



GUIDANCE ON F-1 TRANSFERS FROM TRI-VALLEY UNIVERSITY

Posted on February 8, 2011 by Cyrus Mehta

In the wake of the closing down of the "sham" Tri-Valley University, <http://indiatoday.intoday.in/site/Story/128946/india/visa-relief-in-sight-for-indian-students-conned-by-tri-valley-varsity.html> and http://www.mercurynews.com/top-stories/ci_17151508?nclick_check=1, which has rendered many F-1 students out of status, ICE has issued guidance to universities that enroll F-1 students via SEVIS regarding how to facilitate the transfer. The document was posted in AILA InfoNet on February 8, 2011 (AILA InfoNet Doc. No. 11020863).

Many of the students who were enrolled at Tri-Valley were unwitting victims, and ought to be able to transfer their F-1 status to other schools, or be able to change to another nonimmigrant visa status, such as H-4 or H-1B (if the individual is not subject to the current H-1B FY 2011 cap). The DHS gives discretion to its officers to approve applications for change of status even where the individual has failed to maintain status due to "extraordinary circumstances," and a student who has been caught in this predicament ought to be invoke favorable discretion under 8 C.F.R. section 248.1(b).

It is good news that DHS has issued guidance that would facilitate the transfer of F-1 status to another legitimate school. Although the guidance is vaguely worded, it seems to suggest that if a new school accepts a student for admission from Tri-Valley, the designated school official must contact the SEVIS help desk before creating a SEVIS record and a determination may be made on a case by case basis. While the guidance could have been more clear, it appears to create a procedure for a student from Tri-Valley to transfer to another school in F-1 status.

To: All SEVIS Users

Date: February 7, 2011

Re: Consideration of Former F-1 Students from Tri-Valley University for Enrollment

Number: 1101-02

On January 18, 2011, the Student and Exchange Visitor Program (SEVP) either cancelled or terminated all initial, active and transfer-in student records associated with Tri-Valley University (TVU) in Pleasanton, California.

Students enrolled at TVU and those who entered the United States but have not enrolled at TVU are unable to maintain F-1 status.

RESPONSIBILITIES OF SCHOOL OFFICIALS

If a former TVU student applies for acceptance at a school, consider the following while following normal admissions procedures:

1. School officials must obtain an enrollment application and all subsidiary documents typically requested in order to make an admissions decision, including an assessment of the student's finances, and they must maintain these documents in the F-1 student's academic record.
2. If a student gains admission, a designated school official should contact the SEVP Help Desk at 800-892-4829 or SEVIShelpdesk@hp.com to manage the student record. Do not initiate a new SEVIS record for the student.
3. Employment authorization for F-1 students at TVU terminated January 19, 2011.

Update - 9 pm. ICE has posted an announcement on its website, <http://www.ice.gov/sevis/tri-valley-110118.htm>, asking TVU students to contact a number, 703-603-3400, and be prepared to provide first and last name, SEVIS ID#, address, telephone number and e mail address, dates of attendance at TVU and level and major of study at TVU. The notice goes on to state, "When you call, SEVP will provide you with your options including the options to depart from the United States without an otherwise possibly applicable bar to re-admission in the future."

Update 2/9/2011. See NAFSA interpretation on the SEVP guidance regarding transfers of F-1 of former TVU students, <http://www.nafsa.org/resourcelibrary/default.aspx?id=24805>

Update 2/10/2011. Our office has called the SEVP number given by ICE in their release and has been advised that according to the script provided by ICE, former Tri-Valley students have three options.

One, they can file for reinstatement as students on Form I-539. The suggestion seems to be that this should be done electronically, since we were directed to the <http://www.uscis.gov/e-filing> website. Implicitly required, although this was

not stated by the SEVP representative, is that the reinstatement be in connection with attendance at a different school, since Tri-Valley is no longer viable in the view of DHS.

Two, former Tri-Valley students can voluntarily depart without any action on the part of ICE.

Three, former Tri-Valley students can report to ICE to be processed for voluntary departure.