
Listserv Summary: FBI Requests- Monitoring International Student Attendance

March 2015

An inquiry was made as to the ways that institutions respond to requests made by Federal Agents to monitor the class attendance of certain international students.

Summary of responses:

There were ten responses to this email. Six of the ten responses noted that the FBI requiring monitoring class attendance is either illegal (one mentioned it as a FERPA violation) or as something not mandated by any federal statutes or regulations (8 CFR 214.2 and 214.3).

More specifically, several respondents noted that institutions have an obligation to ensure students are making normal academic progress, but that this is determined by the school, and that the school itself should be the one to take appropriate action. In essence, the consensus was largely that as long as a student is enrolled (using the university's definition or guidelines for enrollment), missing classes is not something administrators are required to report.

Suggestions were made to refer this issue to General Counsel or to the Student and Exchange Visitor Program (SEVP) for clarification.

One respondent reported learning that the FBI has an agent assigned to each university, and that they are increasing checks on international students, particularly from certain regions and who are in STEM programs.

Another respondent reported on an FBI visit, stating:

“Several of my students were visited by the FBI prior to their departure to Turkey. The students reported that the visit was an interview of sorts, with two officers asking questions about their program and intended activities. As I have been working in Turkey for the past two years, this is fairly normal if a student fits a particular profile. However, yesterday I received a phone call to verify that a particular student arrived, their living address, their course schedule and was told that they may check in with me at various points throughout the semester. I was surprised at the amount of information requested and that the request was done over the phone. I suggested they access STEP as we register our students. Other than that, I did not give them any further information and invited them to our office and speak with legal counsel.”

One respondent described the process at their office, stating “F-1 and J-1 international students must maintain status by, among other things, maintaining full-time enrollment except for their

vacation period. In our system, if a student discontinues showing up for class, that person will be dropped, i.e. withdrawn by the instructor. Such a withdrawal generates a less-than-full-time-enrolled trigger in the database system via data feeds from the Registrar's system to our system. The data feed occurs daily, so we immediately learn if a student is no longer full-time enrolled and intervene as needed. If a student were to discontinue attending class and your system does not provide that information to your office within a reasonable time frame, that would be a circumstance to address. However, the day-to-day surveillance of any individual who is under no suspicion other than being tagged as "international" by your campus police is highly problematic in legal terms, would be extremely resource intensive and costly for your institution, would distract your campus police from its legitimate duties, and create a hostile environment for students based on alienage.”

Additionally, in 2007 NAFSA published a resource on preparing for contact from agencies such as ICE and the FBI:

https://www.nafsa.org/Find_Resources/Supporting_International_Students_And_Scholars/Network_Resources/International_Student_and_Scholar_Services/How_to_Prepare_for_Contact_from_U_S_Immigration_Customs_Enforcement/. The article was written with international students in mind, but the advice to develop a campus protocol for responding to agency inquiries can be relevant for study abroad, as well.