3.B.2  
**Eligibility for I-20 issuance**

To acquire F-1 status, a student needs to receive Form I-20, produced in SEVIS and signed by a DSO of the school he or she wishes to attend.

A DSO must comply with the regulations when issuing a Form I-20. These regulatory controls are designed to prevent and deter abuses of the privilege of enrolling nonimmigrant foreign students.

3.B.2.1  
**Regulatory controls on issuing Form I-20**

A DSO of a SEVIS-approved school may issue Form I-20 to a prospective F-1 student only after the conditions listed at 8 CFR 214.3(k) have been met.

**Authority Cite**

8 CFR 214.3(k)  
(k) Issuance of Certificate of Eligibility. A designated school official (DSO) of a school approved by the Service to enroll nonimmigrant students must sign any completed Form I-20 issued for either a prospective or continuing student or a dependent. A Form I-20 issued by an approved school system must state which school within the system the student will attend. The form must only be issued from within the United States. Only a designated official of a Service approved school shall issue a Certificate of Eligibility, Form I-20, to a prospective student and his or her dependents, and only after the following conditions are met:

1. The prospective student has made a written application to the school.
2. The written application, the student's transcripts or other records of courses taken, proof of financial responsibility for the student, and other supporting documents have been received, reviewed, and evaluated at the school's location in the United States.
3. The appropriate school authority has determined that the prospective student's qualifications meet all standards for admission.
4. The official responsible for admission at the school has accepted the prospective student for enrollment in a full course of study.

Failure to comply with the 8 CFR 214.3(k) conditions for issuing Form I-20 is a cause for withdrawal of a school's approval to enroll nonimmigrant students.

8 CFR 214.4(a)(2)(xviii)

**AM Cross Reference**

See 3.P.2 Withdrawal of school certification

The school is also required to retain "the documents referred to in paragraph (k)" as part of its general recordkeeping obligations.

8 CFR 214.3(g)(1)

**AM Cross Reference**

See 3.O.1.6 Retention of F-1 and M-1 records

A Form I-20 should be issued only to aliens who are F-1 students or who are seeking F-1 status, or to their dependents seeking or maintaining F-2 status. The corollary of this instruction is that Forms I-20 should not be issued to other individuals, such as lawful permanent resident students or U.S. citizens, who sometimes request these forms for other purposes such as obtaining foreign exchange or passport renewal.

Form I-20 may be issued only by the PDSO or a DSO of the designated school, and must be executed within the United States. The DSO may sign the I-20 only after it has been fully and accurately completed.

8 CFR 214.3(k)  
9 FAM 402.5-5(D)(1)

School officials may not sign blank forms or allow recruiters or other unauthorized persons to complete and issue the forms upon recruiting a student.

Requiring the payment of a fee in exchange for the issuance of Form I-20 is not permitted.
Practice Note
Since the DSO has a unique quasi-governmental role in administering the F-1 regulations, legacy INS had also expressed the opinion that DSOs could be subject to the same prohibition (and penalties) as are federal officials in terms of accepting anything of value in exchange for performing an "official" act. [INS Operations Instructions, OI 214.3(n)(3), which reads: "(3) Charging fees for issuance of Forms I-20. Once the appropriate school authority has determined that the prospective F-1 or M-1 student's qualifications meet all standards for admission, and the official responsible for admission at the school has accepted the student for enrollment in a full course of study after compliance with the other conditions of 8 CFR 214.3(k), a designated official of the school must issue a Form I-20. Since the regulation provides that the official must issue the form, requiring the payment of a fee for its issuance is a violation of Service regulations. Furthermore, the Criminal Division of the Department of Justice has advised that the possibility exists that a designated official who charges a fee for an accepted student to obtain Form I-20 may be in violation of 18 U.S.C. 291(c), which makes it a Federal claim for a public official to exact anything of value in the performance of an official to exact anything of value in the performance of an official act."]

3.B.2.2
Written application to the school

8 CFR 214.3(k)(1) requires the student make a "written application to the school."
Legacy INS guidance [INS Operations Instruction 214.3(n)(3)] stated that the "written application" rule requires a student to "personally make a written application to a school," with the following two exceptions:
1. Application may be made in behalf of a scholarship student by an official agency of the student's government such as the ministry of education; and
2. The application may be made in behalf of a student by the student's parent or legal guardian.

3.B.2.2.1
Electronic applications for admission

Many schools use Web-based technology that allows students to apply via the Internet. The school receives and stores the students' applications electronically. In most cases, the student still sends a "signature document" to the school, certifying that all information submitted electronically is his or her own. The student also submits other documents, such as teacher recommendations, transcripts, and financial information, by mail. Schools with on-line application procedures must interpret and apply the 8 C.F.R. § 214.3(k)(1) "written application" requirement in the context of the electronic age. For example, the dictionary entry of "to write" includes the following definitions: "to introduce (information) into the storage device or medium of a computer," and "to transfer (information) from the main memory of a computer to a storage or output device." [Merriam-Webster's Collegiate Dictionary, 10th edition (1999)]. The U.S. Code's definition of "writing" [1 U.S.C. § 1] is: "writing includes printing and typewriting and reproductions of visual symbols by photographing, multigraphing, mimeographing, manifolding, or otherwise." Although it is probably more important that the application be made "personally" by the student rather than the form in which it is "written," DSOs may want to discuss with their institution's general counsel to ensure that their school's electronic application system meets the "written application" requirement of the regulations.

3.B.2.3
Admission to the school

The school must admit the prospective F-1 student for a full course of study, before it can issue an I-20.

3.B.2.3.1
Admission decision done at school's U.S. location by admissions official

The official or officials normally responsible for admissions at the school must accept the student "for enrollment in a full course of study.

8 CFR 214.3(k)(4)
The admission official's admission decision must be based on a determination that "the prospective student's qualifications meet all standards for admission."
8 CFR 214.3(k)(3)
8 CFR 214.3(k)(2) also requires that the "written application, the student's transcripts or other records of courses taken, proof of financial responsibility for the student, and other supporting documents have been received, reviewed, and evaluated at the school's location in the United States," before an I-20 is issued.

Practice Note
Since "receipt, review, and evaluation" of the written application and transcripts are part of the admissions process, advisers generally interpret 8 C.F.R. § 214.3(k)(2) to mean that the admission decision be based on review of such documents at the school's location in the United States. The requirement that "proof of financial responsibility for the student" also be reviewed at the school's location in the United States does not mean that financial ability must be part of the admissions decision, but rather that the DSO must review such financial documents before issuing the I-20. On the question of whether original transcripts need to be reviewed, SEVP recently inferred that schools should follow their own policy, stating that, "SEVP has no requirement for an F-1 student to submit an original transcript. Some schools require original transcripts while others will accept copies." [SEVP "Questions from DSOs" blog series (January 14, 2013)] Immigration regulations do not give DSOs authority to admit students. Only the school can give authority to an employee to admit students. If a school official responsible for admissions has also been designated as a DSO, however, then that same individual can of course issue an I-20, as long as the DSO is "a regularly employed member of the school administration whose office is located at the school and whose compensation does not come from commissions for recruitment of foreign students."

8 CFR 214.3(l)(1)

3.B.2.3.2 Conditional admission and bridge programs: discussion

A DSO cannot issue a Form I-20 until the student has been admitted to a full course of study by the school's admissions official after a determination that "the prospective student's qualifications meet all standards for admission."

8 CFR 214.3(k)(3)
Legacy INS Operations Instruction 214.3(n)(4)
By signing a Form I-20 on page 1, a DSO affirms "under penalty of perjury" that a school official has examined the student's academic records and financial documentation and has determined that the student meets "all standards for admission" to the school.

If a school has a conditional or provisional admission policy, the nature of the admission would have to be carefully examined when determining if an I-20 could be issued on the basis of such an admission. The general rule is that an I-20 should only be issued for a full course of study that:
• has been approved on the school's Form I-17;
• for which the student's qualifications meet all standards for admission;
• to which the student has been fully admitted; and
• which the student can begin as of the program start date on the Form I-20.

One of the most common issues arises when a student meets all standards for admission except for English language proficiency. Some schools have developed "bridge programs," designed to bridge a deficiency in an otherwise qualified student's English language proficiency by structuring a program that integrates English language training with academic study. There is great variety in the structure of such programs. In late 2012, the Student and Exchange Visitor Program (SEVP) began to address some schools' practice of issuing a single Form I-20 that covers both the English language and the academic degree portion of the student's educational objective. SEVP's concern with this practice stems from regulations at 8 CFR 214.3(k), which establish the requirements for issuing Form I-20. That paragraph, which has been in place since 1983, reads:

Authority Cite
8 CFR 214.3(k)
(k) Issuance of Certificate of Eligibility. A designated school official (DSO) of a school approved by the Service to enroll nonimmigrant students must sign any completed Form I-20 issued for either a prospective or continuing student or a dependent. A Form I-20 issued by an approved school system must state which school within the system the student will attend. The form must only be issued from within the United States. Only a designated official of a Service approved school shall issue a Certificate of Eligibility, Form I-20, to a prospective student and his or her dependents, and only after the following conditions are met:
(1) The prospective student has made a written application to the school.
(2) The written application, the student's transcripts or other records of courses taken, proof of financial responsibility for the student, and other supporting documents have been received, reviewed, and evaluated at the school's location in the United States.
(3) The appropriate school authority has determined that the prospective student's qualifications meet all standards for admission.
(4) The official responsible for admission at the school has accepted the prospective student for enrollment in a full course of study.

SEVP's focus is on paragraph 214.3(k)(3), which requires that,

**Authority Cite**
8 CFR 214.3(k)(3)

(3) The appropriate school authority has determined that the prospective student's qualifications meet all standards for admission.

...before an I-20 is issued.

Read in isolation, this provision would seem to prohibit issuing a Form I-20 for a degree course of study to which a student has only been "conditionally" or "provisionally" admitted, since those kinds of admission are generally offered only when a prospective student has not met all standards for admission to a program. Aside from the regulatory issue, SEVP is also concerned that Forms I-20 should reflect the actual program of study in which the student is engaged, for tracking, reporting, and monitoring purposes, as well as to clarify when a student becomes eligible for practical training benefits, since intensive English language students are not eligible for practical training.

In the end, the question is a practical one: "how should a school issue an I-20 to a student who has met all requirements for regular admission except for English language proficiency?"

SEVP recognizes that I-20 issuance practices involving programs that incorporate English and academic study vary by institution, and in many cases have been long-standing. In addition, the way English language competency is separated out on Form I-20 and in Department of State guidance somewhat clouds the regulatory analysis. Because of this, SEVP is in the process of developing specific policy guidance on the topic of conditional admission and "bridge programs."

On May 23, 2013, the Student and Exchange Visitor Program (SEVP) posted initial draft guidance for public comment on the topic of Bridge Programs and Conditional Admission. Public comment on the draft guidance was accepted until June 14, 2013. NAFSA submitted comments on the draft guidance on June 10, 2013.

As expected, SEVP's draft guidance:

- focuses on the 8 CFR 214.3(k)(3) regulatory requirement that "The appropriate school authority has determined that the prospective student's qualifications meet all standards for admission;"
- defines certain key terms like "conditional admission" and "bridge program;"
- describes how the programs of study listed on a school's Form I-17 relate to a school's ability to issue a Form I-20 in a conditional admission or bridge program scenario; and

After analyzing the public comments received on the initial draft of the guidance, SEVP decided to split the guidance into several pieces, and to post a series of related "second round" of draft guidance documents, including:

- On September 26, 2014, SEVP posted Draft Policy Guidance for Adjudicators 1210-03: Pathway Programs. SEVP also posted drafts of two related supporting fact sheets: A Draft Bridge Programs Fact Sheet, and a Draft Bridged Degree Programs Fact Sheet. SEVP accepted public comments until November 10, 2014. Read NAFSA's comments, submitted on November 10, 2014.
- I-20 issuance [SEVP's Draft Policy Guidance for Adjudicators 1210-03 includes draft fact sheets that propose how to issue I-20s for pathways programs].

**Practice Note**
Monitor the SEVP Guidance For Comment page at http://studyinthesates.dhs.gov/sevp-guidance-for-comment
Until SEVP publishes final guidance, schools should avoid issuing an I-20 for a program of study to which a student has only been conditionally admitted. Schools can also consider submitting a request to update their Form I-17 with a bridge program now; if approved, the school could begin issuing Forms I-20 for that program.

**Practice Note**

Bear in mind that there is a difference between conditional admission as an academic policy v. issuing an I-20 based on a conditional admission. The issue is not conditional admission itself. A school can still decide to admit students conditionally, if such a practice is consistent with its accreditation, but it shouldn't use the program to which the student has only been conditionally admitted as the program of study for which the I-20 is issued. If the student has also been fully admitted to another program approved on the school's I-17 (e.g., ESL), the school can still issue the I-20 for the ESL program, and note in the Remarks that the student has been conditionally admitted to another program of study that will follow the one to which the student has been fully admitted. For example, if the student has been conditionally admitted to a B.S. in Chemistry but fully admitted to an ESL program, the school can issue the I-20 for the ESL program (provided the ESL program has been approved on the school's Form I-17), and note in the Remarks that the student has also been conditionally admitted to the B.S. in Chemistry.

Schools should also begin considering the following:

- Articulating how their I-20 issuance practices comply with the 214.3(k)(3) "all standards for admission" requirement.
- Examining SEVP's draft guidance to determine how a future SEVP policy may impact their business processes. For example,
  - What is the impact of having to issue two or more successive I-20s to implement transition from an ESL program or a conditional admission or bridge program to a degree program?
  - How long will it take to get a Form I-17 update approved by SEVP for a bridge program where both the English language and academic program are offered by the same institution?
  - How will this affect colleges or universities where not all of the instruction is provided directly by the college or university (that is, where a third party is involved in providing instruction or program management)?
  - Note that the initial May 23, 2013 draft guidance document proposed that once the guidance is published as final, schools would have one year to update their Form I-17 and adjust their I-20 issuance practices to conform to the final guidance. However, neither the July 11, 2014, nor the July 25, 2014 second-round draft guidance documents mention any kind of grace period. Schools should not assume that any grace period will be given.

Members have also reported that SEVP field reps have suggested that schools not issue I-20s for programs of study to which students have only been conditionally admitted.