

## Interim and Supportive Measures to Help and Protect Foreign Born Student Victims of Sexual Assault, Dating Violence, Stalking and Sexual Harassment

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Colleges, universities, high-schools, elementary schools and other educational institutions who receive federal financial assistance<sup>1</sup> are required to comply with Title IX and the Cleary Act.<sup>2</sup> Title IX requires that schools take steps to ensure equal access to educational programs and activities including taking steps to offer protection and assistance to students who are victimized by sexual assault, dating violence, stalking, and sexual harassment.<sup>3</sup> This includes ensuring that student victims are aware of their legal rights (e.g. Title IX, immigration, criminal, and victim protection laws), educational options for changing course or extracurricular activities, testing schedules, assignments, housing, dining, work situations and services available to assist victims including victim advocacy, health and mental health care, housing assistance, academic support, counseling, disability services, legal assistance, and rights under civil and criminal laws.<sup>4</sup>

According to the Department of Homeland Security, in 2015 there were more than 1.13 million international students with F, M and J visas attending nearly 9,000 different schools across the U.S. through the student visa programs.<sup>5</sup> This represents a nearly 15% increase from the previous year, and U.S. colleges and vocational schools are continuing to recruit increasing numbers of international students to attend their institutions. In addition, increasing numbers of students attending colleges and universities in the U.S. are students who either undocumented or have been granted Deferred Action for Childhood Arrivals (DACA). Among foreign born undocumented children who arrived in the United States under the age of 14, 61% attend colleges or universities after completing high school.<sup>6</sup>

All foreign born students in U.S. elementary, high schools, colleges and universities have the same legal rights and a wide range of protections available to them if they become victims of sexual assault, dating violence, stalking, or sexual harassment as do all students. Title IX and the U.S. Department of Education guarantee that these protections are available to all students at schools receiving federal assistance in the United States “regardless of national origin, immigration status, or citizenship status.”<sup>7</sup> The Department of Education provides additional

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<sup>1</sup> U.S. Department of Health & Human Services, *Federal Financial Assistance*, <http://www.hhs.gov/civil-rights/for-individuals/faqs/what-is-federal-financial-assistance-for-purposes-of-civil-rights-complaints-handled-by-OCR/402/index.html> (defining the term “federal financial assistance” broadly to include: (1) grants and loans of federal funds, (2) the grant or donation of federal property and interests in property, (3) the detail of federal personnel, (4) the sale and lease of, and permission to use federal property or interest in such property without consideration or at a nominal consideration, and (5) any federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. 45 C.F.R. § 80.13(f); *See also* 42 U.S.C. § 2000d-4.

<sup>2</sup> Title IX, United States Education Amendments of 1972, Public Law No. 92-318, 86 Stat. 235 (June 23, 1972), codified at 20 U.S.C. §§ 1681–1688; *see also* 20 U.S.C. § 1092.

<sup>3</sup> *See Stop Advertising Victims of Exploitation Act (SaVE) on H.R.4225*, 113th Congress (2013-2014); *See generally* Title IX, United States Education Amendments of 1972, Public Law No. 92-318, 86 Stat. 235 (June 23, 1972), codified at 20 U.S.C. §§ 1681–1688

<sup>4</sup> Questions and Answers on Title IX and Sexual Violence, *Interim Measures*, U.S. DEPARTMENT OF EDUCATION 1, 32 (2014), <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

<sup>5</sup> *SEVP Releases 2015 International Student Data*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT 1 (Mar. 25, 2015), <https://www.ice.gov/news/releases/sevp-releases-2015-international-student-data-launches-interactive-mapping-tool>

<sup>6</sup> Jeffrey Passel and D'vera Cohn, *A Portrait of Unauthorized Immigrants in the United States*, PewResearchCenter Hispanic Trends (Apr. 19, 2009), available at <http://www.pewhispanic.org/2009/04/14/a-portrait-of-unauthorized-immigrants-in-the-united-states/>.

<sup>7</sup> Questions and Answers on Title IX and Sexual Violence, *Students Protected by Title IX*, U.S. DEPARTMENT OF EDUCATION 1, 7 (2014), <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

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detail with regard to the right so undocumented students. DOE states that, "A school should also be aware that threatening students with deportation or invoking a student's immigration status in an attempt to intimidate or deter a student from filing a Title IX complaint would violate Title IX's protections against retaliation."<sup>8</sup>

The Department of Education lists of factors that should be considered in determining what interim and supportive measures schools should offer victims.<sup>9</sup> What a foreign born student victim needs for protection, healing and to continue their education following victimization by sexual assault, dating violence, stalking, and/or sexual harassment will vary depending on the student, their immigration status, and the facts of their particular case. The U.S. Department of Education encourages schools to consider a number of factors in designing interim measures to meet each particular student's needs.<sup>10</sup> Factors to consider include but are not limited to the following:

- Specific needs expressed by the student victim;
- Age of student or students involved;
- The severity or pervasiveness of the allegations;
- Any continuing effects on the student victim;
- Do the student victim and the perpetrator share similar locations;
- Have judicial measures have been taken to protect the victim (e.g. a civil protection order)

When the student victim of sexual assault, dating violence, stalking or sexual harassment is a foreign born student the interim and supportive measures they need and how such measures should be crafted will be influenced by the victim's immigration status, culture, religion, native language, privacy concerns, and the fact that the student may have a limited support system in the United States. Schools need to be aware that reducing course loads and arranging for the student victim to take a leave of absence could result in foreign born students to lose their F, M or J student visa status. Of key importance is the fact that the vast majority of foreign born student crime victims will be eligible for U visa crime victim immigration relief and some may also be eligible for VAWA or T visa immigration relief. Schools must provide information about crime victim related immigration relief to foreign born students as a routine practice.

### **Examples of Interim and Supportive Measures Helpful for Foreign Born Students**

#### *Foreign Born Student Victims' Eligibility for U Visa or Other Immigration Relief*

Any student who is a victim of sexual assault, stalking, domestic violence, dating violence or any other U Visa listed criminal activity which occurred in the United States will most likely be eligible to apply for U visa immigration relief. Any foreign born student who becomes a victim can apply for a U visa including student visa holders, DACA and undocumented students. Some foreign born student victims may also qualify for other forms of immigration relief. As routine part of interim and supportive measures that foreign born students should receive from schools is information about forms of immigration relief open to immigrant crime victims and immigrant

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<sup>8</sup> Questions and Answers on Title IX and Sexual Violence, *Students Protected by Title IX*, U.S. DEPARTMENT OF EDUCATION 1, 8 (2014), <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

<sup>9</sup> Questions and Answers on Title IX and Sexual Violence, *Interim Measures*, U.S. DEPARTMENT OF EDUCATION 1, 33 (2014), <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

<sup>10</sup> *Id.*

children and schools should set up appointments for immigrant students with victim advocacy and legal services programs in the community with expertise serving immigrant crime victims and children. Interim and supportive measures should include:

- **Crime Victim Immigration Protections Information:** Providing student victims with information about U visa, VAWA self-petitioning, T visas, Special Immigrant Juvenile Status and DACA immigration relief.<sup>11</sup>
- **Identifying and Referring Student Victims:** Identifying students who may qualify for U visa, VAWA, T visa, SIJS or DACA immigration relief<sup>12</sup>
  - **Establishing relationships** with programs in the community and on campus who specialize in immigration protections for immigrant crime victims so that the school can set up appointments with foreign born student victims
  - **U Visa:** The U visa is form of immigration relief designed to provide protection from deportation, work authorization and a path to lawful permanent residency for immigrant crime victims who come forward and the crime victimization suffered. Applicants for the U visa must be willing to work with law enforcement, campus police, prosecutors, or other government agencies in the detection, investigation, prosecution, conviction or sentencing of criminal activity perpetrated against them in the U.S. Interim measures for U visa victims offered by schools need to include:
    - Obtaining U visa certification from campus police
    - Assisting victims in obtaining U visa certification from local police
  - **VAWA Self-Petitioning:** Helps immigrant victims of domestic violence or child abuse perpetrated by a U.S. citizen or lawful permanent resident spouse or parent. VAWA self-petitioners become eligible for federal financial aid through FAFSA
    - If a student is under 25 years old and was a victim of child abuse perpetrated by their citizen or lawful permanent resident parent in addition to any U visa eligibility they may have due to crime victimization as a student, they may be eligible to file a VAWA self-petition.
    - If the student is under 21 years of age it is important to screen the student to learn if their parent is a victim of a U visa crime or domestic violence perpetrated by their parent's U.S. citizen or lawful permanent resident spouse. If the parent files a VAWA or U visa case before the student turns 21 the student can be included in their parent's application.
  - **Special Immigrant Juvenile Status:** If an immigrant student is under the age of majority in the state, usually 18 years old, the student may qualify for SIJS in addition to a U visa. To qualify for SIJS the student must have been abused, abandoned or neglected by one of their parents. Students who attain lawful

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<sup>11</sup> U.S. CITIZENSHIP AND IMMIGRATION SERVICES, RESOURCES FOR VICTIMS OF HUMAN & OTHER CRIMES, <https://www.uscis.gov/tools/humanitarian-benefits-based-resources/resources-victims-human-trafficking-other-crimes> (available in English, Spanish, Russian, Chinese). Special Immigrant Juvenile Status: Information for Child Welfare Workers available at <http://niwaplibrary.wcl.american.edu/pubs/uscis-sijs-info-for-childwelfareworkers/>; U.S. DEP'T OF STATE – BUREAU OF CONSULAR AFFAIRS, RIGHTS AND PROTECTIONS FOR FOREIGN-CITIZEN FIANCÉ(E)S AND SPOUSES OF U.S. CITIZENS AND SPOUSES OF LAWFUL PERMANENT RESIDENTS, <https://travel.state.gov/content/visas/en/general/IMBRA.html> (available in: Arabic, Chinese, Spanish, English, Farsi/Dari, French, German, Hindi, Japanese, Korean, Polish, Portuguese, Romanian, Russian, Tagalog, Thai, Ukrainian, Uzbek, Vietnamese). ADD DACA

<sup>12</sup> A helpful tool for screening victims is available at: <http://niwaplibrary.wcl.american.edu/pubs/squadcarscreeningbluecard/>

permanent residency through SIJS are eligible for student financial aid under FAFASA

- Deferred Action for Childhood Arrivals: Students are eligible for DACA if they arrived in the United States before June 15, 2012, have continuously resided in the U.S., and graduated from a U.S. high school. DACA does not lead to lawful permanent residency but does provide protection from deportation, work authorization, state issued ID and drivers licenses if they are not in a state where the driver's license is only available with DHS documentation.
- Setting Up Appointments with Programs With Expertise Serving Immigrant Victims
  - Foreign born students who are potentially eligible for crime victim or child related immigration relief should be assisted by the school in setting up an appointment victim services and legal services programs with expertise working with immigrants applying for crime victim related forms of immigration relief.<sup>13</sup> Schools should go beyond making referrals to agencies and should set up appointments for victims with victim and legal services agencies.
- Assistance in obtaining U visa certification from local police Some states provide victims of domestic violence and sexual assault access to subsidized healthcare after they file an immigration case that is crime related.<sup>14</sup>
  - It is essential for campus authorities to know if their institution resides in one of those states.

#### Medical and Mental Health Assistance for Victims:

The following measures are crucial to the mental and physical health of the victim. Ensuring that a victim has access to proper medical services is significant for both immediate physical health and future health issues relating to the crime. Universities should assist student victims in accessing the appropriate medical services, regardless of status. The goal is to craft and provide interim measures according to what the university can provide. Schools should know that many foreign born students will have limited access to resources off campus. The following list provides an outline of factors to consider in assisting foreign born students in receiving the care they need:

#### On Campus Physical and Mental Health Care:

- Foreign born student victims will need access to both medical doctors and mental health counseling services. This requires a school to determine (beforehand) what staff members are capable of assisting student victims. Things to consider:
  - Language barriers
  - Culture and associated stigmas
  - Gender
  - Expertise in violent and/ or sexually based crimes
- When the care a student needs is not available on campus and the school is considering making a referral to an off campus resource, it is important to be aware of

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<sup>13</sup> For programs with expertise serving immigrant victims in the victim's community see <http://www.niwap.org/directory/>

<sup>14</sup> Leslye Orloff, Amanda Baron, and Phoebe Mounts, *Access to Health Care for Immigrant Victims of Sexual Assault*, NIWAP 1, 1-6 (2014), <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Man-Ch17-AccessHealthCare-09.25.12.pdf>

what physical and mental healthcare a foreign born student can access off campus. This will vary based on their immigration status and whether the state in which the school is located provides healthcare access to immigrant crime victims.<sup>15</sup>

#### Off Campus Physical and Mental Health Care:

- Forensic exams are free to rape victims<sup>16</sup>
  - Foreign, non-foreign, and undocumented individuals qualify
- HHS funded community health clinics<sup>17</sup>
  - Both foreign and non-foreign students qualify
- Health Insurance Exchange, through Obamacare (the online marketplace for health insurance)
  - Only student visa holders qualify
  - These students do not qualify for subsidies
  - Many visa holders are subject to healthcare restrictions due to their status and will need assistance from the school in determining where to go and what services to seek<sup>18</sup>
    - Some states provide further services for victims (see NIWAP benefits map)<sup>19</sup>
- Beyond these measures assistance is dependent on the student's status

#### Schools Should be Aware of:

- F, M, and J foreign student visa holders and requirements for remaining in status
  - Leaves of absence impact foreign born student victims because USCIS dictates a maximum aggregate amount of time they can fall below full-time in their coursework, even with certified medical notes<sup>20</sup>.
  - Amount of time allowed depends on the type of visa
    - A Designated School Official must verify and approve this allotted time based on USCIS requirements
  - If a student fails to comply with this requirement, he or she is in danger of losing status.

#### Safety Assistance

Colleges and universities play an important role in ensuring that student victims feel safe and secure in their surroundings. Many foreign born students live and work on campus and should be able to continue with their day to day schedule without fear of encountering their abuser. There are numerous measures and protocols that campus authorities and college administrations can

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<sup>15</sup> <http://niwap.org/benefitsmap/>

<sup>16</sup> See generally NIWAP, Legal Momentum, and Morgan Lewis, LLP, *Coverage for Forensic Costs for Undocumented Immigrants*, NIWAP 1 (2010), <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Man-Ch17.2-ForensicCoverageImmVictims.pdf>.

<sup>17</sup> <http://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants/>

<sup>18</sup> <http://niwap.org/benefitsmap/>

<sup>19</sup> <http://niwap.org/benefitsmap/>

<sup>20</sup> Medical notes include documentation from a: licensed medical doctor, doctor of osteopathy, or a licensed clinical psychologist recommending

implement to achieve a safe environment for the victim to continue to study, live, and work on campus. Such measures may include:

- Imposition of a campus no contact order against the abuser
- Imposition of a no trespass order against the abuser
- Security Assistance – Examples may include:
  - Providing security escorts for the victims on campus
  - Ensuring increased on-campus security patrol
  - Ensuring that the student victim is accompanied during an interview with the On-campus Police Department
  - Providing for transportation to the hospital for the victim
- Limit the alleged individual or organization perpetrator's access to certain college facilities or activities pending resolution of the matter
- Privacy Protections
  - Inform students about staff members who must maintain privilege and confidentiality
- General transportation assistance for the victim to their classes, on-campus job, and on-campus housing.
- Interim suspension or college-imposed leave for the perpetrator

#### Residency Assistance

It is always more suitable to move the perpetrator than the victim. In some instances, the victim may live with, or in the same building as his/her abuser. While a resolution to the matter is pending, it is important for the health and safety of the victim to ensure separation from the alleged perpetrator. The college or university should work to make reasonable housing accommodations for the victim. Examples of such accommodations may include:

- Change in on-campus housing; such as dormitory reassignment
- Assisting the victim with dissolving a housing contract and pro-rating a refund in accordance with campus housing policies.
- Receive and process requests for assistance from college support staff in completing housing relocation for victims.
- Facilitate meal plan modifications:
  - Allowing for transfer of meal plans or dining dollars to a different location.
    - With consideration taken for religious needs; e.g. Kosher, Halal.
- Any other remedy that can be tailored to the involved individual's circumstances to achieve the goals of this policy.

#### Academic Assistance

Academic accommodations can and should be provided to students with the advice and cooperation of the appropriate faculty. The student may request for faculty to not be informed of the specific reason for their request. Additionally, it is crucial that any accommodations that are made that will have an impact on a student's visa status are relayed to the affected student and that any interim measures that may affect a student's immigration status be modified to accommodate

visa requirements if the student requests. This is needed to ensure that a student does not lose their visa status. Examples of academic accommodations may include:

- Rescheduling of exams and assignments.
- Providing alternative course completion options.
- Allowing for changes in class schedule or other academic accommodations, without penalty to the victim.
  - Allowing the victim to drop a course without penalty or reducing their course load without affecting their enrollment.
- Allowing the victim to change sections of a course if in same class as the perpetrator.
- Providing academic support services; such as tutoring.

### *Designing Interim Measures for Student Visa Holders*

Student visa holders who become victims of sexual assault, dating violence, stalking, domestic violence, or sexual harassment are eligible for and will benefit from all of the assistance discussed above. However, since several of the forms of academic measures schools typically offers student victims can conflict with student visa requirement, this section lists modifications to interim measures that may be needed in cases of foreign born student visa holder victims. Additionally, as noted below, interim measures in student visa holder cases may also need to include assistance in obtaining certifications needed from academic advisors, campus health care providers and others to obtain permission from the federal government to reduce a student visa holders course load or to provide time off from school. This section provides an overview of modified interim measures. NIWAP has developed more detailed tools to guide schools, advocates and attorneys working with student visa holder victims that should also be consulted.<sup>21</sup>

- *F-1 Visa Holders*: With visas that are issued for as long as it takes to complete the student's specified academic program. Requires that the student be in school full time.
  - **Reductions in Course Load or No Course Load:** USCIS may authorize a reduced course load or if necessary no course load for a period of time not to exceed an aggregate of 12 months. In calculating the aggregate of 12 months for students who were on F-1 visas during high school or at another academic institute, any reductions in course load the student previously received counts toward the 12-month maximum.
  - Designated School Officials (DSOs) can usually, with support from the student's academic advisor, petition USCIS for the F-1 student to receive a reduced or no course load for
    - Bona fide academic reasons
    - Medical conditions
    - Healthcare providers at the university attest that the victim student has significant physical and/or psychological needs as a result of the abuse suffered that merit a reduced course load or time off from school.

### *J-1 Visa Holders:*

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<sup>21</sup> <http://niwaplibrary.wcl.american.edu/pubs/title-ix-foreign-students>; <http://niwaplibrary.wcl.american.edu/pubs/interim-measures-for-f-visa-holders>; <http://niwaplibrary.wcl.american.edu/pubs/interim-measures-for-j-visa-holders>; <http://niwaplibrary.wcl.american.edu/pubs/interim-measures-for-m-visa-holders>

## Requirements for the J-1:

- **Duration:** The student is permitted 24 months in the U.S. to complete his or her post-secondary degree.
- **Study:** J-1 visa holder students are required to pursue a full course load.<sup>22</sup>
- **Foreign Residency Requirement:** A current or past J-1 visa holder is required to return to their home country to fulfill a two-year home country physical presence requirement before they are allowed to return to the United States. This is known as the foreign residence requirement. This two 2-year foreign residence requirement is imposed on J-1 visa holders for one or more of the following reasons<sup>23</sup>:
  - *Government funded Exchange Program:* The student participated in an exchange program that was funded in whole or in part by a U.S. government agency, his or her home country's government, or an international organization that received funding from the U.S. government or the home country's government.
  - *Specialized Knowledge or Skill:* The student participated in an exchange program involving an area of study or field of specialized knowledge that has been designated as necessary for further development of his or her home country and appears on the Exchange Visitor Skills List for the home country.
  - *Graduate Medical Education/ Training:* The student participated in an exchange program to receive graduate medical education or training.

## Exceptions to J-1 Requirements

- **Crime Victim Needs:** Common forms of interim measures student victims of sexual assault, dating violence and/or stalking will need is a reduced course load or leave of absence from school so that they can get the time, services and support they need to heal following abuse.
- **Reductions in Course Load or Interruption of Study:** If the J-1 visa holder student is compelled to reduce or interrupt a full course load of study, they may do so if there was prior consultation with (and approval of) the request by the student's academic advisor and by organization serving as the student's Designated Sponsor for the J-1 student visa holder. The Designated Sponsor files a request seeking USCIS approval for the change. The following qualify as legitimate reasons for a reduced course load or interruption of study:<sup>24</sup>
- **Bona Fide Academic Reason:** The sponsor of the J-1 visa holder provides USCIS with a written statement from the academic dean or an advisor recommending that the student reduce his or her course load.

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<sup>22</sup> Full-time for both F and J visas means 12 credits or above for an undergraduate student in either a term or semester school, 9 credits for a graduate student in a semester or term school, and 12 credits for a Juris Doctor student.

<sup>23</sup> <http://j1visa.state.gov/participants/current/rules-and-infractions/>

<sup>24</sup> <http://j1visa.state.gov/participants/current/rules-and-infractions/>



- **A Medical Condition:** The sponsor obtains a written statement of a qualified medical condition as determined by a medical professional<sup>25</sup>:
  - Class A: A communicable disease
  - Class B: Physical or mental abnormality, disease, or disability serious in a degree or permanent in nature amounting to a substantial departure from normal well-being.
    - Victims of sexual assault, dating violence or stalking will need to obtain medical documentation that their need for leave or reduced course load meets these criteria

#### Helpful Interim Measures for the J-1

- The Dean or an Advisor from the university provides a statement recommending that the student take a reduced case load for academic reasons.
- The university collaborate with the J-1 visa holder student's advisor assisting them in preparing and securing approval from USCIS for academic leave or reduced course load.
- Healthcare providers at the university attest that the student victim has significant physical and/or psychological needs as a result of the abuse suffered that merit a reduced course load or leave of absence from school.
- Screen the Student for U visa, T visa or VAWA eligibility

#### M-1 Visa Holders

##### Requirements for the M-1:

- **Duration:** The M Visa's duration is for a fixed period of time. The M-1 visa is usually granted for shorter time periods than the other student visas. The specific duration is stated on the M Visa holder's I-20.
  - An M-1 visa holder student is authorized to stay in the U.S. during their course of study and during training related to their course of study up to the amount of time listed on the I-20. The M-1 visa status cannot exceed one year.
  - At the end of the M-1 visa period the student is given 30 days to depart the United States
    - If a student reduces the course load, even under approved circumstances, the student loses the additional 30 days.
- **Student:** The M-1 student
  - Must maintain a full course of study.
  - Can only transfer schools within the first six months of your course of studies.
  - Cannot continue on to another educational or university program on their M-1 Visa. The student will be required to apply for the F-1 visa.

##### Exceptions to the M-1 Requirements

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<sup>25</sup> A medical professional refers to a licensed medical doctor, doctor of osteopathy, or a licensed clinical psychologist.

- **Crime Victim Needs:** Common forms of interim measures student victims of sexual assault, dating violence and/or stalking will need a reduced course load or leave of absence from school so that they can get the time, services and support they need to heal following the abuse.
- **Reductions in Course Load or No Course Load:** USCIS may authorize a reduced course load or if necessary no course load for a period of time not to exceed an aggregate of 5 months.
  - DSOs, usually with support from the student’s academic advisor, can petition USCIS for the M-1 student to receive a reduced or no course load for a period of time not to exceed 5 months. This may require that the DSO also submit a request for the student’s M-1 visa to be extended. Academic probation or suspension are not acceptable reasons for program extension.
  - To qualify for a reduced course load or no course load an M-1 student must demonstrate a compelling medical reason. The DSO may authorize a student to fall below full-time status for compelling medical reasons. Victims of sexual assault, dating violence or stalking with physical or mental health consequences of the victimization should qualify for this exception.

Helpful Interim Measures for the M-1:

- The DSO files a request with USCIS requesting that the student be authorized to take a reduced course load or leave of absence.
- Healthcare providers at the university attest that the victim student has significant physical and/or psychological needs as a result of the abuse suffered that merit a reduced or no course load.
- Screen the Student for U visa, T visa or VAWA eligibility

Ensuring that interim measures for sexual assault victims do not interfere with a foreign-born student’s visa is important in order to not unnecessarily disrupt the victim’s educational pursuits in the United States. It is important to keep the victim informed on the status of their visa and to allow them to make an informed decision regarding their health and well-being as well as their education. If you have any further questions concerning interim measures and student visas, please contact the National Immigrant Women’s Advocacy Project.

**Interim Measures for Visa holders:**

**F1 Visa holders:** must maintain a “full course of study” (which means a student must be making normal progress toward completing a course of study).

- The United States Citizen and Immigration services consider a full undergraduate course load to consist of a minimum of **twelve** hours each semester/quarter.
- There is some flexibility if lesser course load needed to complete course of study during the current term also as adjusting to English language and reading requirements, adjust to US teaching methods, improper courts placement, could argue for this for a survivor but no discretion to give or than one semester unless medical need
  - USCIS can grant up to 12 months reduced course load or no course load for physical or mental abnormality, disease, or disability serious

in degree or permanent in nature amounting to a substantial departure for normal well-being

- Can have multiple authorizations for reduced or no class load but only for a maximum of 12 months – no discretion to give more
- Change in work schedule or job assignment
  - Particularly important for foreign students who may only be able to have a job on campus authorized as part of their visa

**J1 Visa holders:**

- Students are required to obtain a degree in no more than 24 months and to fulfill a full course of study
- J-1 visa holders must stay in status. They are required to obtain a degree in no more than 24 months and to fulfill a full course of study
  - Provide assistance to the 2-year home country return requirement on J-1 visas

**M1 Visa holders**

- Impact of a reduced course load and absence from school: Interim measures that allow victims to take a leave of absence from school or reduce their course load cannot last longer than an aggregate of five months. The school should provide assistance to the M-1 student victim in applying for a reduced or no course load and for any needed extension of the student's M-1 visa.

If you have any further questions concerning interim measures, please contact the National Immigrant Women's Advocacy Project.