Will that stop them—"interfere" is the wrong word. Will that stop them from granting visas when they should not if they do not have flight programs?

Mr. WOODS. They would not be able to provide I-20s to students for flight training. They could provide it for other—many schools that provide flight training—

Chairman SCHUMER. I understand. But I am asking will it prevent—

Mr. WOODS [continuing]. Along with other—

Chairman SCHUMER. Will it prevent them from falsely bringing—you know, wrongly bringing people into the country who should not be here?

Mr. WOODS. Until their I-17 is updated, no, it will not.

Chairman SCHUMER. Okay. Keep going. So those 61 could still be committing—

Mr. WOODS. Yes. And we are working with the FAA on the remaining schools to determine a time frame on which they can re-obtain their—

Chairman SCHUMER. So have you closed any new ones? Have you closed—

Mr. WOODS. At this point, 32 schools have been closed.

Chairman SCHUMER. You closed them or you said 30 closed.

Mr. WOODS. They are closed and out of business. But we did not close them, no.

Chairman SCHUMER. So what is taking so long? That is my question.

Mr. WOODS. We are working with the schools to make sure that they update their FAA certification so they can continue to bring in students if they wish to, but they have to have the right certification. And the FAA process is a time-consuming process, apparently.

Chairman SCHUMER. Okay. Now, let us see here. I have time for one more.

The Border Security Act required recertification for all SEVP-certified schools by May 2004—that is eight years ago—and every two years thereafter. However, ICE began the first recertification cycle in May 2010, and as of March 2012, it only recertified 19 percent of the SEVP-certified schools. So two questions: As of July 20th, what percentage of schools has ICE recertified? What actions, if any, has ICE taken or plan to take to expedite this recertification process? You must admit it is going at a snail's pace.

Mr. WOODS. Yes, I would admit that. The process going back to 2004, SEVP was not correctly funded to initiate a recertification program. With the fee rule in 2009, we were able to set up and fund the hiring of adjudicators to do the recertification process. As of now, we are fully staffed with adjudicators to do that process, and we are conducting somewhere between 350 and 400 recertifications a month, and we are up to 32 percent of the total school population.

Chairman SCHUMER. My time has expired, Senator Grassley. We will have a second round.

Senator GRASSLEY. Well, I will follow the same line that Senator Schumer did. We have 167 flight training schools that did not have proper certification and were still SEVP certified. GAO said that ICE may not be aware of the flight schools that had their FAA certification revoked. They also identified one school that had lost its FAA certification but still enrolled foreign students. Obviously this is both a national security issue and something that is unacceptable.

GAO recommended that ICE establish target time frames for notifying schools that lack certification so that they can re-obtain it. Homeland Security officials responded that they would work on those time frames and that it could be done by September 30th. I do not think this is an issue that should take months to resolve. So my question to you, Mr. Woods, and if you cannot be specific, I would take an answer in writing: What kind of time frames are we talking about? Are we talking about a day, a month, a week, or how long? And are they allowed to bring in foreign students during that process?

Mr. WOODS. To answer your question, as of right now, we have notified every school that has certification to do flight training that does not have the proper FAA certification to go out and re-obtain their 141 certification. If they do not do that forthwith, as I said in my opening statement, they will be withdrawn from SEVP through the administrative notice to withdraw process.

Senator GRASSLEY. Are they allowed to bring in foreign students during this process?

Mr. WOODS. I think it is under review whether they are issuing I-20s for flight training or not, those institutions.

Senator GRASSLEY. Okay. For both you and Ms. Gambler, before I ask a question, I have this lead-in. There are several issues regarding the Student and Exchange Visitor Program, including lack of coordination within ICE, flight schools, and sham universities. On top of that, ICE is forced to verify in lieu of letters provided by unaccredited universities. Some would say that only accredited schools should be eligible to enroll foreign students. Doing so would reduce the workload of ICE to focus on accredited schools. It also may have prevented the Tri-Valley incident.

Questions for both of you, two questions. Should unaccredited schools be able to participate in the SEVP program and bring in foreign students, or should we limit the program to accredited schools only? And, second, if we did take unaccredited schools out of the program, would you make any exceptions to that rule? First, Ms. Gambler.

Ms. GAMBLER. It would really be a policy decision on the part of Congress or ICE to determine whether or not unaccredited schools should be allowed to participate in the program. What we looked at as part of our review, and as you mentioned, Senator, was that ICE was not consistently verifying evidence presented by schools in lieu of certification.

As part of our review of a random sample of 50 case files, we looked at 34 case files for unaccredited schools, and we found that in seven of those cases, the case files were lacking evidence presented by schools in lieu of accreditation.

We also found instances during our review of prior cases of schools submitting false or fraudulently obtained in lieu of letters for accreditation.

So certainly this is an area of risk to the program, and we recommended that ICE do a better job of assessing what the risks are to the program and what the characteristics are of schools that may be potentially noncompliant or fraudulent. And so we made recommendations to ICE to look at that.

Senator GRASSLEY. Okay. Mr. Woods, would you answer my two questions?

Mr. WOODS. Obviously the requirement for higher education to be accredited would greatly reduce the risk factors involved in school fraud for a SEVP-certified school. Currently the greatest concern that we do have is those higher education institutions that are not accredited, and we look at them as a higher risk factor for compliance and site visits to ensure that they are providing education to the students that they bring into the United States.

Senator GRASSLEY. Should you limit the program only to accredited schools?

Mr. WOODS. The difficulty in the accreditation process is that it changes from State to State. Many States have an accreditation process. Some have a licensing process. And we are working with each individual State to identify their process and our validation techniques to ensure that the documents that the schools provide are legitimate. And as I said, you know, I think some sort of State or national accreditation would reduce the risk factor for fraud.

Senator GRASSLEY. I think I can wait for round two, so why don't you go to Senator Feinstein.

Chairman SCHUMER. Okay. Senator Feinstein.

Senator FEINSTEIN. The way I look at this is it is process, process, process, and nothing happens. And it is exactly the same as it was before 9/11.

My view is very clearly—Senator Grassley, you hit the nail on the head—a non-accredited school should not be permitted to take these students, and if you open a sham school, you go to jail. It is just that clear. And I think that is where we have to be.

I think you have to be FAA certified to teach and to grant a pilot's license. And if we have not learned this, I do not think we learned anything.

I know the back of all of this is money. People have the lust to get the money, and it is cheating. It has got to stop because the Nation's security is at stake.

I wanted to ask one question here. Mr. Woods, one of the most troubling things that GAO found was that—and I would like to quote from the report—“SEVP management has not referred potentially criminal cases to the enforcement arm in accordance with ICE's procedures.” And that is CTCEU, which is the criminal unit. I gather relations are very bad between them. What can you say about that?

Mr. WOODS. I would disagree with that. I would say that the relations maybe in the past when they were part of two different divisions were strained because there was a lack of communication. But now that they are both housed within the National Security Investigations Division and I oversee both units, I ensure that

there is crossover of our personnel, that agents are working in with the adjudicators. We set up over the past two years a School Exploitation Section, which focuses solely on school fraud. We set up the SEVP Operations and Analysis Section, which looks at the compliant schools.

Senator FEINSTEIN. Let me stop you. So you disagree with everything on pages 33 and 34 of the GAO report. Is that correct?

Mr. WOODS. I do not disagree with everything. I am just saying I disagree that there is a lack of communication. I think communication has enhanced over the period of the last number of years, and I think we are working toward making one fluid step. The compliance list is shared with our enforcement program to ensure that if there are cases where we feel there are significant risk factors that we want to send investigators out to look at schools, we do.

Senator FEINSTEIN. Okay. Let me read something. "However, in our interviews with eight ICE field offices, field investigators at two offices gave examples of SEVP officials' continuing administrative activities when asked to cease such activity. In one case, investigators stated that the target and owner of a flight school became suspicious of increased attention by SEVP officials and fled the United States in 2011 to avoid prosecution. Our review confirms that the SEVP office was aware of the criminal investigation but continued to take administrative actions.

"In another ongoing case in California, field investigators stated that SEVP officials conducted a site visit to an institution following an owner's indictment after the local ICE field office investigators instructed SEVP to stop administrative activities."

Mr. WOODS. And I would agree that there are some hiccups out there—

Senator FEINSTEIN. Hiccups?

Mr. WOODS [continuing]. Where communication has failed. We have developed a new "Use These Lessons Learned." We have developed a "School Fraud Handbook" at the end of 2010, beginning of 2011, to ensure that there is proper communication between both our enforcement and administrative programs. We are—

Senator FEINSTEIN. Sir, you are into process. We need to get into enforcement. I think that is the difference between us. I was where you were 10 years ago, but it has not worked. Nothing has changed, and the statistics and the GAO report indicates that.

You know, at some point, I think you have got to accept the reality of it, and the reality is your failure to complete the mission.

I am very frustrated. I do not usually talk this way.

Chairman SCHUMER. Keep going. That is true. She is one of the most polite Senators.

Senator GRASSLEY. It is probably an institutional problem as opposed to Mr. Woods' problem. I mean, it is an institutional problem, but he has got to help us solve it.

Senator FEINSTEIN. Well, that is right. As you look through this and you look at the ICE response, you know, ICE will seek to withdraw schools, ICE agreed that SEVP adjudicators should verify all in lieu of, ICE noted that case files may be missing, ICE is developing a quality assurance process. It goes on and on and on, and nothing changes.

Chairman SCHUMER. Exactly. And the frustration we all have is this created a national crisis, and it is 11 years later, and we are still sort of developing things. Can you explain in common-sense, plain language, Mr. Woods, not, in all due respect, a bureaucratic answer, why is it 11 years later we have not had any prosecutions, we have had still a large number of the schools not addressed or looked at or examined? What is going on here? What is wrong? Do you lack the resources? Do you lack the will? Is it not a high enough priority of the agency?

Senator FEINSTEIN. Or is it philosophy?

Chairman SCHUMER. Okay. Good question. Is it philosophy? Can you please give us a frank answer on this? We want to know what is wrong so we can help correct it. We are not out to just flagellate anybody.

Mr. WOODS. I understand, Chairman Schumer. I feel your same frustration. I have been in this position for three years, and I have taken every effort we can to enhance and try to better the communication between our administrative SEVP program and the CTCEU, which is the basic headquarters element that talks to these agents that are out in the field and assists them on their investigations.

Chairman SCHUMER. Well, is that—I am sorry to interrupt. Is the headquarters not giving the agents enough of an impetus to focus on this issue? Do they say there are other issues that are much more important?

Mr. WOODS. No, that is not—

Senator FEINSTEIN. The agents are not cooperating.

Mr. WOODS. The agents are cooperating. In 2009, with the increased fee rule and the schools and students, we were able to obtain further resources to go out and combat the school fraud issues. Prior to that, the focus of the CTCEU, which was the CEU at the time, Compliance Enforcement Unit, was to focus on the individuals, the individual students that may cause a national security threat. We have expanded that program—

Chairman SCHUMER. Instead of the schools.

Mr. WOODS. Instead of schools. We have expanded that program at this point—

Chairman SCHUMER. And that lasted about seven years until you came in? Is that what you are saying?

Mr. WOODS. That is when we had the resources to move forward on that issue, and we obtained those resources, and we moved forward to where now we focus on the institutions that provide the pathways for the fraud, and we focus on those. And we have dedicated agents in the field that every day focus on this. I think that is why this Committee and others are interested in this school fraud issue because we have increased our prosecutions of these cases. We have gone after the designated school officials.

Chairman SCHUMER. It is three years since 2010, and the GAO did not give you good grades, so how do you explain that?

Mr. WOODS. I am not saying we do not have a long way to go. We are moving forward, and we are trying to make the corrections, both administratively and through either procedure and policy, to ensure that we meet GAO's requirements to all their eight rec-

ommendations, to ensure that as we recertify institutions we keep proper records.

Chairman SCHUMER. When will you meet these eight recommendations given your present level of resources and focus?

Mr. WOODS. As I said, you know, we are moving forward. We are processing somewhere between—

Chairman SCHUMER. No, we need—that is not a good—when? A year? Five years?

Mr. WOODS. The recertification process will take two years to complete of all the schools. Through that process, we will have the recordkeeping in order. We are in the process of hiring a new records manager. That will be done this year. We are in the process of developing risk factors which will be in place before the closeout of this fiscal year. So I would say for probably seven of the eight recommendations, with the end of this calendar year we will have them all in place. As for the recertification program and getting that up to 100 percent, it is a two-year process that will be rotating and continuing on.

Chairman SCHUMER. So, in other words, all eight—at least you will have rules in place to meet all eight GAO recommendations by the December 31, 2012?

Mr. WOODS. Correct.

Chairman SCHUMER. That is a little bit—and then you say it will take you two years to get compliance to implement those rules and regulations?

Mr. WOODS. It will take two years to recertify all the schools. When you talk about 10,000 institutions and doing 400 a month, that takes about two years to go through the whole process. And then we start again and start with—

Chairman SCHUMER. Okay. And just one other, and then I will defer to my colleagues. You know, one of the things that GAO recommended is that you do things—you spend the same amount of time investigating Stanford as you do investigating a Tri-Valley Flight School. Why don't you start looking at risk to our country and focus on the schools that, you know, just on a first look are the ones who would create the danger?

Mr. WOODS. Right now we have developed a risk scorecard for institutions that go on to our compliance list. We are enhancing that, working with DHS in the high-track process, and—

Chairman SCHUMER. Is that being used now, that risk scorecard?

Mr. WOODS. Yes, it is.

Chairman SCHUMER. Since when?

Mr. WOODS. Since January of this year.

Chairman SCHUMER. I see. Pretty reasonable. Okay. I have asked a lot of questions. Let me defer to either of my colleagues.

Senator GRASSLEY. Can I go ahead, please?

Chairman SCHUMER. Yes, please.

Senator GRASSLEY. You know, we have talked about this since September 11, 2001, but this is a problem that goes back to the 1993 World Trade Center bombing because we had student visa violators involved in that, and we created SEVIS as a result of the 1993 incident and I know, Mr. Woods, you are connected or you know a lot about that because you were on the Joint Terrorism Task Force from 1993 to 1995. And I do not say that to embarrass

anybody. I just say that you have a background and you know what this problem is. And I wonder if you are not connected with a lot of bureaucrat initiative, and you said you have been working hard, and I do not question that you probably have been working hard. But if heads do not roll—you know, you put out instructions, and if heads do not roll, you are never going to get any change of behavior.

Let me lead to a question for you, Mr. Woods, dealing with designated school officials. We have learned that there are some of these DSOs who are bad actors and commit fraud in order to enroll foreign students. While these school officials must be U.S. citizens or legal permanent residents, there is no requirement that the school conduct a background check of them. Some educational institutions voluntarily do do that.

Why doesn't ICE require all schools who participate in the Student and Exchange Visitor Program to undergo background checks? And would you commit to issue a rule that would require background checks of DSOs?

Mr. WOODS. In working with our Office of Policy, I would recommend to them that we issue a rule, absent legislation requiring it, that we do a background check on all designated school officials. That is one of the recommendations we have pending our policy program.

Senator GRASSLEY. So do I interpret that to mean you are already in the process of issuing such a rule?

Mr. WOODS. We are recommending that to our Office of Policy, yes.

Senator GRASSLEY. Okay. Is that moving along fast enough that it is going to become a rule, or what is the impediment to getting that done in a certain time frame?

Mr. WOODS. Again, there are competing priorities on rulemaking and which rules are going to be adopted by the Department, and we fall in line with the rest of the Department on policies and rules.

Senator GRASSLEY. Okay. For you, Ms. Gambler, do you think that the SEVP office lacks an enforcement-minded approach that is required of an agency whose mission is to protect the homeland?

Ms. GAMBLER. As part of our review, we did hear from the criminal investigators in CTCEU that they were concerned that SEVP has not focused enough on compliance and oversight. Certainly it is a shared responsibility between SEVP and the criminal investigators to identify potentially noncompliant schools—that would be on the part of SEVP—and referring that information to CTCEU when it becomes potentially criminal in nature.

At the same time, the criminal investigative side can really help SEVP identify potential risks to the program that could help SEVP target its compliance activities and, do a better job of certifying schools, checking the evidence at certification, and providing ongoing monitoring for schools to ensure that they are still eligible to be in the program.

Senator GRASSLEY. Let me follow on something that would fit into what Senator Feinstein said about philosophy. In your view, is there more interest for the office to be a friend of the schools rather than a regulator?

Ms. GAMBLER. We did not specifically look at that issue, Senator, but, again, we did hear some concerns from the criminal investigators in CTCEU that SEVP was not putting enough emphasis on its compliance and monitoring mission.

Senator GRASSLEY. Okay. I thank you.

Chairman SCHUMER. Can we have Mr. Woods follow up on what Ms. Gambler said? Because it is right in line with both Senator Feinstein's and Senator Grassley's comments. What she is saying is your focus is sort of being more friends to the schools, helping them, as opposed to compliance and enforcement. Senator Feinstein asked about the attitude of people in the field on this issue. Would you address that, Mr. Woods?

Mr. WOODS. Certainly. CTCEU is composed of special agents, law enforcement individuals. The Student and Exchange Visitor Program is composed of adjudicators, program analysts, and support staff. SEVP and CTCEU do have complementary missions where SEVP does not need to provide support and service to the designated school officials who maintain the SEVIS data base. They work hand in hand with school officials and the universities to ensure that they are complying with the law, complying with the regulations to bring students in. They have to strike a balance between the friendly side to the universities and the enforcement side to the universities.

Additionally, where our special agents can focus strictly on criminal investigations, we move forward on those cases and have a strict enforcement mode. So SEVP does have a dichotomy where they need to balance both being a friend to the school and helping them to comply and also identifying sources of fraud that are systematic or egregious that we can enforce.

Chairman SCHUMER. Senator Feinstein.

Senator FEINSTEIN. I am just very dissatisfied with the progress. I think this a very good GAO report, and what I am going to do—and it would be wonderful if you wanted to do it—is send this report with a letter from us that we have been watching this situation, that we are really concerned about the lack of progress that has been made, the vulnerability, the over-attention to process.

Let me read something on page 36 of the report. “While the coordination standard operating procedure for SEVP, CTCEU, and ICE field offices requires that SEVP refer allegations or leads revealing possible criminal violations to the Enforcement Unit in a timely manner, the procedure does not have criteria for determining when certain noncompliant activity becomes potentially criminal.” It goes on and on.

“The SEVP Compliance Unit first shared its compliance case log with CTCEU in October 2011. Upon review of this information, CTCEU officials stated that several of the compliance cases could involve potential criminal violations. CTCEU officials identified examples of potentially criminal violations, including designated school officials sharing SEVIS passwords, a school not holding class but reporting attendance, a school reporting its own address as students' addresses, and a school charging additional fees for showing students as compliant.”

And it goes on like that.

It is so elemental, and yet—and it was elemental 10 years ago, that I really think we need to bring the Secretary's attention to the failure of the system and ask for major reforms, and particularly an enforcement mode.

Chairman SCHUMER. I agree.

Senator FEINSTEIN. Because these case studies—and it goes on and on and on. The sham—

Chairman SCHUMER. You said process, process, process.

Senator FEINSTEIN. Yes, exactly. That is my—

Chairman SCHUMER. I think it is a good idea to send a letter. We will ask Senator Grassley and Senator McCaskill as sponsors to do it.

Now, I have a few more related questions. Some people say—and I would ask Ms. Gambler this—that the penalties are so low that the enforcement part of ICE does not bother. Do you think the penalties—and I guess I would ask Mr. Woods, too. We have a two-year mandatory sentence for false accreditation and reporting, up to 15. Will those be sufficient? Are they tough enough? And will they then get Enforcement to do more? Because one of the ex—one of the reasons—I was going to say “excuses.” But one of the reasons they say is the penalties are not tough enough to merit criminal prosecution. Any comments on that, Ms. Gambler?

Ms. GAMBLER. Mr. Chairman, we did not look at the penalty issue as part of our review. What we did focus on was really the extent to which ICE was effectively implementing the existing controls and processes it has in place.

Chairman SCHUMER. Did you come across any of this, you know, that the penalties were too weak from any of the people you interviewed?

Ms. GAMBLER. We did not hear that as a theme as part of our work, Mr. Chairman.

Chairman SCHUMER. Mr. Woods. Existing penalties, not the ones in our bill.

Mr. WOODS. The Sentencing Guidelines for this type of activity are low in comparison, maybe, with other crimes. But that does not affect the amount of resources that we put at this program. We have dedicated agents that fall into the fee-funded rules that—

Chairman SCHUMER. Not you. It is the prosecutors. They say, “Hey, to go through a whole court case for a small slap on the wrist is not worth it to us.” Is that a factor?

Mr. WOODS. That is a factor in every United States Attorney's—

Chairman SCHUMER. Do you think the penalties—

Mr. WOODS [continuing]. Office in the Nation.

Chairman SCHUMER [continuing]. We have are strong enough?

Mr. WOODS. Is what strong enough?

Chairman SCHUMER. Are the penalties that we have in our bill strong enough to get the—

Mr. WOODS. Any enhancement in mandatory minimums usually brings—

Chairman SCHUMER. Are these strong enough?

Mr. WOODS. I think it is an improvement.

Chairman SCHUMER. Okay. Next, just one more. We are going to send you that in writing to get an official answer from your agency.

Mr. WOODS. Certainly.

Chairman SCHUMER. And I would like you to show that to the Enforcement folks and let them answer it with you.

Chairman SCHUMER. The last question I have, which Senator Feinstein and I discussed, is the issue of certification and not allowing non-certified—accredited, sorry, accreditation, certification of non-accredited institutions to take these students does have one difficulty. There are certain types of institutions of higher learning that do not have an accreditation process. Juilliard in my home State of New York would be one of those. We certainly want to let Juilliard take some foreign students. There are many talents musicians, singers, and whatever.

Senator FEINSTEIN. That is a music school.

Chairman SCHUMER. Yes. It is one of the best in the country. And so maybe what we could do is say that there has to be accreditation, the way Senator Feinstein did, but allow schools to apply for an exception if there are no accreditation process. Obviously with flight schools there is with the FAA, so none of them would be exempt.

What do you both think of that idea?

Ms. GAMBLER. Again, I think that is really a policy decision. What would be key is ICE, as our work has shown, consistently implementing whatever kind of—

Chairman SCHUMER. That is why we want to switch the burden of proof, so ICE has to implement unless there is an exception as opposed to doing it the other way.

What do you think, Mr. Woods?

Mr. WOODS. I think that is similar to the approach we take right now, which we call in lieu of letters to show that the school's processes are accepted by other institutions that may be accredited and that they would take credits or the learning from that school. Like you said, there should be some exemptions, but I believe what we are doing and implementing based on the GAO report is validating to ensure that those letters and those—

Chairman SCHUMER. No, but it is taking forever—

Mr. WOODS [continuing]. Documents are true.

Chairman SCHUMER. We would rather do it the other way. If you do not have certification, you are out until you can prove you should be in, as opposed to let us at a snail's pace, as you even admitted, go through saying who is out and they are assumed to be in. What do you think?

Mr. WOODS. I would agree with you.

Chairman SCHUMER. Oh, good. Okay. We are not happy with how ICE has handled this and SEVP has handled this, as you know. We hope that you will speed things up. We hope our legislation will help make things better for you. But we are not going to—I know I speak for Senator Feinstein, who is passionate about this, as well as Senator Grassley, and I believe Senator McCaskill. We need real change here, and we will do it legislatively, but we will also do it with the letter that she suggested as well as oversight, continued oversight.

So if you do not have any more questions, Senator, then I want to thank both witnesses. I want to thank you for an excellent report, Ms. Gambler, and I want to thank Mr. Woods for being here

as well and answering our questions—many of them, quite frankly—which we appreciate.

The record will stay open for seven days for additional written questions to be submitted by Committee Members, and the hearing is adjourned.

[Whereupon, at 11:07 a.m., the Subcommittee was adjourned.]

# **A P P E N D I X**

## **ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD**

Witness List

Hearing before the  
Senate Committee on the Judiciary  
Subcommittee on Immigration, Refugees and Border Security

On

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

Tuesday, July 24, 2012  
Dirksen Senate Office Building, Room 226  
10:00 a.m.

John Woods  
Assistant Director for National Security Investigations  
U.S. Immigration and Customs Enforcement  
Washington, DC

Rebecca Gambler  
Director, Homeland Security and Justice  
Government Accountability Office  
Washington, DC

PREPARED STATEMENT OF RANKING MEMBER CHARLES GRASSLEY

**Statement by Senator Charles E. Grassley**  
Senate Judiciary Subcommittee on Immigration, Refugees and Border Security  
*"Strengthening the Integrity of the Student Visa System by  
Preventing and Detecting Sham Educational Institutions"*  
July 24, 2012

In 1993, the American people were confronted with a terrorist attack on the World Trade Center. One of the instigators of that attack was on an expired student visa, exposing a major vulnerability of our immigration system. As a result of that attack, Congress mandated that the then-Immigration and Naturalization Service create a system that tracks and monitors foreign students.

Unfortunately, the system was not operational when, on September 11, 2001, terrorists again attacked the U.S. Three out of 19 hijackers were trained at flight schools – two entered illegally while one entered the country on a student visa.

Congress was frustrated because a mandate on the agency was ignored and the computer system to track foreign students had not yet been implemented. In 2002, then-Attorney General John Ashcroft started up the Student and Exchange Visitor Information System, known as SEVIS, stating that "For too long, our student visa system has been a slow, antiquated, paper-driven reporting system incapable of ensuring that those who enter the United States as students are in fact attending our educational institutions."

Unfortunately, while SEVIS is up and running today, it is still antiquated and the federal government remains incapable of ensuring that those who enter the country are students that are truly attending our educational institutions.

Today, more than 850,000 foreign students are enrolled in over 10,000 schools across the country. Enrollment of foreign students is increasing, yet the technology and oversight of the student visa program has not improved.

There's evidence that sham universities are taking advantage of the dysfunctional student visa program. The 2011 Tri-Valley University incident is the most serious fraud case to date. The school reported that they'd bring in less than 100 students but had actually brought in over 1,500. Tri-Valley officials were caught giving F-1 visas to undercover agents, posing as foreign nationals who explicitly professed no intention of attending classes. Students paid \$5,400 per semester in tuition to the school to obtain those student visas until the school was shut down. In response to Tri-Valley, in March, Secretary Napolitano created a

new bureaucratic office to coordinate efforts, but I question whether this new office has had any success.

The independent Government Accountability Office report that we plan to discuss today sheds light on the loopholes that remain and reveals some inter-agency disagreements that have handicapped the government from effectively running a program to track foreign students. For example, the Student Exchange Visitor Program (SEVP), which runs the program and tracks the schools, is not obtaining information from the counterterrorism unit known as the Counterterrorism and Criminal Exploitation Unit (CTCEU). SEVP maintains a “compliance log” of over 170 schools, but that data had not been shared with CTCEU, and the CTCEU failed to provide SEVP with information on investigations. CTCEU did site visits, yet SEVP was not aware of those visits or the results of those visits.

The GAO report also says:

- ICE does not have a process to identify and analyze risks across schools applying for certification. They cannot identify risk factors, and have overlooked many major indicators of fraud.
- Resources are not being used in a cost-effective manner.
- ICE has failed to have a process in place to monitor the state licensing status of all schools and the accreditation of schools offering higher education. There are schools that remain closed, but are still SEVP certified and are allowed to bring in foreign students. Alarming, SEVP program officers allowed schools to maintain SEVIS database access and the ability to modify records despite the fact that schools were under active investigation (even after requests from the CTCEU were made).
- ICE fails to verify the “in lieu of” letters provided by non-accredited institutions.
- Recordkeeping is shoddy, files are missing, and evidence of a school’s legitimacy cannot be found. Of the 50 school case files reviewed by GAO, 30 files lacked at least one piece of evidence required. Two files couldn’t even be found.
- ICE has failed to comply with the law requiring that each SEVP school be certified every two years. That requirement was made by Congress in 2002, and was supposed to be completed by 2004. ICE finally began the reviews of the 10,000 schools in 2010, and should have completed them by May 2012. To date, only 19% of the 10,000 schools have been recertified.
- Monitoring of Flight Schools remains a problem. In 7 of 11 cases reviewed, schools offering flight training had expired FAA certification. The SEVP has certified 434 flight training schools. Of those, 167 (38%) do not have FAA certification. One flight school continued to issue I-20s to foreign students. To compound matters, the FAA has failed to revoke or take punitive action against schools that do not maintain compliance.

I'm glad we have Mr. Woods from Immigration and Customs Enforcement here to explain how two departments under his purview have allowed for sham schools to operate. I want to hear assurances that inter-agency disagreements are a thing of the past, and the counterterrorism officials and SEVP program officers are working together to root out fraud.

I want to know what changes have been made by Secretary Napolitano's department since the report was initiated, including efforts to reign in crooked designated school officials. I want to know why the department has not yet required background checks of designated school officials, and why the department hasn't yet changed its rules to kick a school out of the program if it isn't complying. I want to know why non-FAA certified schools continue to be a part of the program, continue to have access to the SEVIS database, and are still allowed to bring in foreign students.

I'm calling on Secretary Napolitano to immediately improve the oversight of schools and implement the GAO recommendations. The department needs to get its act together, complete the recertification process, and use its resources more effectively. Additionally, I'm interested in hearing what legislative changes need to be made. As Senator Schumer, I and others work on a proposal, I hope the changes that we agree upon can be enacted promptly, and in a bipartisan manner, so that we can salvage the integrity of our foreign student visa program and ensure the safety of our citizens.

PREPARED STATEMENT OF REBECCA GAMBLER, ACTING DIRECTOR, HOMELAND SECURITY AND JUSTICE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, WASHINGTON, DC

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United States Government Accountability Office

**GAO**

Testimony  
Before the Subcommittee on Immigration,  
Refugees, and Border Security, Committee  
on the Judiciary, U.S. Senate

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For Release on Delivery  
Expected at 10:00 a.m. EST  
Tuesday, July 24, 2012

**STUDENT AND  
EXCHANGE VISITOR  
PROGRAM**

**DHS Needs to Take Actions  
to Strengthen Monitoring of  
Schools**

Statement of Rebecca Gambler, Acting Director  
Homeland Security and Justice



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

I am pleased to be here today to discuss the findings from our June 2012 report assessing U.S. Immigration and Customs Enforcement's (ICE) oversight of the Student and Exchange Visitor Program (SEVP).<sup>1</sup> ICE, within the Department of Homeland Security (DHS), is responsible for managing SEVP, including ensuring that foreign students studying in the United States comply with the terms of their admission into the country. ICE also certifies schools as authorized to accept foreign students in academic and vocational programs. As of January 2012, more than 850,000 active foreign students were enrolled at over 10,000 certified schools in the United States. In addition, ICE manages the Student and Exchange Visitor Information System (SEVIS), which assists the agency in tracking and monitoring certified schools, as well as approved students. We reported in April 2011 on the need for close monitoring and oversight of foreign students, and that some schools have attempted to exploit the immigration system by knowingly reporting that foreign students were fulfilling their visa requirements when they were not attending school or attending intermittently.<sup>2</sup>

Schools interested in accepting foreign students on F and M visas must petition for SEVP certification by submitting a Form I-17 to ICE.<sup>3</sup> Once this certification is achieved, schools issue Forms I-20 for students, which enable them to apply for nonimmigrant student status. The Border Security Act requires DHS to confirm, every 2 years, SEVP-certified schools' continued eligibility and compliance with the program's requirements.<sup>4</sup> During the initial petition and recertification processes, a school must provide ICE with evidence of its legitimacy and its eligibility,

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<sup>1</sup>GAO, *Student and Exchange Visitor Program: DHS Needs to Assess Risks and Strengthen Oversight Functions*, GAO-12-572 (Washington, D.C.: June 18, 2012).

<sup>2</sup>GAO, *Overstay Enforcement: Additional Mechanisms for Collecting, Assessing, and Sharing Data Could Strengthen DHS's Efforts but Would Have Costs*, GAO-11-411 (Washington, D.C.: Apr. 15, 2011).

<sup>3</sup>F visas are for academic study at 2- and 4-year colleges and universities and other academic institutions. M visas are for nonacademic study at institutions, such as vocational and technical schools. As of March 2012, schools applying for initial certification were required to pay DHS \$1,700, as well as a \$655 site visit fee per campus.

<sup>4</sup>8 U.S.C. § 1762.

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such as designated school officials' attestation statements that both the school and officials intend to comply with program rules and regulations.

My testimony today summarizes the key findings of our report on ICE's management of SEVP, which was publicly released last week.<sup>6</sup> Like that report, my statement will address ICE's efforts to (1) identify and assess risks in SEVP, and (2) develop and implement procedures to prevent and detect fraud during the initial certification process and once schools begin accepting foreign students. To conduct our work, we interviewed officials from each of SEVP's seven branches and criminal investigators from the Counterterrorism and Criminal Exploitation Unit (CTCEU), as well as eight ICE field offices, which allowed us to obtain their perspective on the magnitude and risks associated with school fraud. We reviewed publicly available information on 12 cases of school fraud dating from 2006 to 2011, which allowed us to better understand SEVP program risks. Additionally, we reviewed standard operating procedures and tested internal controls designed to ensure school oversight. To test SEVP's internal controls, we selected a nongeneralizable, stratified random sample of 50 SEVP-certified schools and reviewed their case files to verify that evidence required for certification existed, such as designated school officials' proof of citizenship or lawful permanent residency. We conducted this work in accordance with generally accepted government auditing standards. More detailed information on the scope and methodology of our published report can be found therein.

In summary, we reported that ICE does not have a process to identify and assess risks posed by schools in SEVP. Specifically, SEVP (1) does not evaluate program data on prior and suspected instances of school fraud and noncompliance, and (2) does not obtain and assess information from CTCEU and ICE field office school investigations and outreach events. Moreover, weaknesses in ICE's monitoring and oversight of SEVP-certified schools contribute to security and fraud vulnerabilities. For example, ICE has not consistently implemented internal control procedures for SEVP in the initial verification of evidence submitted in lieu of accreditation. In addition, ICE has not consistently followed the standard operating procedures that govern the communication and coordination process among SEVP, CTCEU, and ICE field offices. We recommended that ICE, among other things, identify and assess program

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<sup>6</sup>GAO-12-572.

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risks; consistently implement procedures for ensuring schools' eligibility; and, revise its standard operating procedure to specify which information to share among stakeholders during criminal investigations. ICE concurred with all the recommendations we made to address these challenges and has actions planned or under way to address them.

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### ICE Does Not Have a Process to Identify and Assess Risks Posed by Schools in SEVP

ICE has not developed and implemented a process to identify and analyze program risks since assuming responsibility for SEVP in 2003, making it difficult for ICE to determine the potential security and fraud risks across the more than 10,000 SEVP-certified schools and to identify actions that could help mitigate these risks. SEVP and CTCEU officials expressed concerns about the security and fraud risks posed by schools that do not comply with program requirements. Furthermore, various cases of school fraud have demonstrated vulnerabilities in the management and oversight of SEVP-certified schools. We reported that SEVP faces two primary challenges to identifying and assessing risks posed by schools: (1) it does not evaluate program data on prior and suspected instances of school fraud and noncompliance, and (2) it does not obtain and assess information from CTCEU and ICE field office school investigations and outreach events.

**Evaluating SEVP information on prior and suspected cases of school noncompliance and fraud.** SEVP does not have a process to evaluate prior and suspected cases of school fraud and noncompliance to identify lessons learned from such cases, which could help it better identify and assess program risks. SEVP has maintained a compliance case log since 2005—a list of approximately 172 schools (as of December 2011) that officials have determined to be potentially noncompliant with program requirements. The compliance case log represents those schools that SEVP, on the basis of leads and out-of-cycle reviews, is monitoring for potential noncompliance. According to SEVP officials, it has not used this list to identify and evaluate possible trends in schools' noncompliance, although this list could provide useful insights to SEVP to assess programwide risks. Further, SEVP officials said that they have not looked across previous cases of school fraud and school withdrawals to identify lessons learned on program vulnerabilities and opportunities to strengthen internal controls. Our analysis indicates that there are patterns in the noncompliant schools, such as the type of school. For example, of the 172 postsecondary institutions on SEVP's December 2011 compliance case log, about 83 percent (or 142) offer language, religious, or flight studies, with language schools representing the highest proportion. Without an evaluation of prior and suspected

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cases of school fraud and noncompliance, ICE is not well positioned to identify and apply lessons learned from prior school fraud cases, which could help it identify and mitigate program risks going forward.

**Obtaining information from CTCEU and ICE field offices' investigations and outreach efforts.** Based on our interviews with SEVP's Director and other senior officials, we reported that SEVP had not established a process to obtain lessons learned information from CTCEU's criminal investigators. Investigators may have valuable knowledge from working cases of school fraud in identifying and assessing program risks, including information such as characteristics of schools that commit fraud, how school officials exploited weaknesses in the school certification process, and what actions ICE could take to strengthen internal controls. For example, according to investigators in one ICE field office, CTCEU was hampered in pursuing a criminal investigation because SEVP officials did not obtain a signed attestation statement within the I-17 application from a school official stating that the official agreed to comply with rules and regulations. Another risk area we reported on is designated school officials' access to SEVIS. In 2011, CTCEU provided SEVP officials with a position paper expressing concerns that designated school officials, who are not required to undergo security background checks, are responsible for maintaining updated information on foreign students in SEVIS. Investigators at three of the eight field offices we interviewed said that SEVP allowed designated school officials to maintain SEVIS access and the ability to modify records in the system while being the subject of an ongoing criminal investigation, despite requests from CTCEU to terminate SEVIS access for these officials. In addition, CTCEU collects data on its outreach efforts with schools through its Campus Sentinel program; however, the SEVP Director stated that his office had not obtained and analyzed reports on the results of these visits. CTCEU initiated Campus Sentinel in 2011, which ICE operates across all of its field offices nationwide.<sup>6</sup> From October 1, 2011, through March 6, 2012, CTCEU conducted 314 outreach visits to schools. According to CTCEU investigators, these visits provide an opportunity to identify potential risks, including whether schools have the capacity and resources to support

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<sup>6</sup>Funded with SEVP fee collections, the program aims to foster relationships between ICE law enforcement officials and schools through on-site visits and information sessions at conferences and to make school officials more aware of recent investigations of school fraud.

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programs for foreign students. Obtaining information on lessons learned from CTCEU investigators could help provide SEVP with additional insights on such issues as characteristics of schools that have committed fraud and the nature of those schools' fraudulent activities.

To address these issues, we recommended that ICE develop and implement a process to identify and assess risks in SEVP, including evaluating prior and suspected cases of school noncompliance and fraud to identify potential trends, and obtaining and assessing information from CTCEU and ICE field office investigative and outreach efforts. DHS concurred and stated that ICE will develop and implement such a process by later this year.

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**Weaknesses in ICE's  
Monitoring and  
Oversight of SEVP-  
Certified Schools  
Contribute to Security  
and Fraud  
Vulnerabilities**

ICE has not consistently implemented existing internal control procedures for SEVP in four areas: (1) initial verification of evidence submitted in lieu of accreditation, (2) recordkeeping to ensure schools' continued eligibility, (3) ongoing compliance monitoring of school licensing and accreditation status, and (4) certification of schools offering flight training. Regulations require schools to establish that they are legitimate and meet other eligibility criteria for their programs to obtain certification from ICE.<sup>7</sup> In addition, weaknesses in managing and sharing key information with CTCEU impede SEVP's prevention and detection of school fraud. The following summarizes these key findings and recommendations we made to address these issues.

**Initial verification of evidence submitted in lieu of accreditation.** ICE requires schools to present evidence demonstrating that the school is legitimate and is an established institution of learning or other recognized place of study, among other things. Non-accredited, post-secondary schools, in particular, must provide "in lieu of" letters, which are evidence provided by petitioning schools in lieu of accreditation by a Department of Education-recognized accrediting agency. ICE policy and guidance require that SEVP adjudicators render an approval or denial of schools' petitions based on such evidence and supporting documentation. This includes verifying that schools' claims in the Form I-17, such as accreditation status and "in lieu of" letters, are accurate. However, SEVP

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<sup>7</sup>8 C.F.R. § 214.3(a)(3) states that a school, to be eligible for certification, must establish that it is bona fide. For the purposes of this report, we use the term "legitimate" synonymously with the term "bona fide."

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adjudicators have not verified all "in lieu of" letters submitted to ICE by the approximately 1,250 non-accredited, post-secondary schools, as required by ICE's policy. Rather, adjudicators decide whether to verify a letter's source and the signatory authority of the signee based on any suspicions of the letters' validity. Investigators at one of the eight ICE field offices we interviewed stated SEVP officials certified at least one illegitimate school—Tri-Valley University in California—because the program had not verified the evidence provided in the initial petition. In March 2012, CTCEU officials stated that several of their ongoing investigations involve schools that provided fraudulent evidence of accreditation or evidence in lieu of accreditation to ICE. Consistent verification of these letters could help ICE ensure that schools are legitimate and detect potential fraud early in the certification process. We recommended that ICE consistently implement procedures for ensuring schools' eligibility, including consistently verifying "in lieu of" letters. DHS agreed and stated that SEVP personnel have initiated mandatory verification of all "in lieu of" letters.

**Recordkeeping to ensure continued eligibility of schools.** ICE's standard operating procedures for recordkeeping require SEVP officials to maintain records to document ongoing compliance. We reported that ICE had not consistently maintained certain evidence of selected schools' eligibility for the program. According to our review of a stratified random sample of 50 SEVP-certified school case files, 30 files did not contain at least one piece of evidence required by the program's policies and procedures. In addition, ICE was unable to produce two schools' case files that we requested as part of our randomly selected sample.<sup>8</sup> Without the schools' information and evidence contained in these case files, including attestation statements and site visit reports, ICE does not have an institutional record to provide reasonable assurance that these schools were initially and continue to be legitimate and eligible for certification. According to ICE officials, the school recertification process would help address issues with incomplete and missing school files because schools are required to resubmit all evidence required by regulation when going through recertification. The Border Security Act required recertification for all SEVP-certified schools by May 2004 and every 2 years thereafter.<sup>9</sup>

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<sup>8</sup>Since ICE was unable to produce two schools' case files, our results include the 48 files that we were able to analyze.

<sup>9</sup>See 8 U.S.C. § 1762. The statute requires the review of institutions and other entities authorized to enroll or sponsor certain nonimmigrants.

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However, ICE began the first recertification cycle in May 2010 and did not recertify all schools during this 2-year cycle, which ended in May 2012. As of March 31, 2012, ICE reported to have recertified 1,870 schools (approximately 19 percent of SEVP-certified schools). Given the delays in completing recertification, ICE is not positioned to address gaps in SEVP's case files and cannot provide reasonable assurance that schools that were initially certified to accept foreign students are still compliant with SEVP regulations. Thus, we recommended that ICE establish a process to identify and address all missing school case files, including obtaining required documentation for schools whose case files are missing evidence. DHS concurred and stated that SEVP plans to work with ICE Records Management to develop protocols and actions to strengthen records management.

**Ongoing compliance monitoring of school licensing and accreditation status.** ICE does not have a process to monitor the ongoing eligibility of licensed and accredited, non-language schools enrolling foreign students. ICE regulations require all certified schools to maintain state licensing (or exemption) and provide various forms of evidence to ICE supporting schools' legitimacy and eligibility. If a school loses its state license, the school would be unable to operate legally as a school within that state. However, ICE does not have controls to ensure that SEVP compliance unit officials would be aware of this issue; therefore, a school without a proper business license may remain certified to enroll foreign students and its designated school officials may continue to access SEVIS. We recommended that ICE develop and implement a process to monitor state licensing and accreditation status of all SEVP-certified schools. DHS concurred and stated that SEVP personnel are developing procedures to ensure frequent validation of license or accreditation information.

**Certification of schools offering flight training.** ICE's policies and procedures require flight schools to have Federal Aviation Administration (FAA) Part 141 or 142 certification to be eligible for SEVP certification; however, ICE has certified schools offering flight training without such FAA certifications. As the federal agency responsible for regulating safety of civil aviation in the United States, FAA administers pilot certification (licensing) and conducts safety oversight of pilot training. FAA's regulations for pilot training and certification are found in three parts—

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Parts 61, 141, and 142.<sup>10</sup> ICE established a policy that requires Part 141 and 142 for eligibility in SEVP because FAA directly oversees these flight schools and training centers on an ongoing basis.<sup>11</sup> We reported identifying 434 SEVP-certified schools that, as of December 2011, offer flight training to foreign students.<sup>12</sup> However, 167 (38 percent) of these flight training providers do not have FAA Part 141 or 142 certification. SEVP senior officials acknowledged that all SEVP-certified schools offering flight training do not have FAA Part 141 or 142 certification even though the program requires it. ICE indicated that in most of the cases, it may have initially certified flight schools with Part 141 or 142 certification but the schools allowed their FAA certification to expire, and ICE did not identify or take compliance action against them. ICE is taking actions to address noncompliant flight schools as of May 2012, including notifying all SEVP-certified schools that do not have the required FAA certification that they must re-obtain the certification. Moreover, SEVP officials stated that they plan to coordinate with FAA to determine which schools have not met the requirements and will take withdrawal actions against them. While these are positive steps, we reported that SEVP had not yet established target time frames for implementing and completing these planned actions. Because ICE has certified or maintained certification of schools that provide flight training without the required FAA certification and oversight, the program is vulnerable to security and fraud risks. Thus, we recommended that ICE establish target time frames for notifying SEVP-certified flight schools that do not have the required FAA certification that they must re-obtain FAA certification. DHS concurred and stated that SEVP is consulting with FAA to develop target time frames.

**Coordination among SEVP, CTCEU, and ICE field offices.** ICE has not consistently followed the standard operating procedures that govern the communication and coordination process among SEVP, CTCEU, and ICE

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<sup>10</sup>Federal aviation regulations are found under title 14 of the United States Code of Federal Regulations (14 C.F.R. pts. 61, 141, and 142).

<sup>11</sup>Part 61 relates to individual providers/instructors that are not subject to direct FAA oversight beyond the initial certification and subsequent renewal of each flight instructor's certificate. Parts 141 and 142 outline requirements for flight schools and training centers. FAA oversees these Part 141 and 142 flight schools and training centers with annual inspections and by reviewing and approving the schools' facilities and programs.

<sup>12</sup>This is a relatively small percentage of providers nationwide that offer flight training.

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field offices. Specifically, these procedures delineate roles and responsibilities for criminal investigations and establish protocols for SEVP taking administrative actions against schools during and following a criminal investigation. In some instances, SEVP management has not followed CTCEU requests to take or cease administrative actions and has not referred potentially criminal cases to CTCEU in accordance with ICE's procedures. By strengthening coordination and communication between SEVP and CTCEU, ICE could better ensure that SEVP, CTCEU, and ICE field offices understand which information to share regarding whether to take administrative actions during criminal investigations and that clear criteria exist for referring cases from CTCEU based upon potentially criminal behavior. Thus, we recommended that ICE revise its standard operating procedure to specify which information to share among stakeholders during criminal investigations. DHS concurred and stated that SEVP will work with CTCEU and ICE field personnel to make the necessary revisions. We also recommended that ICE establish criteria for referring cases of a potentially criminal nature from SEVP to CTCEU. ICE agreed and stated that SEVP will work with CTCEU to improve this process.

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Chairman Schumer, Ranking Member Cornyn, and members of the subcommittee, this concludes my prepared statement. I would be pleased to answer any questions that you may have at this time.

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## Contacts and Acknowledgments

For further information regarding this testimony, please contact Rebecca Gambler at (202) 512-8777, or [gablerr@gao.gov](mailto:gablerr@gao.gov). In addition, contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals who made key contributions to this testimony are Kathryn Bernet, Assistant Director; Frances Cook; Elizabeth Dunn; Anthony C. Fernandez; David Greyer; and, Lara Miklozek.

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PREPARED STATEMENT OF JOHN P. WOODS, ASSISTANT DIRECTOR, NATIONAL SECURITY INVESTIGATIONS, HOMELAND SECURITY INVESTIGATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, D.C.



## U.S. Immigration and Customs Enforcement

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STATEMENT

OF

JOHN P. WOODS

ASSISTANT DIRECTOR  
NATIONAL SECURITY INVESTIGATIONS  
HOMELAND SECURITY INVESTIGATIONS  
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
DEPARTMENT OF HOMELAND SECURITY

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

Tuesday, July 24, 2012 – 10:00 a.m.  
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 HIRAC 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.

QUESTIONS

QUESTIONS SUBMITTED BY SENATOR CHARLES GRASSLEY FOR REBECCA GAMBLER

**Question for Rebecca Gambler, GAO  
From Senator Grassley**

**Inter-agency Quarreling**

During the hearing, we discussed the lack of coordination and communication between SEVP and CTCEU. The GAO report outlines a number of instances where there was a lack of cooperation, resulting in botched investigations. Both SEVP and CTCEU have a role to play in the student visa process. Please describe, in your view: 1) whether a particular office is better suited to determine which schools remain in the program; 2) whether a particular office is better suited to determine if individuals are qualified to be DSOs; and 3) whether a particular office is better suited to maintain control of the compliance log. Should either SEVP or CTCEU have veto authority over another when it comes to any such decisions?

## QUESTIONS SUBMITTED BY SENATOR CHARLES GRASSLEY FOR JOHN P. WOODS

**Questions for Assistant Director Woods  
Immigration and Customs Enforcement (ICE)  
From Senator Grassley**

**1) Background Checks on Designated School Officials**

As you and I discussed during the hearing, we have learned that there are some designated schools officials that commit fraud in order to enroll foreign students. While these school officials must be U.S. citizens or legal permanent residents, there's no requirement that the school conduct a background check on their DSOs. Some educational institutions voluntarily do a background check. During the hearing, when I asked you about ICE requiring background checks, you said, "In working with our Office of Policy, I would recommend to them that we issue a rule, absent legislation requiring it." Then, when I asked if the process was in place to issue such a rule, you responded "Yes."

- Please provide a status update on the recommendation that you made to the Office of Policy about requiring all DSOs to undergo a background check.
- If your recommendation to the Office of Policy has been denied, please explain why and how that decision was made.

**2) Compliance Log**

The GAO reports that there is a compliance log of 172 schools that SEVP officials have determined to be potentially noncompliant with program requirements. The GAO reported that, until recently, SEVP officers had not shared this list with counterterrorism officials.

- How many schools are on the compliance log today?
- Of those taken off the compliance log, please provide details as to why they were once on it and what determining factor led to the decision to take them off.
- Who controls the list, and how do SEVP and CTCEU communicate and coordinate with regard to compliance monitoring of these schools?
- Why wasn't the list shared between these two offices, and how will you ensure that it is shared in the future?

**3) SEVIS II**

In 1996, following the 1993 World Trade Center bombing, Congress mandated that the INS track foreign students. SEVIS was created to maintain all information about foreign students and help monitor their activities. Yet, we've known for many years that the system is unreliable and outdated. The department has continued to delay the implementation of SEVIS II. Without a better system, individuals may take advantage of our immigration system and the student visa program.

- Please provide a historical timeline of the SEVIS II development (including history of funding) as well as detailed plans to complete the project.
- Why has there been a delay in rolling out SEVIS II?
- Will you assure us that resources will be committed to this effort?

**4) "In Lieu Of" Letters**

SEVP is not consistently verifying "in lieu of" letters required for non-accredited institutions, despite the fact that in several past and ongoing cases schools have provided fraudulent letters to gain certification. Since ICE will still allow unaccredited schools to remain in the program, how do officers plan to address the problem of verifying the "in lieu of" letters?

**5) Organizational Structure of Two ICE offices**

I understand that the SEVP office has recently been elevated to a higher level in the ICE organizational structure. What is the rationale for making that change, and how the new organizational structure will improve coordination between SEVP and CTCEU?

## ANSWERS

## RESPONSES OF REBECCA GAMBLER TO QUESTIONS SUBMITTED BY SENATOR GRASSLEY



August 7, 2012

Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
U.S. Senate

Subject: *Student and Exchange Visitor Program: Responses to Posthearing Questions for the Record*

On July 24, 2012, I testified before the Subcommittee on Immigration, Refugees, and Border Security, Senate Committee on the Judiciary, on the Department of Homeland Security's (DHS) Student and Exchange Visitor Program. Enclosed is my response to questions for the record posed by Senator Grassley. The responses are based on work associated with our June 2012 report, *Student and Exchange Visitor Program: DHS Needs to Assess Risks and Strengthen Oversight Functions*, GAO-12-572.<sup>1</sup>

If you have any questions about the enclosure or need additional information, please contact me at (202) 512-8777 or [gambler@gao.gov](mailto:gambler@gao.gov).

Rebecca Gambler  
Acting Director, Homeland Security and Justice Issues

<sup>1</sup> GAO, *Student and Exchange Visitor Program: DHS Needs to Assess Risks and Strengthen Oversight Functions*, GAO-12-572 (Washington, D.C.: June 18, 2012).

## ENCLOSURE

1. **Both SEVP and CTCEU have a role to play in the student visa process. Please describe, in your view: 1) whether a particular office is better suited to determine which schools remain in the program; 2) whether a particular office is better suited to determine if individuals are qualified to be DSOs; and 3) whether a particular office is better suited to maintain control of the compliance log.**

Within U.S. Immigration and Customs Enforcement (ICE), two offices have complementary responsibilities for overseeing foreign students in the United States and those certified schools that are eligible to enroll foreign students—the Student and Exchange Visitor Program (SEVP) and the Counterterrorism and Criminal Exploitation Unit (CTCEU). SEVP certifies schools as authorized to accept foreign students in academic and vocational programs, and CTCEU, as one of ICE's investigative components, investigates school fraud cases, among other things. We have not specifically assessed whether one of these two offices is better suited to (1) determine whether a SEVP-certified school should remain in the program, (2) determine if individuals are qualified to be designated school officials (DSO), or (3) maintain control of the compliance log. However, on the basis of our June 2012 report, SEVP and CTCEU work together to oversee and monitor schools to ensure that they remain eligible to participate in the program, that school officials comply with program requirements, and that schools that may have potential compliance issues are appropriately identified and tracked (i.e., on the compliance log).

- *Determining which schools remain in the program.* SEVP initially certifies schools to be eligible to enroll foreign students and, once schools are certified, to monitor schools to verify their ongoing legitimacy and eligibility. CTCEU investigators have knowledge and information on prior and current investigations of school fraud that could help strengthen SEVP's processes, but SEVP has not fully leveraged this information. For example, as we reported in June 2012, ICE did not have a process to identify and analyze risks across schools applying for certification, as well as across the more than 10,000 schools that are SEVP-certified. In particular, we reported that SEVP had not established a process to obtain information from CTCEU investigators on things such as the characteristics of schools that commit fraud and how school officials exploited program weaknesses, which could help SEVP better identify and assess program risks. CTCEU has identified some risk factors, such as the ratio of foreign students to overall students, and the average length of time students have been in the United States, but SEVP has not made use of this information to help assess risks to the program. To better position SEVP to assess program risks, we recommended, among other things, that ICE implement a process to identify and assess SEVP risks, including obtaining and evaluating information from CTCEU investigative efforts. ICE concurred with our recommendation and

stated that it plans to develop and implement a risk assessment process by September 2012.

- Determining if individuals are qualified to be DSOs.* A DSO must be a regularly employed member of the school administration whose office is located at the school and whose compensation does not come from commissions for recruitment of foreign students. A DSO creates and updates records in the Student and Exchange Visitor Information System (SEVIS), which ICE uses to track and monitor certified schools and foreign students, and signs and issues the Form I-20s to foreign students, enabling them to apply for nonimmigrant student status.<sup>2</sup> A school must provide ICE with evidence of, among other things, (1) DSOs' attestation statements that both the school and officials intend to comply with program rules and regulations, such as ensuring that students attend classes, and that the school is eligible for certification, and (2) designated school officials' proof of U.S. citizenship or lawful permanent residency.<sup>3</sup> SEVP is responsible for ensuring that all SEVP-certified schools are and remain in compliance with the federal regulations that govern foreign nonimmigrant students. As we reported in June 2012, ICE has not consistently implemented its procedures to verify and monitor schools' legitimacy and eligibility, including program requirements related to DSOs, a fact that has hindered efforts to prevent and detect school fraud. For example, we reported that ICE has not consistently maintained certain evidence of selected schools eligibility, including evidence of DSOs' citizenship or lawful permanent residence status. Specifically, on the basis of our review of a stratified random sample of 50 SEVP-certified school case files, we found that 22 of the 48 school case files did not include proof of the DSOs' U.S. citizenship or lawful permanent residency.<sup>4</sup> Moreover, CTCEU has identified to SEVP its concerns about DSOs not being required to undergo background checks on the basis of its experience investigating allegations of school fraud. Among cases of school fraud we identified, there were instances of school officials having run criminal enterprises that are tied to illegitimate schools and manipulating records in SEVIS to appear eligible for SEVP certification. For example, we identified examples of school officials submitting false or fraudulently obtained letters in lieu of accreditation. To help address these issues related to ICE recordkeeping and review of schools' evidence, we recommended that ICE establish a process to identify and address all missing school case files, including obtaining required documentation from schools whose case files are missing evidence, and consistently verify evidence provided in lieu of accreditation. ICE concurred

<sup>2</sup> Schools interested in accepting foreign students on F (academic) and M (vocational) visas must petition for SEVP certification by submitting a Form I-17 to ICE and paying an application fee. Once certified, schools are able to accept foreign students by issuing Form I-20s for students.

<sup>3</sup> The acceptable evidence of officials' citizenship or residency status includes one of the following: (1) a copy of a U.S. passport (current or expired), (2), a copy of a U.S. birth certificate, (3) a copy of an alien registration card, or (4) a copy of naturalization/citizenship certificate.

<sup>4</sup> ICE was unable to produce two schools' case files that we requested as part of our randomly selected sample. Thus, our results include the 48 files that we were able to analyze.

with our recommendations and stated that it is working to strengthen its SEVP records management.

- Maintaining control of the compliance case log.* In June 2012, we reported that SEVP has maintained a compliance case log since 2005—a list of approximately 172 schools as of December 2011—that officials have determined to be potentially noncompliant with program requirements. The compliance case log represents those schools that SEVP, on the basis of tips and leads and out-of-cycle reviews, is monitoring for potential noncompliance. The SEVP compliance unit first shared its compliance case log with CTCEU in October 2011, during the course of our review. Upon review of this information, CTCEU officials stated that several of the compliance cases could involve potential criminal violations. CTCEU officials identified examples of potentially criminal violations, including designated school officials sharing SEVIS passwords, a school not holding classes but reporting attendance, a school reporting its own address as students' addresses, and a school charging additional fees for showing students as compliant. The Compliance Unit Chief and the Policy Branch Chief stated that the program had not previously shared its compliance case log or other information regarding the program's compliance monitoring activities with CTCEU because the unit has never asked for such information. ICE's coordination standard operating procedure for SEVP, CTCEU, and ICE field offices requires that SEVP refer allegations or leads revealing possible criminal violations to CTCEU in a timely manner. However, we reported that SEVP has not referred potentially criminal cases to CTCEU in accordance with ICE's procedures, in part because the procedure does not have criteria for determining when certain noncompliant activity becomes potentially criminal. However, the coordination standard operating procedures as well as internal control guidance indicate that agencies could benefit from sharing internally generated information with key stakeholders, which may help with fraud management efforts. We recommended that ICE establish criteria for identifying potentially criminal activity so that SEVP would be better positioned to adhere to existing requirements of referring criminal cases to CTCEU for investigation. ICE concurred with our recommendation and stated that it plans to develop appropriate criteria.

**2. Should either SEVP or CTCEU have veto authority over one another when it comes to any such decisions?**

We did not specifically review whether SEVP or CTCEU should have veto authority over each other related to roles and responsibilities for overseeing foreign students and certified schools. However, as our June 2012 report showed, opportunities exist for SEVP and CTCEU to improve their coordination and sharing of information related to the program. For example, ICE's standard operating procedure for coordination between the two offices requires SEVP to defer to CTCEU regarding whether to proceed with administrative actions during ongoing criminal investigations of schools because criminal investigations take precedence over administrative

actions. Additionally, this procedure states that ICE field offices determine the timing and extent of SEVP engagement in criminal investigations based on the needs of those investigations, which includes requesting SEVP to take administrative action in SEVIS to remove designated school officials' access to the system and to withdraw school certification. However, we found that in some instances, SEVP management did not follow CTCEU requests to take or cease administrative actions in accordance with ICE's procedures. For example, in our interviews with eight ICE field offices, field investigators at two offices gave examples of SEVP officials continuing administrative activities when asked to cease such activity. In one case, investigators stated that the target (an owner of a flight school) became suspicious of increased attention by SEVP officials and fled the United States in 2011 to avoid prosecution. In another case, in California, field investigators stated that SEVP officials conducted a site visit to an institution following the owner's indictment after the local ICE field office investigators instructed SEVP to stop administrative activities. We recommended that ICE revise the standard operating procedure that governs coordination among SEVP and CTCEU to specify what information to share. ICE concurred with our recommendation and stated that it plans to make the necessary revisions.

RESPONSES OF JOHN P. WOODS TO QUESTIONS SUBMITTED BY SENATOR GRASSLEY  
HAVE BEEN REDACTED.

