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Testimony

Before the Subcommittee on Immigration,  
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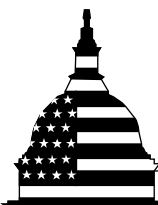
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# STUDENT AND EXCHANGE VISITOR PROGRAM

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

Statement of Rebecca Gambler, Acting Director  
Homeland Security and Justice



**G A O**

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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>5</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>5</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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