TERRORIST ATTACKS DRIVE CHANGES IN STUDENT VISA RULES

More than eight months after the Sept. 11 terrorist hijackings and the initial anthrax incidents, the federal agenda for research universities continues to be dominated by fallout from those events. The landscape has changed dramatically for some aspects of higher education, and many of those changes are sure to be long-lasting.

In coming weeks, we’ll take a look at some of the more significant federal issues in this area. This column will address the student-visa situation. In coming weeks, we’ll look at such areas as laboratory security and “sensitive courses of study.”

All of these issues are extremely sensitive and, understandably, can trigger emotional responses in many people. There is little public sympathy for those seen as possible threats to our national security, or for those who might be seen as protecting the interests of such people. In addressing these important issues, there is always a danger of appearing self-serving or elitist.

It is appropriate to offer ideas and express concerns about legislative and regulatory proposals related to the war on terrorism, but it should be done in a positive and constructive way. Rather than just saying “no,” universities have been learning to say, “Here are some alternative ways we could achieve the same goal.”

While there’s some quibbling about the actual number of terrorists who entered the U.S. on student visas, or later tried to switch to that status, most Americans have the perception that at least some of the Sept. 11 terrorists took advantage of laws that allow foreign students to study in the United States. Understandably, many see this as a loophole that needs to be closed quickly and tightly.

Public opinion on this issue has been driven largely by an onslaught of news stories, some of which have been overly simplistic or contained factual errors. However, media accounts hold enough truth that aggressive responses tend to seem defensive and/or get mired in minutiae. In addition, there have been just enough new developments every few weeks to keep the story on the front burner. Whether it is talk radio, the editorial pages or the local diner, the debate on this issue has generally been one-sided. Politicians and federal policymakers have felt which way the wind is blowing and have gone at the problem with some enthusiasm.

The federal government has decided its emphasis will be on strengthening the visa approval process (i.e., identifying potential terrorists before they even enter the country on student visas), although universities will have increased responsibilities for reporting on the activities of foreign students who have entered the United States. President Bush recently signed legislation (Public Law No. 107-173, the Enhanced Border Security and Visa Entry Reform Act) outlining a set of new requirements. Here’s an expert description of the new requirements by the Chronicle of Higher Education:
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“It would require people from the seven countries that the State Department says sponsor terrorism to undergo new background checks before they could be issued student visas or other nonimmigrant visas. The countries on the list are Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria ...

“The legislation also would force all foreign students seeking to study in the United States to give federal officials more information about themselves. They would have to provide their home-country addresses; the names and addresses of spouses, children, parents, and siblings; the names of people in their home countries who could verify information about them; and any previous work history, including the names and addresses of employers ...

“Under the bill, federal officials would be required to record the date a foreign student is accepted to an approved educational institution or exchange-student program, the date a student visa is issued, the date the person enters the United States and the port of entry, the date a college or exchange-student program is notified that the student has entered the country, the date the student enrolls at the college or begins the program, the student's degree program and field of study, and the date the student graduates or leaves the institution or exchange program for another reason.

“A college would be required to notify immigration officials if a student it had accepted for admission did not show up within 30 days of the deadline for registering for classes. And the INS would have to periodically review educational institutions to make sure they were complying with the law's record-keeping and reporting requirements.”

The government is banking on a new computer database, the Student and Exchange Visitor Information System (SEVIS) to vastly upgrade its ability to keep tabs on foreign students. The Justice Department recently moved up the implementation date of the program, announcing that SEVIS will be up-and-running on July 1, with colleges and universities required to be in compliance by Jan. 30, 2003. Those who aren't will lose the right to enroll foreign students. (Previously, Congress had given the INS until January 2003 to have the system running.)

“Under the new Internet-based tracking system announced yesterday, schools will be required to notify the INS within 24 hours if a student drops out or doesn't show up,” the Washington Post reported. “Before foreign students can apply for visas, they must be accepted by a school, which will enter their names and identifying information in the database. The students will pay a $95 registration fee and will be issued a paper receipt. The receipt must be presented, along with a school's acceptance letter, to a U.S. embassy or consulate when applying for a visa.”

Colleges and universities are concerned they won't have sufficient time, after the government template is released, to develop the necessary software to package and transmit the information required under SEVIS. As Terry Hartle, vice president of the American Council on Education, told the New York Times: “The issue here is not that colleges don't want to do it, but it's an enormous task to organize technically.”

For some small colleges, reporting will be a matter of submitting information about just a few students. At large universities, however, it’s a much more complex task of assembling large batches of student data. During the 2000-01 school year, there were nearly 550,000 foreign students enrolled in U.S. institutions, nearly 4 percent of the total student population. Among graduate students, the percentages are even greater; at Vanderbilt, for example, roughly 30 percent of the graduate students are foreign students.
There are other concerns. For example, it’s not yet been decided how the fees for the SEVIS program will be collected. Universities don’t want to be in the business of collecting federal fees; and the U.S. State Department doesn’t want to take on the additional task.

Another example: Will the Immigration and Naturalization Service have sufficient resources to act on the information it receives from universities? For many years the agency has been woefully short-handed, under-funded and, some critics say, mismanaged.

Everyone should hope the government uses the information in a timely, effective and appropriate way. The stakes are high: most importantly, all of us want to avoid future terrorist attacks and their tragic impact on our society; but, in addition, colleges and universities cannot afford further labeling as being unduly “soft” on those who might take advantage of the student visa system to harm the United States.

As Attorney General John Ashcroft put it recently: "Allowing foreign students to study here is one of the ways we convey our love of freedom to foreign students who will one day return to their countries and take on leadership positions. However, we can no longer allow our hospitality to be abused."

The requirements being put in place by Congress, the Justice Department and other executive-branch agencies clearly place an additional burden on colleges and universities. Certainly, there will be some problems in the details … in the actual implementation. But, overall, most in the higher education community consider them to be a reasonable response to the challenges faced by the nation.

We have come a long way on the student-visa issue since the early days following the terrorist attacks. Initially, a number of Members of Congress called for an immediate, 6-month moratorium on new student visas. Such an approach would have had extremely negative consequences for universities.

The shift in approach is largely the result of university representatives, individually and collectively, working constructively with Congress to develop a reasonable and effective student-visa and tracking system.

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