U.S. Citizenship and Immigration Services

MENU

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Chapter 1 - Purpose and Background

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A. Purpose

The F and M nonimmigrant visa categories are for noncitizens seeking to study in the United States. The nonimmigrant academic student (F-1) classification allows a noncitizen to enter the United States as a full-time student at a U.S. college, university, seminary, conservatory, academic high school, private elementary school, other academic institution, or in a language training program.[1]

The nonimmigrant vocational student (M-1) classification includes students in established vocational or other recognized nonacademic programs, excluding language training programs.[2]

B. Background

The Immigration and Nationality Act (INA) is the primary body of law governing immigration and visa operations and provides for the admission of various classes of nonimmigrants, including foreign students.[3] The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) created the requirement for a program to collect information for tracking and monitoring foreign students from approved institutions of higher education, other approved educational institutions, and designated exchange visitor programs in the United States.[4]

IIRIRA led to legacy Immigration and Naturalization Service (INS) initiating a pilot program in 1997 to monitor the academic progress and movement of foreign students and exchange visitors from entry into the United States to departure. This program was known as the Coordinated Interagency Partnership Regulating International Students (CIPRIS).

As part of reforms following September 11, 2001, legacy INS renamed CIPRIS to the Student and Exchange Visitor Information System (SEVIS). Legacy INS also established the U.S. Immigration and Customs Enforcement (ICE) Student and Exchange Visitor Program (SEVP) to manage SEVIS.[5]

IIRIRA, as amended by the Enhanced Border Security and Visa Entry Reform Act of 2002, required that legacy INS establish an electronic means to monitor and verify the acceptance of noncitizen students by schools. The amended IIRIRA also mandated that schools notify legacy INS when a foreign student fails to enroll within 30 days after the end of a school's enrollment period.[6]

The Homeland Security Act of 2002 transferred the authority and functions of le DHS.[7] Those functions relating to SEVIS and SEVP were placed within ICE.

In 2004, DHS published a final rule amending regulations requiring payment of a fee by certain noncitizens seeking status as F-1, F-3, M-1 or M-3 nonimmigrant students.[8]

In 2008, DHS again amended its regulations and adjusted application fees for that certain noncitizens who are seeking status as F-1, F-3, M-1, or M-3 nonimmigrant students.[9]

On December 14, 2010, President Obama signed the Accreditation of English Language Training Programs Act, which amended INA 101(a)(15)(F)(i) to state that F-1 nonimmigrant students intending to pursue an English language training course of study must enroll in an English language training program that has been accredited by a regional or national accrediting agency recognized by the Department of Education.[10]

C. Legal Authorities

- INA 101(a)(15)(F) - Academic student definition
- INA 101(a)(15)(M) - Vocational student definition
- INA 214(m) - Nonimmigrant elementary and secondary school students
- INA 248; 8 CFR 248 - Change of nonimmigrant classification
- 8 CFR 214.2(f) - Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs
- 8 CFR 214.2(m) - Students in established vocational or other recognized nonacademic institutions, other than in language training programs
- 8 CFR 214.3 - Approval of schools for enrollment of F and M nonimmigrants
- 8 CFR 214.13 - SEVIS fee for certain F, J, and M nonimmigrants
- 8 CFR 274a.12(c) - Aliens who must apply for employment authorization
- 22 CFR 41.61 - Students - academic and nonacademic

Footnotes

[^ 1] See INA 101(a)(15)(f).

[^ 2] See INA 101(a)(15)(m). See 22 CFR 41.61(b)(1).

[^ 3] According to INA 101(a)(15)(f), a noncitizen is eligible for an F visa if they: have a residence in foreign country which they have no intention of abandoning, are a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study consistent with INA 214(l) at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in an accredited language training program in the United States. INA 101(a)(15)(m) provides that a noncitizen who has a residence in a foreign country which they have no intention of abandoning who seeks to enter the United States temporarily and solely for the purpose of pursuing a full course at an established vocational or other recognized institution (other than in a language training program) in the United States is eligible for an M visa. The INA has been amended several times, including by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Division C, Title III of Pub. L. 104-208 (PDF) (September 30, 1996), the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Pub. L. 107-56 (PDF) (October 26, 2001), the Enhanced Border Security and Visa Entry Reform Act of 2002, Pub. L. 107-173 (PDF) (May 14, 2002), and the Homeland Security Act of 2002, Pub. L.

107-296 (PDF) (November 25, 2002).

[^ 4] See Section 641 of IIRIRA, Pub. L. 104-208 (PDF), 110 Stat. 3009, 3009–704 (S

[^ 5] IIRIRA required the creation of a program to collect information relating to nonimmigrant foreign students and exchange visitor program participants during the course of their stay in the United States. See Section 641 of IIRIRA, Pub. L. 104–208 (PDF), 110 Stat. 3009, 3009–704 (September 30, 1996). The program became known as ICE SEVP and its core technology became known as SEVIS. A number of rules outline the requirements and procedures for SEVIS. They include: 67 FR 34862 (PDF) (May 16, 2002) (proposed rule for implementing SEVIS); 67 FR 44344 (PDF) (Jul. 1, 2002) (interim rule for schools to apply for preliminary enrollment in SEVIS); 67 FR 60107 (PDF) (Sept. 25, 2002) (interim rule for certification of schools applying for enrollment in SEVIS); 67 FR 76256 (PDF) (Dec. 11, 2002) (final DHS rule implementing SEVIS); 67 FR 76307 (PDF) (Dec. 12, 2002) (Department of State interim final rule implementing SEVIS); 69 FR 39814 (PDF) (Jul. 1, 2004) (final rule authorizing fee collection for F, J and M nonimmigrant classifications); and 73 FR 55683 (PDF) (Sept. 26, 2008) (final rule adjusting program fees and establishing procedures for out-of-cycle review and recertification of schools certified by the SEVP to enroll F and M nonimmigrant students).

[^ 6] See the Enhanced Border Security and Visa Entry Reform Act of 2002, Pub. L. 107-173 (PDF) (May 14, 2002).

[^ 7] See the Homeland Security Act of 2002, Pub. L. 107-296 (PDF) (November 25, 2002).

[^ 8] See 69 FR 39814 (PDF) (Jul. 1, 2004) (final rule).

[^ 9] Section 641(e) of IIRIRA, Pub. L. 104–208 (PDF), 110 Stat. 3009, 3009–706 (September 30, 1996), requires that a fee be established and charged to students or exchange visitors tracked in SEVIS to fund the program and further requires that the fee be used only for ICE SEVP related purposes. SEVIS Remittance for Certain F, J and M Visa nonimmigrants (Form I-901) fees are deposited into a sub-account within the Immigration Examination Fee Account and maintained for ICE SEVP use. See 73 FR 55683 (PDF) (Sept. 26, 2008).

[^ 10] See the Accreditation of English Language Training Programs Act, Pub. L. 111-306 (PDF) (December 14, 2010).

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Chapter 2 - Eligibility Requirements

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A. Applicant Eligibility

To be eligible for F-1 or M-1 status, noncitizens must meet the following requirements:[1]

- Be bona fide students qualified to pursue a full course of study;
- Seek to enter the United States temporarily and solely for the purpose of pursuing such a course of study at an institution the U.S. Immigration and Customs Enforcement (ICE) Student and Exchange Visitor Program (SEVP) has certified to admit nonimmigrant students;
- Have a foreign residence, which they have no intention of abandoning;[2]
- Have a Certificate of Eligibility for Nonimmigrant Student Status (Form I-20) issued in their name by a Designated School Official (DSO) of a school that SEVP has certified to admit nonimmigrant students;[3]
- Have sufficient funds available for self-support during the entire proposed course of study;[4] and
- Provide proof that the noncitizen has paid the Student and Exchange Visitor Information System (SEVIS) fee on Payment of Fee Remittance for Certain F, J, and M Nonimmigrants (Form I-901), if applicable.[5]

Intent to Depart

In order to be eligible for F-1 or M-1 classification, a student must intend to depart from the United States after their temporary period of stay (for example, upon completion of their program of study and any authorized practical training in this country or upon termination of their nonimmigrant status) and have a foreign residence that they have no intention of abandoning.[6]

The foreign residence requirement should be adjudicated differently for students than for other nonimmigrants.[7] Typically, students lack the strong economic and social ties of more established applicants, and they plan longer stays in the United States. INA 101(a)(15)(F)(i) assumes that the natural circumstances of being a student do not disqualify the student from qualifying for nonimmigrant status. Considerations should include the student's present intent, not what they might do after a lengthy stay in the United States.[8]

If a student had a foreign residence immediately prior to traveling to the United States, even if such residence was with parents or guardians, they may be considered to be maintaining a residence abroad if they have the present

intent to depart the United States at the conclusion of their studies.[9] The fact that this intention may change is not a sufficient reason to deny them F classification. In addition, the present intent to depart does not imply the need to return to the country from which they hold a passport. It means only that they must intend to leave the United States upon completion of their studies. Given that most students are young, they are not expected to have a long-range plan and may not be able to fully explain their plans at the conclusion of their studies. The student must have the present intent to depart at the conclusion of their approved activities.[10]

A student may be the beneficiary of an approved or pending permanent labor certification application or immigrant petition and still be able to demonstrate their intention to depart after a temporary period of stay.[11] USCIS officers generally view the fact that a student is the beneficiary of an approved or pending permanent labor certification or an immigrant visa petition as not necessarily impacting their eligibility for the classification, so long as the student intends to depart at the end of their temporary period of stay. In all cases, the officer must consider all facts presented when determining whether a student is eligible for the F or M classification.

Sufficient Funds

F-1 students must have sufficient funds to successfully study in the United States without resorting to unauthorized U.S. employment for financial support. F-1 students must provide documentary evidence that sufficient funds are, or will be, available to defray all expenses during the entire period of anticipated study.[12]

M-1 students must establish that they have funds immediately available to them or assurances of support necessary to pay all tuition and living costs for the entire period of intended stay.

Evidence of financial ability for prospective F-1 and M-1 students includes, but is not limited to:

- Family bank statements;
- Documentation from a sponsor;
- Financial aid letters;
- Scholarship letters; and
- A letter from an employer showing annual salary.[13]

B. Program Eligibility

1. F-1 Students

The following schools may be approved for attendance by F-1 students:[14]

- A college or university;[15]
- A community college or junior college which provides instruction in the liberal arts or in the professions and which awards recognized associate degrees;[16]
- A seminary;[17]
- A conservatory;[18]
- An academic high school;[19]
- A private elementary school;[20] and
- An institution which provides language training, instruction in liberal arts or fine arts, instruction in the professions, or instruction or training in more than one of these disciplines.[21]

2. M-1 Students

The following schools may be approved for attendance by M-1 students:[22]

- A community college or junior college which provides vocational or technical training and which awards recognized associate degrees;[23]
- A vocational high school;[24] and
- A school which provides vocational or nonacademic training other than language training.[25]

3. Ineligible School Types

The following schools may not be approved for attendance by foreign students:[26]

- A home school;[27]
- A public elementary or middle school;[28] and
- Adult education programs that are funded in whole or in part by a grant under the Adult Education and Family Literacy Act, or by any other federal, state, county, or municipal funding.[29]

4. Designated School Official Responsibilities

One requirement for a school to be ICE SEVP-certified is that the school must have dedicated employees for assisting and overseeing enrolled F and M students. These dedicated employees are referred to as the DSO. Each instructional site location must have at least one DSO who also serves as the main point of contact related to the school's compliance for ICE SEVP.[30]

DSOs oversee and authorize foreign student activities, such as, but not limited to, reduced course loads, leaves of absence, employment endorsements such as for Curricular Practical Training and Optional Practical Training, and school transfers. DSOs are also responsible for fulfilling reporting requirements related to the activities of the school's foreign students. Federal law requires DSOs to update and maintain student records in the SEVIS.[31] The failure of a DSO to report student infractions properly and in a timely manner can result in disqualification of the individual as a DSO and withdrawal of the school's ICE SEVP certification.

C. Border Commuter Students

Nationals of Canada or Mexico who continue to reside in their home country while commuting to the United States to attend an approved F or M school are generally granted F-3 or M-3 nonimmigrant classification.[32] Such border commuter students are specifically permitted to engage in either full-time or part-time studies.[33] Unlike other foreign students who are admitted for duration of status, commuter students are admitted with a fixed period of admission through a specific date.[34]

Footnotes

[^ 1] See INA 101(a)(15)(f) and INA 101(a)(15)(m). See 8 CFR 214.2(f)(1) and 8 CFR 214.2(m)(1).

[^ 2] See 9 FAM 402.5-5(C), Qualifying for a Student Visa (F-1/M-1).

[^ 3] See 8 CFR 214.3(k). For more information about DSO requirements, see DHS's Designated School Officials webpage.

[^ 4] See 22 CFR 41.61(b)(1)(ii).

[^ 5] See ICE's I-901 SEVIS Fee webpage for information on the fee requirement and how to pay the fee.

[^ 6] See 9 FAM 402.5-5(E)(1)(b), Residence Abroad Required.

[^ 7] See 9 FAM 402.5-5(E)(1)(b), Residence Abroad Required.

[^ 8] See 9 FAM 402.5-5(E)(1)(b), Residence Abroad Required.

[^ 9] See 9 FAM 402.5-5(E)(1)(b), Residence Abroad Required.

[^ 10] See 9 FAM 402.5-5(E)(1)(b), Residence Abroad Required.

[^ 11] See 64 FR 29208, 29209 (PDF) (Jun. 1, 1999) ("So long as the alien clearly intends to comply with the requirements of his or her nonimmigrant status, the fact that the alien would like to become a permanent resident, if the law permits, this, does not bar the alien's continued holding of a nonimmigrant status."). See *Matter of Hosseinpour* (PDF), 15 I&N Dec. 191 (BIA 1975) (Filing for adjustment of status "…is not necessarily inconsistent with lawful nonimmigrant status.").

[^ 12] While this does not mean that the applicant must have cash immediately available to cover the entire period of intended study, which may last several years, it is generally required that that the applicant has enough readily available funds to meet all expenses for the first year of study, or the length of the program, whichever is shorter. Additionally, applicants must demonstrate that, barring unforeseen circumstances, adequate funds will be available for each subsequent year of study from the same source or from one or more other specifically identified and reliable financial sources.

[^ 13] See DHS's Financial Ability webpage.

[^ 14] See 8 CFR 214.3(a)(2).

[^ 15] See 8 CFR 214.3(a)(2)(i)(A). A college or university is an institution of higher learning which awards recognized bachelors, masters, doctors, or professional degrees.

[^ 16] See 8 CFR 214.3(a)(2)(i)(B).

[^ 17] See 8 CFR 214.3(a)(2)(i)(C).

[^ 18] See 8 CFR 214.3(a)(2)(i)(D).

[^ 19] See 8 CFR 214.3(a)(2)(i)(E).

[^ 20] See 8 CFR 214.3(a)(2)(i)(F).

[^ 21] See 8 CFR 214.3(a)(2)(i)(G).

[^ 22] See 8 CFR 214.3(a)(2)(ii).

[^ 23] See 8 CFR 214.3(a)(2)(ii)(A).

[^ 24] See 8 CFR 214.3(a)(2)(ii)(B).

[^ 25] See 8 CFR 214.3(a)(2)(ii)(C). Also, under Section 113 of the Aviation and Transportation Security Act, Pub. L. 107-71 (PDF), 115 Stat. 597, 622 (November 19, 2001), flight schools are required to provide to the Attorney General the identification of a noncitizen who wishes to be trained on an aircraft with a maximum certified takeoff weight of 12,500 pounds or more so that officials can assess the security risk prior to the training. See 49 CFR 1552.3(a).

[^ 26] See 8 CFR 214.3(a)(2)(v).

[^ 27] See 8 CFR 214.3(a)(2)(v)(A).

[^ 28] See 8 CFR 214.3(a)(2)(v)(B).

[^ 29] See 8 CFR 214.3(a)(2)(v)(C) (excluding adult education programs from certification for attendance for foreign students). Adult education means academic instruction and education services below the post-secondary level that increase an individual's ability to: read, write, and speak in English and perform mathematics or other activities necessary for the attainment of a secondary school diploma or its recognized equivalent; transition to postsecondary education and training; and obtain employment. See 29 U.S.C. 3272.

[^ 30] See 8 CFR 214.3(l). The school's president, owner or head of a school or school system must nominate these officials by signing a Record of Designated School Officials (Form I-17A) or successor form.

[^ 31] See 8 CFR 214.2(f)(10)(i)(B). For more information about DSO responsibilities, see ICE's SEVIS Reporting Requirements for Designated School Officials webpage.

[^ 32] See INA 101(a)(15)(F)(iii) and INA 101(a)(15)(M)(iii).

[^ 33] See INA 101(a)(15)(F)(iii) and INA 101(a)(15)(M)(iii). See 8 CFR 214.2(f)(18)(ii) and 8 CFR 214.2(m)(19).

[^ 34] See 8 CFR 214.2(f)(18)(iii) and 8 CFR 214.2(m)(19)(iii). See Chapter 8, Change of Status, Extension of Stay, Length of Stay, Section E, Duration of Status [2 USCIS-PM F.8(E)].

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U.S. Citizenship and Immigration Services

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Chapter 3 - Courses and Enrollment, Full Course of Study, and Reduced Course Load

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A. Public High School

While F-1 and M-1 students may not attend a public elementary or middle school or a publicly funded adult education program, they may attend public high school.[1]

If F-1 or M-1 students are admitted for a fixed period of admission (not for duration of status) to attend a public high school and then apply to transfer schools or to attend a U.S. post-secondary school, they need to file an Application to Extend/Change Nonimmigrant Status (Form I-539) to request an extension of stay to remain in the United States beyond their fixed period of admission.

1. F-1 Students

F-1 students are limited to a cumulative period of 12 months to attend a public high school.[2] F-1 high school students are typically admitted for a specific period of time rather than duration of status.[3]

F-1 students must provide proof that they have reimbursed the local educational agency that administers the public high school for the full, unsubsidized per capita cost of providing education at the school for the period of the student's attendance.

2. M-1 Students

M-1 students are not subject to the same 12-month time limit on public high school attendance. However, M-1 students are admitted for a fixed time period that includes the period necessary to complete the course of study indicated on the Certificate of Eligibility for Nonimmigrant Student Status (Form I-20), plus practical training following completion of the course of study, plus an additional 30 days to depart the United States, but not to exceed a total period of 1 year.[4]

B. Online and Distance Education Courses

1. F-1 Students

F-1 students enrolled in classes for credit or classroom hours may only count one class or three credits (or the equivalent) per academic session (or the equivalent) toward the full course of study requirement if the class is:

- Taken online; or
- Through distance education not requiring physical attendance for any purpose integral to completion of the class.[5]

If an F-1 student's course of study is in a language study program, no online or distance education classes count toward a student's full course of study program.[6]

The equivalent of one class means more than one class can be taken and more than three credits can be taken, but only three credits are applied towards the full course of study requirement. If a student needs only one course to finish their program of study, it cannot be taken through online or distance education. Courses must have a physical presence requirement.[7]

2. M-1 Students

No online or distance education classes are counted toward an M-1 student's full course of study requirement if such classes do not require the student's physical attendance for any purpose integral to completion of the class.[8] For purposes of the M classification, an online or distance education course is a course that is offered principally through the use of television, audio, or computer transmission including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, or computer conferencing.[9]

C. Other Education Programs

1. Adult Education Programs

An F-1 or M-1 student may not enroll in an adult education program if it is funded in whole or in part by the Adult Education and Family Literacy Act or by any other federal, state, county, or municipal funding.[10]

2. English Language Training Programs

F-1 Students

F-1 students intending to pursue an English language training course of study must enroll in an English language training program that has been accredited by a regional or national accrediting agency recognized by the Department of Education.[11] English language training online or distance learning courses do not count towards the full course of study requirement.[12] Time spent in an English language training program also does not count towards the completion of one full academic year as an F-1 student.[13] However, if the student is receiving college credit for the language training at a Student and Exchange Visitor Program (SEVP)-certified college or university, then the time counts towards the one academic year required to participate in a practical training program.[14]

M-1 Students

M-1 students are only permitted to engage in English language training if their primary intent is to pursue vocational or technical training and they are taking English language training at the same school solely for the purpose of being

able to understand the vocational or technical course of study.[15]

D. Concurrent Enrollment

An F-1 student may enroll in two different SEVP-certified schools at one time if the combined enrollment amounts to a full course of study.[16] In cases where a student is concurrently enrolled, the school from which the student will earn the student's degree or certification should issue the Form I-20, and conduct subsequent certifications and updates to the Form I-20.[17] M-1 students may not be enrolled in two different SEVP-certified schools.

E. Full Course of Study

DHS regulations require students to maintain a full course of study and that the successful completion of the full course of study leads to the attainment of a specific educational or professional objective.[18]

Full course of study requirements are different for F and M students.

1. F-1 Students

To qualify as a full course of study, the Designated School Official (DSO) must have previously certified as a full course of study one of the following, as appropriate:[19]

- Postgraduate or postdoctoral study at a college or university;[20]
- Undergraduate or postgraduate study at a conservatory or religious seminary;[21]
- Undergraduate study at a college or university consisting of at least 12 semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter hour systems, and where all students enrolled for a minimum of 12 semester or quarter hours are charged full-time tuition or considered full-time for other administrative purposes, or its equivalent (as determined by U.S. Immigration and Customs Enforcement (ICE) SEVP in the school certification process) unless those students will complete their course of study during the current term with fewer semester or quarter hours;[22]
- Postsecondary language, liberal arts, fine arts, or other non-vocational program for which a school must confer recognized associate or other degrees upon its graduates or establish that its credits have been and are accepted unconditionally by at least three institutions of higher learning meeting specific requirements;[23]
- Any other language, liberal arts, fine arts, or other non-vocational training program consisting of at least 18 clock hours of attendance a week if the dominant part of the course of study consists of classroom instruction, or consists of at least 22 clock hours a week if the dominant part of the course of study consists of laboratory work;[24] or
- Curriculum at an approved private elementary or middle school or public or private academic high school consisting of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation.[25]

2. M-1 Students

To qualify as a full course of study, the DSO must have previously certified as a full course of study one of the following, as appropriate:

- Community college or junior college studies consisting of at least 12 semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter-hour systems, and where all students enrolled for a minimum of 12 semester or quarter hours are charged full-time tuition or considered full-time for other administrative purposes, or its equivalent (as determined by ICE SEVP in the school certification

process) except when the students need a lesser course load to complete the course of study during the current term;[26]

- Postsecondary vocational or business school programs, other than in a language training program,[27] which confer upon their graduates recognized associate or other degrees or have established that their credits have been and are accepted unconditionally by at least three institutions of higher learning which are either: a school (or school system) owned and operated as a public educational institution by the United States or a state or political subdivision; or a school accredited by a nationally recognized accrediting body; and consisting of at least 12 hours of instruction a week, or its equivalent as determined by ICE SEVP in the school certification process;[28]
- Vocational or other nonacademic curriculum studies, other than in a language training program,[29] consisting of at least 18 hours of attendance a week if the main part of the course of study consists of classroom instruction, or at least 22 hours a week if the main part of the course of study consists of shop or laboratory work;[30] or
- Vocational or other nonacademic high school curriculum, consisting of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation.[31]

3. Border Commuter Students

A border commuter student must be enrolled in a full course of study, even though on a part-time basis, leading to the attainment of a specific educational or professional objective. A DSO at the school may authorize an eligible border commuter student to enroll in a reduced course load below the requirements for a full course of study. The reduced course load must be consistent with the border commuter student's certified course of study.[32]

F. Reduced Course Load

1. F-1 Students

To maintain status while on a reduced course load, the F-1 student must first obtain authorization from the DSO before dropping to a reduced course load. A student who drops below a full course of study without the prior approval of the DSO is considered out of status.[33] A DSO may authorize an F-1 student for a reduced course load for one of the following reasons.

Specified Initial Academic Difficulties

A DSO may authorize a reduced course load due to academic difficulties once while the student is pursuing a course of study at that program level.[34] A student authorized to drop below a full course of study for academic difficulties while pursuing a course of study at a particular program level may still be authorized for a reduced course load due to an illness or medical condition.[35] The student must resume a full course at the start of the next available term or session, excluding a summer session.

An F-1 student taking a reduced course load must still be taking at least 6 semester or quarter hours or half the clock hours required for a full course of study.

Temporary Illness or Medical Condition

A DSO may authorize a reduced course load, or, if necessary, no course load, one or more times for medical reasons, even if the DSO had previously authorized the student to drop below a full course of study for academic difficulties.[36] The period of time cannot exceed an aggregate of 12 months while the student is pursuing a course of study at a particular program level.

The student must provide documentation of the illness or medical condition from a licensed medical doctor, psychiatrist, doctor of osteopathy, licensed psychologist, or clinical psychologist.

Completion of Course of Study

A DSO may authorize a reduced course load when a student needs fewer courses than a full course load in the student's last term to complete the program of study.[37]

2. M-1 Students

To maintain status while pursuing a reduced course load, an M-1 student must first obtain their DSO's authorization.[38] A DSO may authorize an M-1 student for a reduced course load only if the student provides documentation of an illness or medical condition from a licensed medical doctor, psychiatrist, doctor of osteopathy, licensed psychologist, or clinical psychologist. A DSO may authorize a reduced course load more than once, but the total period of reduced course load cannot exceed an aggregate of 5 months per course of study.

3. Border Commuter Student

A DSO may authorize a border commuter student to enroll in a reduced course load for the above listed reasons, provided that the reduced course load is consistent with the border commuter student's certified course of study.[39]

Footnotes

[^ 1] See 8 CFR 214.2(f)(6)(i)(E) (defining a full course of study, in part, for F-1 students as "study in a curriculum at a certified private elementary or middle school or public or private academic high school") and 8 CFR 214.2(m)(9)(iv) (defining a full course of study, in part, for M-1 students as "study in a vocational or other nonacademic high school curriculum").

[^ 2] See 8 CFR 214.2(f)(5)(i). There is no such limitation to an F-1's attendance at a private high school.

[^ 3] See 8 CFR 214.2(f)(5)(i).

[^ 4] See 8 CFR 214.2(m)(5).

[^ 5] See 8 CFR 214.2(f)(6)(i)(G).

[^ 6] See 8 CFR 214.2(f)(6)(i)(G).

[^ 7] See 8 CFR 214.2(f)(6)(i)(G). Beginning in March 2020, U.S. Immigration and Customs Enforcement (ICE) issued guidance related to online or distance learning, full course of study, and other student-related policy changes due to the COVID-19 public health emergency on its COVID-19 Guidelines and Protocols website. On May 11, 2023, ICE announced the termination of this guidance. Active F and M students were able to complete the 2022–23 academic year under the COVID-19 flexibilities through the 2023 summer semester. However, active F and M students will not be permitted to count online classes toward a full course of study in excess of the regulatory limits stated in 8 CFR 214.2(f)(6)(i)(G) and 8 CFR 214.2(m)(9)(v) for the 2023–24 academic year. Initial or re-entering students must enroll in programs complying with the regulatory limits for distance learning as stated in 8 CFR 214.2(f)(6)(i)(G). Designated School Officials (DSO) should not issue a Certificate of Eligibility for Nonimmigrant Student Status (Form I-20) for students in new or initial status who are outside of the United States and plan to take classes at an educational institution certified by the ICE Student and Exchange Visitor Program (SEVP) for a program of study that contains online components in excess of the regulatory limits. ICE's website should be consulted for the latest guidance.

[^ 8] See 8 CFR 214.2(m)(9)(v).

[^ 9] See 8 CFR 214.2(m)(9)(v).

[^ 10] See Section 203(1) of the Adult Education and Family Literacy Act, Pub. L. 105-220 (PDF), 112 Stat. 1059, 1060 (August 7, 1998). Adult education program is defined as a service or instruction below the post-secondary level for individuals who have attained 16 years of age; who are not enrolled or required to be enrolled in secondary school under state law; who lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society; do not have a secondary school diploma or its recognized equivalent and have not achieved an equivalent level of education; or are unable to speak, read, or write the English language.

[^ 11] See Accreditation of English Language Training Programs Act, Pub. L. 111-306 (PDF) (December 14, 2010). The Act amended INA 101(a)(15)(F)(i) to state that F-1 nonimmigrant students intending to pursue an English language training course of study must enroll in an English language training program that has been accredited by a regional or national accrediting agency recognized by the Department of Education.

[^ 12] See 8 CFR 214.2(f)(6)(i)(G).

[^ 13] See 8 CFR 214.2(f)(6)(i)(G).

[^ 14] See 8 CFR 214.2(f)(6)(i)(G).

[^ 15] See 8 CFR 214.3(a)(2)(iv).

[^ 16] See 8 CFR 214.2(f)(6)(iv). The concurrent enrollment provision is applicable to those students who will be registered less than full-time at the school that issued their Form I-20, and who are relying on enrollment at another school to meet the requirement that they be enrolled for a full course of study. As long as a student is enrolled full-time at the institution that issued the student's Form I-20, the student does not need special permission to take an additional class at another school.

[^ 17] See 8 CFR 214.2(f)(6)(iv). The DSO from the school where the F-1 student will earn the student's degree is responsible for the reporting requirements to DHS. In instances where a student is enrolled in programs with different full course of study requirements (for example, clock hours vs. credit hours), the DSO is permitted to determine what constitutes a full course of study.

[^ 18] See 8 CFR 214.2(f)(6)(i). If the student fails to carry a full-course load unless authorized by DSO in accordance with 8 CFR 214.2(f)(6)(iii), the student has failed to maintain a valid F-1 status. This is not applicable during the student's summer (or other authorized) break if the student is eligible and intends to register for the next term.

[^ 19] See INA 101(a)(15)(F)(i). Beginning in March 2020, ICE issued guidance related to online or distance learning, full course of study, and other student-related policy changes due to the COVID-19 public health emergency on its COVID-19 Guidelines and Protocols website. On May 11, 2023, ICE announced the termination of this guidance. Active F and M students were able to complete the 2022–23 academic year under the COVID-19 flexibilities through the 2023 summer semester. However, active F and M students will not be permitted to count online classes toward a full course of study in excess of the regulatory limits stated in 8 CFR 214.2(f)(6)(i)(G) and 8 CFR 214.2(m)(9)(v) for the 2023–24 academic year. Initial or re-entering students must enroll in programs complying with the regulatory limits for distance learning as stated in 8 CFR 214.2(f)(6)(i)(G). DSOs should not issue a Certificate of Eligibility for Nonimmigrant Student Status (Form I-20) for students in new or initial status who are outside of the United States and plan to take classes at an educational institution certified by the ICE SEVP for a program of study that contains online components in excess of the regulatory limits. ICE's website should be consulted for the latest guidance.

[^ 20] See 8 CFR 214.2(f)(6)(i)(A).

[^ 21] See 8 CFR 214.2(f)(6)(i)(A).

[^ 22] See 8 CFR 214.2(f)(6)(i)(B).

[^ 23] See 8 CFR 214.2(f)(6)(i)(C). The institutions of higher learning must be either: "(1) a school (or school system) owned and operated as a public educational institution by the United States or a State or political subdivision thereof;

or (2) a school accredited by a nationally recognized accrediting body and which has been certified by a designated school official to consist of at least 12 clock hours of instruction a week, or its equivalent as determined by SEVP in the school certification process."

[^ 24] See 8 CFR 214.2(f)(6)(i)(D).

[^ 25] See 8 CFR 214.2(f)(6)(i)(E).

[^ 26] See INA 101(a)(15)(M)(i). See 8 CFR 214.2(m)(9)(i).

[^ 27] Postsecondary vocational or business school and vocational or other nonacademic curriculum exclude language training programs unless the student enrolled in vocational or technical training takes English language training at the same school solely for the purpose of understanding a course of study. See 8 CFR 214.3(a)(2)(iv).

[^ 28]See 8 CFR 214.2(m)(9)(ii).

[^ 29] Postsecondary vocational or business school and vocational or other nonacademic curriculum exclude language training programs unless the student enrolled in vocational or technical training takes English language training at the same school solely for the purpose of understanding a course of study. See 8 CFR 214.3(a)(2)(iv).

[^ 30] See 8 CFR 214.2 (m)(9)(iii).

[^ 31] See 8 CFR 214.2(m)(9)(iv).

[^ 32] See 8 CFR 214.2(f)(18)(ii) and 8 CFR 214.2(m)(19)(ii).

[^ 33] See 8 CFR 214.2(f)(6)(iii).

[^ 34] See 8 CFR 214.2(f)(6)(iii)(A). The DSO may authorize a reduced course load due to a student's initial difficulty with the English language or reading requirements, unfamiliarity with U.S. teaching methods, or improper course level placement.

[^ 35] See 8 CFR 214.2(f)(6)(iii)(A).

[^ 36] See 8 CFR 214.2(f)(6)(iii)(B) and 8 CFR 214.2(f)(6)(iii)(A).

[^ 37] See 8 CFR 214.2(f)(6)(iii)(C).

[^ 38] See 8 CFR 214.2(m)(9)(vi).

[^ 39] See 8 CFR 214.2(f)(18)(ii) and 8 CFR 214.2(m)(19)(ii).

Current as of December 20, 2023

Chapter 4 - School Transfer

Guidance

Resources (14)

Appendices (1)

Updates (5)

History (0)

A. F-1 Students

F-1 students who are maintaining status must notify the Designated School Official (DSO) at their current school of the request to transfer to another school certified by the U.S. Immigration and Customs Enforcement Student and Exchange Visitor Program (SEVIS).[1] An F-1 student may start a transfer during the 60-day grace period following completion of their studies since the student is considered to be maintaining status during this grace period. An F-1 student who did not pursue a full course of study at the school the student was last authorized to attend is ineligible for school transfer and must apply for reinstatement,[2] or alternatively, may depart the country and return as an initial entry in a new F-1 nonimmigrant status.[3]

An F-1 student admitted for duration of status may continue from one educational level to another, such as progressing from high school to a bachelor's program or a bachelor's program to a master's program, by following the procedures for transferring schools.[4]

1. Students Who Are Not Pursuing a Full Course of Study

With the exception of those who are authorized by the DSO to take less than a full load for valid academic, medical, or hardship reasons, DHS considers any student who is not pursuing a full course of study at the school the student is authorized to attend to be out of status. Such a student may not transfer to a different school without first requesting reinstatement.

While the request for reinstatement is pending, and if classes are in session, the student should be enrolled in school as the student will have to abide by the terms of the F-1 status as of the date of reinstatement, including being enrolled on a full time basis.[5] While there is no appeal of a denial of the application for reinstatement, a student may file a motion to reopen or reconsider according to the instructions on the USCIS denial notice. Otherwise, the student must depart the United States upon notification of the denial by USCIS.

2. Five-Month Limit

When transferring between schools or programs, a student may not remain in the United States unless the student is able to resume classes at the transfer school or program within 5 months of transferring out of the current school, or

within 5 months of the program completion date as indicated on the Certificate of Eligibility for Nonimmigrant Student Status (Form I-20) issued by the current school, whichever date is earlier. For a student authorized to engage in post-completion Optional Practical Training (OPT), the student must be able to resume classes within 5 months of transferring out of the current school that recommended OPT or by the date the OPT authorization ends, whichever is earlier.

An F-1 student's authorization to engage in OPT employment is automatically terminated when the student transfers to another school or begins study at another educational level.[6]

B. M-1 Students

1. Eligibility

A nonimmigrant admitted as an M-1 student or who changes status to M-1 may not transfer to another school after 6 months from the date of admission as or change of status to an M-1 student. However, there is an exception if the student was unable to remain at the school which initially admitted the student due to circumstances beyond the student's control.

An M-1 student may be otherwise eligible to transfer to another school if the student:

- Is a bona fide nonimmigrant;
- Has been pursuing a full course of study at the school the student was last authorized to attend;
- Intends to pursue a full course of study at the school to which the student intends to transfer; and
- Is financially able to attend the school to which the student intends to transfer.

2. Procedure

An M-1 student must apply to USCIS on an Application to Extend/Change Nonimmigrant Status (Form I-539), for permission to transfer between schools. The student must first notify the student's current school (the transfer-out school) of the intent to transfer and indicate the school to which the student intends to transfer (the transfer-in school).

Upon notification by the student, the transfer-out school must update the SEVIS to show the student is transferring out, indicate the transfer-in school, and input the release date for transfer. Once the transfer-out school updates SEVIS, the transfer-in school generates a Form I-20 for transfer. However, the transfer-in school will not gain access to the student's SEVIS record until the release date. Upon receipt of the Form I-20 from the transfer-in school, the student must submit a Form I-539.[7]

The student may enroll in the transfer-in school at the next available term or session and is required to notify the DSO of the transfer-in school immediately upon beginning attendance. The transfer-in school must update the student's registration record in SEVIS.[8]

If USCIS approves the application, the program start date listed on the Form I-20 is the approval transfer date, and the student is granted an extension of stay for the lesser of the period of time necessary to complete the new course of study plus 30 days, or for a total period of 1 year. If USCIS denies the Form I-539, the student is out of status.[9] A student who has not been pursuing a full course of study must apply for and be granted reinstatement to student status before being eligible to transfer to a new school.

Footnotes

[^ 1] See 8 CFR 214.2(f)(8)(i).

[^ 2] See 8 CFR 214.2(f)(16).

[^ 3] See 8 CFR 214.2(f)(8)(i).

[^ 4] See 8 CFR 214.2(f)(8).

[^ 5] See the DHS, Study in the States, Reinstatement COE (Form I-20) webpage.

[^ 6] See 8 CFR 214.2(f)(10)(ii)(B).

[^ 7] See 8 CFR 214.2(m)(11).

[^ 8] See 8 CFR 214.3(g)(3).

[^ 9] See 8 CFR 214.2(m)(11)(ii).

Current as of December 20, 2023

Chapter 5 - Practical Training

Guidance

Resources (14)

Appendices (1)

Updates (5)

History (0)

A. General

Practical training (PT) is employment that is directly related to a student's major area of study.[1]

F-1 students may engage in three types of PT:

- Curricular Practical Training (CPT);
- Optional Practical Training (OPT) (pre-completion or post-completion); and
- Science, Technology, Engineering, and Mathematics Optional Practical Training extension (STEM OPT).

PT may be authorized for an F-1 student at a U.S. Immigration and Customs Enforcement (ICE) Student and Exchange Visitor Program (SEVP)-certified college, university, conservatory, or seminary, who has been lawfully enrolled, full-time, for one full academic year. Students may count time enrolled in a study abroad program toward the full academic year requirement, if the student spent at least one full academic term (that is, one semester, trimester, or quarter) enrolled in a full course of study in the United States prior to studying abroad.[2]

Students in English language training programs are ineligible for PT.[3]

M-1 students may engage in PT only after they complete their course of study.[4]

B. F-1 Student Curricular Practical Training

CPT is alternative work-study, cooperative education, or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school.[5] No application to USCIS for employment authorization or an Employment Authorization Document (EAD) (Form I-766) is required, but the student must request authorization for CPT from the student's Designated School Official (DSO). The CPT must be an integral part of an established curriculum.[6]

CPT occurs before the student's program end date on the Certificate of Eligibility for Nonimmigrant Student Status (Form I-20). CPT may be part-time or full-time.[7] An F-1 student who has received 1 year or more of full-time CPT is

ineligible for post-completion OPT at the same educational level.[8]

To participate in CPT, students must:

- Have completed one full academic year and be lawfully enrolled on a full-time basis at an approved ICE SEVP-certified school;[9]
- Be enrolled in a full course of study;
- Obtain their DSO's endorsement on their Form I-20 and not begin CPT before the CPT start date indicated on the form;[10]
- Receive training offered by sponsoring employers through cooperative agreements with the students' respective schools;[11] and
- Not be English language training students.

C. F-1 Student Optional Practical Training

OPT can be authorized either prior to completion of the degree program (pre-completion OPT) or following the completion of the degree program (post-completion OPT). Pre-completion OPT can be completed while school is in session, provided that the training does not exceed 20 hours a week while school is in session. During the student's annual vacation and at other times when school is not in session, OPT can exceed 20 hours per week if the student is currently enrolled, is eligible for registration, and intends to register for the next term or session.[12]

A student may be authorized for 12 months of OPT and would become eligible for another 12 months of practical training if the student were to change to a higher educational level.[13]

A student who has not used any practical training and changes to a lower education level, where OPT would normally be available, may use the student's initial 12 months of practical training at the lower education level. Each period of OPT must be recommended by the DSO and authorized by USCIS, as shown by a valid EAD.[14] If an F-1 student applies for post-completion OPT at the same educational level at which the student had pre-completion OPT, the amount of time approved for pre-completion OPT is deducted from the post-completion OPT authorized period.

Overtime and periods of unemployment are not considered when calculating the amount of OPT used. Rather, OPT usage is calculated based on the period of OPT authorized. For example, if an F-1 student had already received 6 months of full-time pre-completion OPT during the same degree program, but with overtime the total number of hours worked was equivalent to 7 months, the total remaining OPT time still available would be reduced by 6 months, half of the previously authorized year.

An F-1 student who has completed an authorized period of post-completion OPT may remain in F-1 status for 60 days beyond the EAD expiration date.[15] This is commonly known as a grace period, during which the F-1 may file to extend their student status or change to another nonimmigrant or immigrant status.

OPT, including STEM OPT, is automatically terminated if an F-1 student:

- Transfers to another school;
- Begins a new degree level at the same school;
- Changes to a different nonimmigrant status, such as H-1B;
- Fails to maintain F-1 status; or
- Is enrolled in a school that closes.

The effective termination date is the release date in the Student and Exchange Visitor Information System (SEVIS) for school transfer or change of program at a new degree level; the effective date of the new nonimmigrant status; the

date the student violated F-1 status, as appropriate; or the date that ICE SEVP terminates the school in SEVIS upon the school's closure.

1. Pre-Completion OPT

A student enrolled at an ICE SEVP-certified college, university, conservatory, or seminary may apply to USCIS for authorization for pre-completion OPT by properly filing an Application for Employment Authorization (Form I-765) after obtaining the DSO's recommendation.

The student may not begin pre-completion OPT until the date indicated on the student's EAD. A student may submit a Form I-765 to engage in pre-completion OPT up to 90 days prior to being enrolled for one full academic year, provided that the period of employment will not begin until after the completion of the full academic year as indicated by the DSO. Students need an EAD for each period of pre-completion OPT.

Eligibility

Students must:[16]

- Obtain the DSO's recommendation and have their DSO's recommendation entered into the student's SEVIS record and annotated on their Form I-20;
- Be enrolled, on a full-time basis, at an ICE SEVP-certified college, university, conservatory, or seminary;
- Have completed one full-time academic year or be within 90 days of completing one full academic year at the time of filing Form I-765;[17]
- Properly file a Form I-765 with USCIS and receive a valid EAD;
- Not be an English language training student; and
- Maintain a full course of study.

Time Limitations on Pre-Completion OPT

Pre-completion OPT is incremental and cumulative, up to 12 months. It may be granted over the course of the degree program and must take place before the program end date. Any time used for pre-completion OPT impacts the amount of post-completion OPT that USCIS may authorize.

2. Post-Completion OPT

Eligibility

To be eligible to apply to USCIS for post-completion OPT[18] a student must:

- Have completed a course of study or be in a bachelor's, master's, or doctoral degree program and have completed all course requirements for the degree (excluding thesis or equivalent);
- Not be an English language training student;
- Obtain the DSO's recommendation and have the DSO's recommendation entered into the student's SEVIS record and annotated on their Form I-20;
- Properly file a Form I-765 and receive a valid EAD; and
- Not have completed 1 year or more of full-time CPT.

A student may work as a volunteer or unpaid intern, as long as this practice does not violate any labor laws, and the employment is related to the program of study. The student must work at least 20 hours per week.[19]

Time Limitations on Post-Completion OPT

Post-completion OPT begins on the date USCIS adjudicates the employment authorization request or the date the DSO requests, whichever is later.[20] A student may not request a start date that is more than 60 days after the student's program end date.[21] A student must complete all practical training within a 14-month period following the completion of study.[22]

An F-1 student may be authorized up to 12 months of practical training, and becomes eligible for another 12 months of practical training when they change to a higher educational level.[23] If an F-1 student applies for post-completion OPT at the same educational level in which the student had pre-completion OPT, the amount of time approved for pre-completion OPT is deducted from the post-completion OPT authorized period.

Overtime and periods of unemployment are not taken into consideration when calculating the amount of OPT used. For example, if an F-1 student had already received 1 year of part-time pre-completion OPT during the same degree program, the total remaining OPT time still available would be reduced by 6 months, half of the previously authorized year.

An F-1 student who has completed an authorized period of post-completion OPT may remain in F-1 status for 60 days beyond the EAD expiration date. During this grace period, an F-1 student may prepare for departure from the United States.[24] The F-1 student and any dependents must depart the United States by the end of the grace period if they do not either change the student's nonimmigrant status, or transfer to an ICE SEVP-certified school.[25]

An F-1 student may not accrue an aggregate of more than 90 days of unemployment during the period of post-completion OPT.

3. STEM OPT Extension

An F-1 student who meets certain qualifications may qualify for a 24-month STEM OPT extension.[26] An F-1 student approved for STEM OPT may not accrue an aggregate of more than 150 days of unemployment during a total OPT period. This includes the post-completion OPT period and subsequent 24-month STEM OPT extension period.[27]

F-1 students with a bachelor's degree, master's degree, or doctorate degree in a field with a Department of Education's Classification of Instructional Programs (CIP) code that appears on the DHS STEM Designated Degree Program List (PDF) [28] may apply to USCIS for authorization for a 24-month OPT extension (STEM OPT) by properly filing a Form I-765, after obtaining the DSO's recommendation. This 24-month extension can only be granted once per qualifying degree. If the F-1 students do not fully use the extension, they are ineligible for any subsequent STEM extension.

F-1 students may submit a properly filed Form I-765 up to 90 days before the expiration of the F-1 student's current post-completion OPT EAD and no more than 30 days after their DSO enters the STEM OPT recommendation into SEVIS.

Students who have timely and properly filed a Form I-765 for the 24-month OPT extension may continue working until the date of the USCIS written decision on the current Form I-765 or for up to 180 days after their current post-completion OPT expires, whichever is earlier.[29]

If USCIS approves the application, the F-1 student may continue working in accordance with the terms and conditions of the new EAD. If the extension is denied, employment authorization is immediately terminated and the F-1 student's status ends in 60 days from the date of denial. However, if the application was denied because the student failed to maintain their F-1 status, they must immediately depart the United States.

Eligibility Requirements - Student

To be eligible for a STEM OPT extension, an F-1 student must:

- Have been granted OPT and currently be in a valid period of post-completion OPT;
- Have earned a bachelor's, master's, or doctoral degree from a school that is accredited by a U.S. Department of Education-recognized accrediting agency and is certified by ICE SEVP when the student submits the STEM OPT extension application;
- Not be in a multiple employer arrangement, or employed by a sole proprietorship, through a temp agency, through a consulting firm arrangement that provides labor for hire, or other similar relationships, if such arrangements are not bona-fide employer-employee relationships;
- Be employed for no less than 20 hours per week by each qualifying STEM OPT employer; and
- Complete an individualized Training Plan for STEM OPT Students (Form I-983) which identifies goals for the STEM practical training opportunity, including specific knowledge, skills, or techniques that will be imparted to the F-1 student; explains how those goals will be achieved through the work-based learning opportunity with the employer; describes a performance evaluation process; and describes methods of oversight and supervision. The Form I-983 must explain how the training is directly related to the student's qualifying STEM degree.

Before the student's DSO at the educational institution of the student's most recent enrollment may recommend a 24-month OPT extension, the student must follow Form I-983 instructions, have an appropriate individual in the employer's organization sign the form, and submit Form I-983 to the DSO.

Previously Obtained STEM Degrees

F-1 students participating in a 12-month period of post-completion OPT based on a non-STEM degree may be eligible to use a prior STEM degree earned from a U.S. institution of higher education to apply for a STEM OPT extension. Students must have received both degrees from educational institutions that are currently accredited and ICE SEVP-certified at the time the student's DSO recommends the student for the 24-month OPT extension.

The student must also be in a degree program category with a Department of Education's CIP code that appears on the current DHS STEM Designated Degree Program List[30] at the time of the DSO recommendation, and cannot have already received a STEM OPT extension based on this prior degree. The practical training opportunity also must be directly related to the previously obtained STEM degree.

For example, if the student is currently participating in OPT based on a master's degree in business administration but previously received a bachelor's degree in mathematics, the student may be able to apply for a STEM OPT extension based on the bachelor's degree as long as it is from an accredited U.S. college or university and the OPT employment opportunity is directly related to the bachelor's degree in mathematics.

Future STEM Degrees

If an F-1 student enrolls in a new academic program in the future and earns another qualifying STEM degree at a higher educational level, the student may be eligible for one additional 24-month STEM OPT extension, for a total of two lifetime STEM OPT extensions.

For example, if the student receives a 24-month STEM OPT extension based on a bachelor's degree in engineering and the student later earns a master's degree in engineering, the student may apply for an additional 24-month STEM OPT extension based on the student's qualifying master's degree.

Eligibility Requirements-Employer

An employer who wants to provide a practical training opportunity to a STEM OPT F-1 student during the student's extension must:

- Be enrolled in E-Verify, as evidenced by either a valid E-Verify company identification number or, if the employer is using an employer agent to create its E-Verify cases, a valid E-Verify client company identification number;[31]
- Remain a participant in good standing with E-Verify, as determined by USCIS;[32]

- Have a valid Employer Identification Number issued by the Internal Revenue Service for tax purposes;[33]
- Report material changes of the F-1 student's employment by submitting a modified Form I-983 to the DSO at the earliest available opportunity;[34]
- Implement a formal training program to augment the F-1 student's academic learning through practical experience;[35]
- Provide an OPT opportunity that is commensurate with those of similarly situated U.S. workers in duties, hours, and compensation;[36] and
- If applicable, report the F-1 student's termination of employment or departure to the DSO within 5 business days.[37]

To ensure the integrity of the program and provide safeguards for U.S. workers, any employer wishing to employ a student participating in the STEM OPT extension program must ensure that:

- The employer will maintain a bona fide employer-employee relationship with the F-1 student;[38]
- The employer has sufficient resources and personnel available to provide appropriate training in connection with the specified opportunity at the location or locations specified in the Form I-983;[39]
- The F-1 student will not replace a full or part-time, temporary, or permanent U.S. worker;[40] and
- The training opportunity will assist the F-1 student in attaining the student's training goals.[41]

To employ a STEM OPT F-1 student, an employer must have and maintain a bona fide employer-employee relationship with the student.[42] The employer must attest to this fact by signing the Form I-983. The employer that signs the Form I-983 must be the same entity that provides the practical training experience to the student.[43]

To establish a bona fide relationship, the employer may not be the F-1 student's employer in name only, nor may the F-1 student work for the employer on a volunteer basis.[44]

An employer must have sufficient resources and trained or supervisory personnel available to provide appropriate training in connection with the specified training opportunity. These personnel must be located where the F-1 student's practical training experience will take place, as specified in the Form I-983.

The personnel who may provide and supervise the training experience may be either employees of the employer, or contractors whom the employer has directly retained to provide services to the employer. However, employees or contractors of the employer's clients or customers may not provide and supervise the training experience of the STEM OPT F-1 student. An F-1 student with OPT or a STEM OPT extension (who is undergoing training in their own right) is never considered qualified to train another F-1 student with a STEM OPT extension.

Employers may rely on their existing training programs or policies to satisfy the performance evaluation, oversight, and supervision requirements, but the F-1 student's Form I-983 must nevertheless be customized for the individual F-1 student. Every Form I-983 must describe the direct relationship between the STEM OPT opportunity and the F-1 student's qualifying STEM degree, as well as the relationship between the STEM OPT opportunity and the F-1 student's goals and objectives for work-based learning.

A STEM OPT employer may not assign, or otherwise delegate its training responsibilities to a non-employer third party (for example, a client or customer of the employer, employees of the client or customer, or contractors of the client or customer).

DHS, at its discretion, may conduct a site visit of any STEM OPT employer to ensure that the employer possesses and maintains the ability, personnel, and resources to provide structured and guided work-based learning experiences consistent with the information provided on Form I-983.[45]

During a site visit, DHS may verify that the employer that signed the Form I-983 is the same entity that is providing the practical training experience to the F-1 student and ensure compliance.

For DHS to effectively conduct these site visits as part of its oversight responsibilities, it is important that employers report any change in an F-1 student's employment address. As indicated above and further explained below,[46] the employer and F-1 student must report such a material change by submitting a modified Form I-983 to the DSO at the earliest available opportunity.

Staffing and temporary agencies and consulting firms may employ F-1 students under the STEM OPT program if they will be the entity that provides the practical training experience to the F-1 student and have and maintain a bona fide employer-employee relationship with the F-1 student.

F-1 students may engage in a training experience that takes place at a site other than the employer's principal place of business as long as all of the training obligations are met, including that the employer has and maintains a bona fide employer-employee relationship with the student.

Certain types of arrangements, including multiple employer arrangements, sole proprietorships, employment through temp agencies, employment through consulting firm arrangements that provide labor for hire, and other similar relationships may not be able to demonstrate a bona fide employer-employee relationship and, therefore, may not meet the requirements of the STEM OPT extension.

F-1 students seeking STEM OPT extensions may be employed by new start-up businesses so long as all regulatory requirements are met, including that the employer adheres to the training plan requirements, remains in good standing with E-Verify, will provide compensation to the STEM OPT student commensurate to that provided to similarly situated U.S. workers, and has the resources to comply with the proposed training plan.[47] For instance, alternative compensation may be allowed during a STEM OPT extension as long as the F-1 student can show that they are a bona fide employee and that their compensation, including any ownership interest in the employer entity (such as stock options), is commensurate with the compensation provided to other similarly situated U.S. workers.[48]

As part of the STEM OPT extension, employers must complete the appropriate parts of Form I-983. In this form, employers attest that:

- They have enough resources and trained personnel available to appropriately train the F-1 student;
- The F-1 student will not replace a full or part-time, temporary, or permanent U.S. worker; and
- Working for them will help the F-1 student attain their training objectives.

DHS reviews on a case-by-case basis whether the F-1 student will be a bona fide employee of the employer signing the training plan and verify that the employer that signs the training plan is the same entity that employs the F-1 student and provides the practical training experience.[49]

Adjudication

DHS grants the STEM OPT 24-month extension for a fixed and uninterrupted period of 24 consecutive months.

The STEM extension begins the day after the initial post-completion OPT expires, not on the date of adjudication, and ends 24 months thereafter, regardless of the date the actual extension is approved.[50] Filing during the cap-gap extension does not change the STEM extension start date. STEM OPT is not extended by periods of part-time employment or unemployment.

The 14-month limit on completing post-completion OPT does not apply to the STEM OPT extension.[51]

If the Form I-765 for the STEM extension is denied, OPT employment authorization ends on the date of the decision and the student's F-1 status ends 60 days after the date of denial.

If the student's degree area is changed from a non-STEM degree to a STEM degree during the last semester, the adjudicating officer may, on a case-by-case basis, request evidence to support the basis of the change.

Evaluation Requirement

An F-1 student on a STEM OPT extension must submit a self-evaluation of the student's progress toward the training goals described in the Form I-983.[52] All required evaluations must be completed prior to the conclusion of a STEM practical training opportunity, and the F-1 student and an appropriate individual in the employer's organization must sign each evaluation to attest to its accuracy. All STEM practical training opportunities require an initial evaluation within 12 months of the approved starting date on the EAD granted pursuant to the F-1 student's 24-month OPT extension application, and a concluding evaluation. The F-1 student is responsible for ensuring the DSO receives the F-1 student's 12-month evaluation and final evaluation no later than 10 days following the conclusion of the reporting period or conclusion of the student's practical training opportunity, respectively.

Training Plan Modifications

An F-1 student on a STEM OPT extension also must:

- Submit a Form I-983 to the student's DSO within 10 days of beginning a new practical training opportunity with a new employer during the student's 24-month OPT extension and subsequently obtain a new DSO recommendation;
- Sign a modified Form I-983 reflecting any material changes or deviations from the training plan described in the Form I-983; and
- Ensure that that the modified Form I-983 is submitted to the F-1 student's DSO at the earliest available opportunity.[53]

4. OPT Reporting and Employment Requirements

F-1 students granted employment authorization by USCIS to engage in OPT are required to report to their DSO any change of name or address, or interruption of such employment for the duration of their OPT. A DSO who recommends a student for OPT is responsible for updating the student's record to reflect these reported changes for the duration of the time that training is authorized.

To maintain F-1 status, F-1 students with an approved STEM OPT extension also must:

- Report to the student's DSO a change of legal name, residential or mailing address, employer name, employer address, and loss of employment within 10 days of the change;[54]
- Complete a validation report every 6 months, confirming that the legal name, residential or mailing address, employer name, employer address, and loss of employment has not changed. (The requirement for validation reporting starts on the date the 24-month OPT extension begins, and ends when the F-1 student's status expires or the 24-month OPT extension concludes, whichever is first. The validation report is due to the F-1 student's DSO within 10 business days of each reporting date.[55] The student must report this information to the DSO even if it is unchanged from the prior report. The validation confirms that the required information is still true and accurate.);
- Submit a self-evaluation of their progress toward the training goals described in the Form I-983.[56] (All required evaluations must be completed prior to the conclusion of a STEM practical training opportunity, and the F-1 student and an appropriate individual in the employer's organization must sign each evaluation to attest to its accuracy. All STEM practical training opportunities require an initial evaluation within 12 months of the approved starting date on the employment authorization document granted pursuant to the F-1 student's 24-month OPT extension application, and a concluding evaluation. The F-1 student is responsible for ensuring the DSO receives the F-1 student's 12-month evaluation and final evaluation no later than 10 days following the conclusion of the reporting period or conclusion of their practical training opportunity, respectively.);
- Submit a new Form I-983 to the student's DSO within 10 days of beginning of a new practical training opportunity with a new employer during their 24-month OPT extension, and subsequently obtain a new DSO recommendation; and
- Sign a modified Form I-983 reflecting any material changes or deviations from the training plan described in the

Form I-983, and ensure that that the modified Form I-983 is submitted to the F-1 student's DSO at the earliest available opportunity.[57]

Students engaging in STEM OPT must complete and submit to their DSO an annual self-evaluation describing the progress of the training experience 12 months after the STEM OPT start date, and a final assessment that recaps the training and knowledge acquired during the 24-month training period, signed by the STEM OPT employer. Employers must fill out a new Form I-983 to report to the DSO any material changes to, or material deviations from, the student's formal training plan.

5. OPT Filing

Eligible students may apply to USCIS for authorization of OPT employment by properly filing a Form I-765. Students need an EAD for each period of practical training.[58]

The student may not begin OPT until the date indicated on the student's employment authorization document.[59] Employment authorization begins on the date the DSO requests or the date USCIS adjudicates the Form I-765, whichever is later.[60]

Pre-completion OPT

A student may submit an application for pre-completion OPT no earlier than 90 days before being enrolled for one full academic year, provided that the period of employment will not start prior to the completion of the full academic year.[61] The student must file a properly completed Form I-765 after the student's DSO enters the OPT recommendation into SEVIS.

Post-completion OPT

A student may apply for post-completion OPT no earlier than 90 days prior to the student's program end date and no later than 60 days after the student's program end-date. Within this 150-day window, the student must file a properly completed application no more than 30 days after the student's DSO enters the OPT recommendation into SEVIS.

A student is maintaining lawful nonimmigrant status while they are engaging in post-completion OPT. To resume full-time studies in a new educational program after a period of post-completion OPT, the student has to complete the transfer procedure.[62]

If post-completion OPT is denied, the student's F-1 status expires 60 days from the date the degree program ends or the date of the denial, whichever is later. However, if the application is denied because the student failed to maintain F-1 status, they must immediately depart the United States.

D. F-1 "Cap-gap" Extension

1. Automatic "Cap-gap" Extension

An F-1 student who is the beneficiary of an H-1B[63] petition subject to the numerical limitations identified in INA 214(g)(1)(A)[64] and who requests a change of status is automatically granted an extension of F-1 status and employment authorization if:

- The F-1 student is currently authorized for OPT employment;[65]
- The F-1 student has not violated the terms and conditions of the student's nonimmigrant status;[66]
- The H-1B petition was timely filed;[67] and
- The H-1B petition requested an H-1B employment start date of October 1 of the following fiscal year.[68]

The “cap-gap” period starts when an F-1 student’s status and employment authorization expires and, unless terminated, ends on October 1, the start date of the H-1B cap-subject petition filed on their behalf.

Cap-gap occurs because an employer may not file, and USCIS may not accept, a cap subject H-1B petition submitted more than 6 months in advance of the date of actual need for the beneficiary’s services or training. As a result, the earliest date that an employer can file an H-1B cap-subject petition is April 1 for the following fiscal year, which starts October 1. If USCIS approves the H-1B petition and the accompanying change of status request, the earliest date that the student may start the approved H-1B employment is October 1, but the beneficiary’s OPT employment authorization may expire before the H-1B start date.

Current regulations allow certain F-1 students with a pending or approved cap-subject H-1B petition to remain in F-1 status during the cap-gap period. The regulations provide a way of filling the gap between the end of F-1 status and the beginning of H-1B status that might otherwise occur when F-1 status is not extended for qualifying students.

Once the listed requirements above are met, the automatic cap-gap extension begins and continues until October 1, or until the H-1B petition is rejected, denied, revoked, or withdrawn, or upon the denial or withdrawal of the request for change of nonimmigrant status, even if USCIS approves the H-1B petition filed on the F-1 student’s behalf for consular processing.[69] The F-2 status of dependents is also extended if the F-1 student’s status is extended. F-2s are not eligible for employment authorization.

F-1 students who do not qualify for a cap-gap extension because they do not meet the requirements noted above, and whose periods of authorized stay expire before October 1, are required to leave the United States, apply for an H-1B visa at a consular post abroad, and seek readmission to the United States in H-1B status for the dates reflected on the approved H-1B petition.

If an H-1B cap-subject petition is filed on the behalf of an F-1 student who has entered the 60-day grace period, the F-1 student will receive the automatic cap-gap extension of the student’s F-1 status, but will not become employment-authorized (since the F-1 student was not employment-authorized at the time H-1B petition was filed, there is no employment authorization to be extended).

Unemployment during the cap-gap automatic extension counts toward the 90-day (post- completion OPT) or 150-day (for STEM OPT extension) cumulative maximum allowed unemployment.

2. Termination of Cap-gap Extension

If the student’s H-1B petition is rejected, denied, withdrawn, or revoked, or if the student’s change of status request is denied or withdrawn, the student has the standard 60-day grace period from the date of the rejection, denial, withdrawal, revocation notice, or the student’s program or OPT end date, whichever is later, to prepare for and depart the United States.[70]

If USCIS denies the H-1B change of status request due to a status violation, misrepresentation, or fraud, the F-1 student is ineligible for the cap-gap extension of status and the 60-day grace period. If USCIS revoked the H-1B petition based on a finding of a status violation, fraud, or misrepresentation discovered following approval, the 60-day grace period and cap-gap extension of status does not apply. In both of these instances, students are required to immediately leave the United States.

3. Travel Outside the United States During the Cap-gap

An F-1 student may generally travel abroad and seek readmission to the United States in F-1 status during a cap-gap period if:

- USCIS has approved the student’s H-1B petition and request for change of status;
- The student seeks readmission before the student’s H-1B employment begins (normally at the beginning of the

fiscal year on October 1); and

- The student is otherwise admissible.[71]

If an F-1 student travels abroad while the application for change of status to H-1B is still pending, the change of status portion of the petition is deemed abandoned. If the H-1B petition on behalf of the student is approved, the student may apply for an H-1B visa from abroad.

E. M-1 Practical Training

1. Application

PT is the only type of work authorization available to M-1 students. It allows M-1 students to get on-the-job training that is not available in their home country.[72] PT may only be authorized after the M-1 student completes their course of study. M-1 students must obtain the DSO's recommendation for PT. Prior to their program end date, but not more than 90 days before the program end date, M-1 students seeking PT must apply for permission to accept employment by filing a Form I-765 and an Application to Extend/Change Nonimmigrant Status (Form I-539), to extend their status to allow sufficient time to complete the PT plus a 30-day departure period.[73]

In some cases, the student finishes the course of study early or U.S. Customs and Border Protection gave the student more time than needed on the student's Arrival/Departure Record (Form I-94). These students do not need to file a Form I-539 if they have sufficient time left in status to complete their PT and depart. Students must submit a Form I-20 that has been endorsed for PT by the DSO with their Form I-539.

USCIS denies a Form I-765 if the M-1 student departs while the application is pending. An M-1 student may not be admitted to begin PT that was not authorized before the student's departure from the United States.[74]

2. Duration

USCIS grants 1 month of employment authorization for each 4 months of full-time study that the M-1 student has completed, not to exceed an aggregate of 6 months.[75] USCIS does not grant the student employment authorization if the student cannot complete the requested PT within 6 months. The M-1 student may not begin employment until USCIS has issued them an employment authorization document.

Footnotes

[^ 1] See 8 CFR 274a.12(b)(6)(iv), 8 CFR 214.2(f)(10), 8 CFR 214.2(f)(11), and 8 CFR 214.2(f)(12).

[^ 2] See 8 CFR 214.2(f)(10).

[^ 3] See 8 CFR 214.2(f)(10).

[^ 4] See 8 CFR 274a.12(c)(6) and 8 CFR 214.2(m)(14).

[^ 5] See 8 CFR 214.2(f)(10)(i).

[^ 6] See 8 CFR 214.2(f)(10)(i).

[^ 7] See 8 CFR 214.2(f)(10)(i)(B).

[^ 8] There is no maximum number of hours placed on CPT. Instead, the DSO indicates on the Form I-20 that training is authorized for full-time or part-time. See 8 CFR 214.2(f)(10)(i)(B).

[^ 9] See 8 CFR 214.2(f)(10). Students enrolled in master's degree or doctorate programs that require immediate participation in CPT are exempt from the one-academic-year eligibility rule. See 8 CFR 214.2(f)(10)(i).

[^ 10] See 8 CFR 214.2(f)(9)(ii)(D).

[^ 11] See 8 CFR 214.2(f)(10)(i).

[^ 12] See 8 CFR 214.2(f)(9).

[^ 13] See 8 CFR 214.2(f)(10).

[^ 14] For information concerning EAD requirements for F students, see Volume 10, Employment Authorization, Part A, Employment Authorization Policies and Procedures, Chapter 2, Eligibility Requirements [10 USCIS-PM A.2].

[^ 15] See 8 CFR 214.2(f)(10)(ii)(D).

[^ 16] See 8 CFR 214.2(f)(10).

[^ 17] See 8 CFR 214.2(f)(11)(i)(B)(1). USCIS regulations allow practical training for students enrolled for one full academic year, even if a portion of that qualifying period was in a valid nonimmigrant status other than F-1. The student must be in a valid F-1 nonimmigrant status when the pre-completion OPT application is filed. Students may count time enrolled in a study abroad program toward the full-academic-year requirement, as long as the student spent at least one full academic term (that is, one semester, trimester, or quarter) enrolled in a full course of study in the United States prior to studying abroad.

[^ 18] See 8 CFR 214.2(f)(10)(ii)(A)(3).

[^ 19] See ICE Policy Guidance 1004-03 – Update to Optional Practical Training (PDF), issued April 23, 2010.

[^ 20] See 8 CFR 214.2(f)(11)(i)(D).

[^ 21] See 8 CFR 214.2(f)(11)(i)(D).

[^ 22] See 8 CFR 214.2(f)(10)(ii)(A)(3).

[^ 23] See 8 CFR 214.2(f)(10).

[^ 24] See 8 CFR 214.2(f)(8).

[^ 25] See 8 CFR 214.2(f)(10)(ii)(E).

[^ 26] See 8 CFR 214.2(f)(10)(ii)(C).

[^ 27] See 8 CFR 214.2(f)(10)(ii)(E).

[^ 28] See the DHS Study in the States website.

[^ 29] See 8 CFR 274a.12(b)(6)(iv).

[^ 30] See the DHS Study in the States website.

[^ 31] See 8 CFR 214.2(f)(10)(ii)(C)(5).

[^ 32] See 8 CFR 214.2(f)(10)(ii)(C)(5).

[^ 33] See 8 CFR 214.2(f)(10)(ii)(C)(5).

[^ 34] See 8 CFR 214.2(f)(10)(ii)(C)(9)(ii).

[^ 35] See 8 CFR 214.2(f)(10)(ii)(C)(7).

[^ 36] See 8 CFR 214.2(f)(10)(ii)(C)(8).

[^ 37] See 8 CFR 214.2(f)(10)(ii)(C)(6).

[^ 38] See the Students: Determining STEM OPT Extension Eligibility webpage.

[^ 39] See 8 CFR 214.2(f)(10)(ii)(C)(10)(i).

[^ 40] See 8 CFR 214.2(f)(10)(ii)(C)(10)(ii).

[^ 41] See 8 CFR 214.2(f)(10)(ii)(C)(10)(iii).

[^ 42] See the Students: Determining STEM OPT Extension Eligibility webpage.

[^ 43] See the Students: Determining STEM OPT Extension Eligibility webpage.

[^ 44] See the Reporting Volunteer Positions During OPT Employment webpage.

[^ 45] See 8 CFR 214.2(f)(10)(ii)(C)(11).

[^ 46] See Subsection 4, OPT Reporting and Employment Requirements [2 USCIS-PM F.5(C)(4)].

[^ 47] See 81 FR 13040 (PDF), 13079 (Mar. 11, 2016).

[^ 48] See 81 FR 13040 (PDF), 13079 (Mar. 11, 2016).

[^ 49] See the DHS STEM OPT Hub webpage for more information.

[^ 50] See 8 CFR 214.2(f)(11)(iii)(A).

[^ 51] See 8 CFR 214.2(f)(10)(ii)(A)(3).

[^ 52] See 8 CFR 214.2(f)(10)(ii)(C)(9)(i).

[^ 53] See 8 CFR 214.2(f)(10)(ii)(C)(9)(ii) (providing a non-exclusive list of material changes and deviations that would trigger this requirement). Additionally, the educational institution whose DSO is responsible for duties associated with the F-1 student's latest STEM OPT extension is responsible for ensuring that ICE SEVP has access to each individualized Form I-983 and associated student evaluations (electronic or hard copy), including through SEVIS if technologically available, beginning within 30 days after the document is submitted to the DSO and continuing for a period of 3 years following the completion of each STEM practical training opportunity. See 8 CFR 214.2(f)(10)(ii)(C)(9)(iii).

[^ 54] See 8 CFR 214.2(f)(12)(ii)(A).

[^ 55] See 8 CFR 214.2(f)(12)(ii)(B).

[^ 56] See 8 CFR 214.2(f)(10)(ii)(C)(9)(i).

[^ 57] See 8 CFR 214.2(f)(10)(ii)(C)(9)(ii) (providing a non-exclusive list of material changes and deviations that would trigger this requirement). Additionally, the educational institution whose DSO is responsible for duties associated with the F-1 student's latest STEM OPT extension is responsible for ensuring that ICE SEVP has access to each individualized Form I-983 and associated student evaluations (electronic or hard copy), including through SEVIS if

technologically available, beginning within 30 days after the document is submitted to the DSO and continuing for a period of 3 years following the completion of each STEM practical training opportunity. See 8 CFR 214.2(f)(10)(ii)(C)(9)(iii).

[^ 58] See 8 CFR 214.2(f)(11).

[^ 59] See 8 CFR 214.2(f)(11)(i)(D).

[^ 60] See 8 CFR 214.2(f)(11)(i)(D).

[^ 61] See 8 CFR 214.2(f)(11)(i)(B)(1).

[^ 62] See 8 CFR 214.2(f)(8)(ii).

[^ 63] See INA 1101(h)(i)(b). An H-1B beneficiary is a nonimmigrant worker coming to the United States temporarily to perform services in a specialty occupation.

[^ 64] See 8 CFR 214.2(f)(5)(vi)(A).

[^ 65] See 8 CFR 214.2(f)(5)(vi)(A).

[^ 66] See 8 CFR 214.2(f)(5)(vi)(C).

[^ 67] Timely filed means that the H-1B petition (indicating change of status rather than consular processing) was filed during the H-1B acceptance period, while the student's authorized F-1 duration of status admission was still in effect (including any period of time during the academic course of study, any authorized periods of post-completion OPT, any authorized periods of STEM OPT, and the 60-day departure preparation period).

[^ 68] See 8 CFR 214.2(f)(5)(vi).

[^ 69] See 8 CFR 214.2(f)(5)(vi)(B).

[^ 70] See 8 CFR 214.2(f)(5)(vi)(B).

[^ 71] See 81 FR 13040 (PDF) (Mar. 11, 2016) (final rule).

[^ 72] See 8 CFR 214.2(m)(14)(i)(C).

[^ 73] See 8 CFR 214.2(m)(14)(iii).

[^ 74] See 8 CFR 214.2(m)(14)(iv).

[^ 75] See 8 CFR 214.2(m)(14)(iii).

Current as of December 20, 2023

Chapter 6 - Employment

If authorized, F-1 students may engage in on-campus or off-campus employment. M-1 students may only engage in employment for purposes of practical training.[1]

A. On-Campus Employment

F-1 students may engage in on-campus employment subject to certain conditions and restrictions.[2] F-1 status permits students with Designated School Official (DSO) approval to work at an on-campus job for up to 20 hours per week when school is in session.[3] During vacation periods, students may work on-campus full-time.[4]

Employment may be performed at off-campus locations that are educationally affiliated with the school and the employment must be an integral part of the student's educational program.[5] Students working on campus may be employed by the school itself or by any independent companies serving the school's needs, such as the school bookstore or cafeteria suppliers providing food on campus premises. The employment must not displace U.S. residents.[6]

An F-1 student may be employed on-campus for duration of status, but may not begin more than 30 days before the start of classes.[7] F-1 students engaged in on-campus employment are not required to apply for employment authorization with USCIS.

B. Off-Campus Employment

USCIS may authorize an F-1 student to work off campus on a part-time basis after having been in F-1 status for one full academic year if the student is in good academic standing as determined by the DSO.[8]

1. Severe Economic Hardship

USCIS may authorize an eligible F-1 student to work off campus on a part-time basis if on-campus employment opportunities are not available or are otherwise insufficient. USCIS may also authorize an eligible F-1 student to work off campus on a part-time basis due to severe economic hardship caused by unforeseen circumstances beyond the student's control.[9]

Severe economic hardship may include a loss of financial aid or on-campus employment through no fault of the student; substantial fluctuations in the value of currency or exchange rate; inordinate increases in tuition or living costs; or unexpected changes in the financial condition of the student's source of support, medical bills, or other substantial and unexpected expenses.[10]

The DSO must recommend the F-1 student for off-campus employment on the Certificate of Eligibility for Nonimmigrant Student Status (Form I-20) and the student must properly file an Application for Employment Authorization (Form I-765), and receive an employment authorization document (EAD, Form I-766) from USCIS before starting off-campus employment.

USCIS may grant severe economic hardship EADs in 1-year intervals, not to extend past the expected date of completion of the student's current course of study.[11] Severe economic hardship EADs may be renewed while the student continues to maintain status and is in good academic standing.[12] Severe economic hardship employment authorization terminates when the student transfers from one school to another or when the need for employment ceases. If the student is maintaining status, beginning a new educational program at the same school does not terminate the student's employment authorization.

2. Severe Economic Hardship due to Emergent Circumstances (Special Student Relief)

DHS may suspend certain regulatory requirements for F-1 students experiencing severe economic hardship as a direct result of emergent circumstances.[13] This suspension, also known as special student relief (SSR), first appeared in the Code of Federal Regulations in 1998.[14]

Emergent circumstances are events that affect F-1 students from a particular region and create severe economic hardship. These events may include, but are not limited to, natural disasters, financial crises, and military conflicts.

The Secretary of Homeland Security may suspend duration of status, full course of study, and on-campus and off-campus employment regulatory requirements due to emergent circumstances. DHS designates SSR by publication of a Federal Register notice, which provides the start and end dates of the suspension of those requirements.

Lawful Status

Generally, DHS considers an F-1 student to be in lawful status if the student is pursuing a full course of study at an approved educational institution.[15] However, when DHS designates SSR by publication of a Federal Register notice, eligible students may reduce their full course of study as a result of accepting employment authorized by the Federal Register notice.

DHS considers an F-1 student to be in lawful status during the period of authorized employment, subject to any other conditions specified in the notice, provided that for the duration of the authorized employment, the student is:

- Registered for at least the minimum number of semester or quarter hours of instruction per academic term as specified in the Federal Register notice; and
- Is continuing to make normal progress toward completing the student's course of study.

When DHS designates SSR by publication of a Federal Register notice, the number of semester or quarter hours of instruction per academic term cannot be less than 6 semester or quarter hours if the student is at the undergraduate level or one half of the credit hours normally required under a full course of study if an undergraduate student is enrolled in a term of different duration. A student at the graduate level must remain registered in a minimum of 3 semester or quarter hours of instruction.[16]

Students enrolled in kindergarten through grade 12 at a private school or grades 9 through 12 at a public high school must maintain the minimum number of hours of class attendance per week prescribed by the academic institution for making normal progress toward graduation.[17]

Eligibility Criteria

For an F-1 student to be eligible for SSR, the DSO must certify in the Student and Exchange Visitor Information System (SEVIS) that the student:

- Is a citizen of a country specified in the Federal Register notice or, if such eligibility is specified in the SSR notice, a person having no nationality who last habitually resided in the specified country;
- Was lawfully present in the United States in F-1 status on the date of publication of the Federal Register notice;
- Is enrolled in a school certified by U.S. Immigration and Customs Enforcement's (ICE) Student and Exchange Visitor Program (SEVP);
- Is currently maintaining F-1 status; and
- Is experiencing severe economic hardship as a direct result of the emergent circumstances specified in the Federal Register notice.

The DSO should note any specifics, as ICE SEVP recommends, in the remarks section of the F-1 student's Certificate of Eligibility for Nonimmigrant Student Status (Form I-20).[18]

C. Documentation

1. On-Campus Employment

An F-1 nonimmigrant student authorized by the student's DSO to engage in on-campus employment by means of the Federal Register notice does not need to file an Application for Employment Authorization (Form I-765) with USCIS.[19]

To engage in on-campus employment more than 20 hours per week, consistent with a designation of SSR, the F-1 student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship resulting from the emergent circumstances, and the DSO must notate the student's Form I-20 in accordance with the Federal Register notice.[20]

2. Off-Campus Employment

An F-1 nonimmigrant student authorized by the student's DSO to engage in off-campus employment must file a Form I-765 with USCIS and include a copy of a properly endorsed Form I-20 with the filing. An F-1 student must receive employment authorization and an EAD from USCIS before engaging in off-campus employment.[21]

To engage in off-campus employment more than 20 hours per week consistent with a designation of SSR, the F-1 student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship resulting from the emergent circumstances, and the DSO must notate the student's Form I-20 in accordance with the Federal Register notice.[22]

USCIS may only grant off-campus employment authorization due to severe economic hardship for up to 1 year,[23] unless the Secretary of Homeland Security suspends the applicability of this requirement through publication of a Federal Register notice. If the 1-year limitation is suspended, USCIS may grant SSR employment authorization for the duration of the Federal Register notice validity period, but the period of authorization may not exceed the F-1 student's academic program end date.

3. Existing Employment Authorization

If an F-1 student already has off-campus employment authorization, they may benefit from SSR without applying for a

new EAD. To benefit from SSR in this context, the F-1 student must request that the student's DSO update the remarks field of the F-1 student's Form I-20, in accordance with the Federal Register notice.

An F-1 student authorized by a DSO for on-campus employment does not need to apply for an EAD solely because of publication of a Federal Register notice if the F-1 student does not seek to engage in off-campus employment. If consistent with the Federal Register notice, the F-1 student may drop below what would otherwise be the minimum course load. In such a case, the F-1 student must request that the DSO update the remarks field of the F-1 student's Form I-20, in accordance with the Federal Register notice.

D. F-1 Student Sponsored by an International Organization

An F-1 student who has been offered employment by a recognized international organization[24] must apply for employment authorization from USCIS.

A student seeking employment authorization under this provision is required to present a written certification from the international organization that the proposed employment is within the scope of the organization's sponsorship; a Form I-20 with the employment page completed by the DSO certifying eligibility for employment; and a completed Form I-765 with the required fee.

An F-1 student must receive employment authorization and an EAD from USCIS before engaging in off-campus employment.

Footnotes

[^ 1] See Chapter 5, Practical Training, Section E, M-1 Practical Training [2 USCIS-PM F.5(E)]. See 8 CFR 214.2(m)(13) and 8 CFR 214.2(m)(14).

[^ 2] See 8 CFR 214.2(f)(9)(ii)(A).

[^ 3] See 8 CFR 214.2(f)(9)(i).

[^ 4] See 8 CFR 214.2(f)(9)(i).

[^ 5] See 8 CFR 214.2(f)(9)(i).

[^ 6] See 8 CFR 214.2(f)(9)(i).

[^ 7] See 8 CFR 214.2(f)(9)(i).

[^ 8] See 8 CFR 214.2(f)(9)(ii)(A).

[^ 9] See 8 CFR 214.2(f)(9)(ii)(C).

[^ 10] See 8 CFR 214.2(f)(9)(ii)(C).

[^ 11] See 8 CFR 214.2(f)(9)(ii)(D).

[^ 12] See 8 CFR 214.2(f)(9)(ii)(F)(1).

[^ 13] See 8 CFR 214.2(f)(5)(v) and 8 CFR 214.2(f)(9).

[^ 14] See 63 FR 31872 (PDF) (June 10, 1998). For more information on special student relief (SSR), see DHS' Special Student Relief webpage.

[^ 15] See 8 CFR 214.2(f)(5)(i).

[^ 16] See 8 CFR 214.2(f)(5)(v).

[^ 17] As required under 8 CFR 214.2(f)(6)(i)(E).

[^ 18] For more information, see the DHS Special Student Relief webpage.

[^ 19] For more information regarding on-campus employment, including locations where it must be performed and application procedures, see 8 CFR 214.2(f)(9)(i).

[^ 20] See 8 CFR 214.2(f)(9)(i).

[^ 21] For general guidance on the adjudication of the Application for Employment Authorization (Form I-765), see Volume 10, Employment Authorization, Part A, Employment Authorization Policies and Procedures, Chapter 4, Adjudication [10 USCIS-PM A.4].

[^ 22] See 8 CFR 214.2(f)(9)(ii).

[^ 23] See 8 CFR 214.2(f)(9)(ii)(D). Employment authorization is automatically terminated whenever the student fails to maintain status. See 8 CFR 214.2(f)(9)(ii)(F)(2).

[^ 24] See 8 CFR 214.2(f)(9)(iii). The international organization must be recognized according to the International Organizations Immunities Act, Pub. L. 79-291, 59 Stat. 669 (December 29, 1945).

Current as of December 20, 2023

Chapter 7 - Absences From the United States

Guidance

Resources (14)

Appendices (1)

Updates (5)

History (0)

A. F-1 Students

An F-1 student returning to the United States from a temporary absence of 5 months or less may be readmitted for attendance at an educational institution certified by U.S. Immigration and Customs Enforcement (ICE) Student and Exchange Visitor Program (SEVP) if the F-1 student presents:

- A current Certificate of Eligibility for Nonimmigrant Student Status (Form I-20) properly endorsed by the Designated School Official (DSO) for reentry if there has been no substantive change to the most recent Form I-20 information;[1] or
- An updated Form I-20 if there has been a substantive change in the information on the F-1 student's most recent Form I-20, such as in the case of an F-1 student who has changed the major area of study, who intends to transfer to another SEVP-certified institution, or who has advanced to a higher level of study;[2] and
- A valid F nonimmigrant visa, unless otherwise exempt.[3]

For an F-1 student who has been continuously enrolled in an ICE SEVP-certified school and who undertakes study in a program abroad, DHS considers the student to have taken a temporary absence and may be admitted into the United States with a current Form I-20.

Time spent outside of the United States does not extend the period of authorized Optional Practical Training (OPT). Time spent overseas counts towards the F-1 student's aggregate maximum allowed period of unemployment.[4] An F-1 student currently approved for OPT may re-enter the United States to engage in OPT if the student has a current visa (if applicable), a Form I-20 endorsed for travel by the student's DSO within the last 6 months, and an unexpired Employment Authorization Document (Form I-766).

B. M-1 Students

An M-1 student returning to the United States from a temporary absence to attend the school that the student was previously authorized to attend must present:[5]

- A properly endorsed Form I-20 if there has been no substantive change in the information on the student's most

recent Form I-20 since the form was initially issued; or

- A new Form I-20 if there has been any substantive change in the information on the student's most recent Form I-20 since the form was initially issued; and
- A valid M nonimmigrant visa, unless otherwise exempt.[6]

If USCIS has authorized an M-1 student to transfer between schools and the student is returning to the United States from a temporary absence to attend the school to which the transfer was authorized as indicated on the student's Form I-20, the name of the transfer-in school does not need to be specified in the student's visa.[7]

If USCIS has authorized an M-1 student to engage in practical training and the student is returning to the United States from a temporary absence, the M-1 student may be readmitted for the remainder of the authorized period indicated on the student's Form I–20. The student must be returning to the United States to perform the authorized practical training.

An M-1 student may not be admitted to begin practical training that was not authorized before the student's departure.[8] As a result, if an M-1 student departs the United States while an Application for Employment Authorization (Form I-765) is pending, USCIS denies the Form I-765.

Footnotes

[^ 1] See 8 CFR 214.2(f)(4).

[^ 2] See 8 CFR 214.2(f)(4).

[^ 3] See 8 CFR 212.1.

[^ 4] See 8 CFR 214.2(f)(10)(ii)(E).

[^ 5] See 8 CFR 214.2(m)(4)(i).

[^ 6] See 8 CFR 212.1.

[^ 7] See 8 CFR 214.2(m)(4)(ii).

[^ 8] See 8 CFR 214.2(m)(14)(iv).

Current as of December 20, 2023

Chapter 8 - Change of Status, Extension of Stay, and Length of Stay

A. General Eligibility for Change of Status to F-1

1. Eligible Nonimmigrants

In general, nonimmigrants who have been lawfully admitted to the United States and maintain the status in which they were admitted (or previously changed to) may seek to change from one visa classification under INA 101(a)(15) to another, with certain restrictions.[1] The applicant must meet all eligibility criteria for the new visa classification.[2]

Generally, a nonimmigrant may apply to change to F-1 status while remaining in the United States if:

- The applicant was lawfully admitted to the United States in a nonimmigrant status;
- The applicant's nonimmigrant status remains valid; and
- The applicant has not violated the conditions of their nonimmigrant status.[3]

2. Timing and Effective Date

Academic Program Start Date

In general, upon approval of a change of status (COS) to F-1, F-1 students may not engage in any student activities (with certain exceptions)[4] until 30 days before their academic program start date.

Officers grant the COS with an effective date of the applicant's F-1 status as the day of final adjudication (approval), regardless of whether it falls within 30 days of the academic program start date.

If a COS to F-1 application is approved more than 30 days before the program start date, the nonimmigrant must ensure that they do not violate their F-1 status during that period of time. The student must ensure they maintain status by not engaging in impermissible activities.

For example, engaging in any employment, including on-campus employment and practical training more than 30 days before the program start date, is a violation of F-1 status.[5] In general, F-1 students admitted for duration of status who violate the terms of their status, begin to accrue unlawful presence on the day after USCIS or an immigration judge determines that they have violated their nonimmigrant status.[6]

In all cases, the student must fully comply with all applicable requirements of the Student and Exchange Visitor Program (SEVP).

Duration of Status

Regulations define the nonimmigrant student's "duration of status" as the time during which an F-1 nonimmigrant is "pursuing a full course of study" at the approved educational institution.[7] USCIS considers the period of time between the approval of the COS to F-1 classification and the F-1 program start date as falling within the provision of "pursuing a full course of study." This applies if the F-1 student continues to intend to pursue that course of study and does not otherwise violate their F-1 nonimmigrant status.

USCIS considers this period of time between the date of approval and the program start date as similar to the period of time and purpose a student is in the United States during summer vacation in F-1 status (such a break in classes does not interrupt status).

Deferring Program Start Date

If a COS to F-1 application is not approved before the program start date reflected on the initial "Certificate of Eligibility for Nonimmigrant Student Status" (Form I-20), the applicant must request that their Designated School Official (DSO) defer the program start date in the Student and Exchange Visitor Information System (SEVIS) before the current program start date has been reached.

The applicant can monitor the status of their pending COS application and, in accordance with instructions provided on the SEVP website, may contact the DSO if it appears that the program start date may need to be deferred. The applicant and the DSO are responsible for ensuring that the SEVIS record is not terminated while the COS is pending.

Background

USCIS historically only granted applications to change to F-1 status within 30 days of the program start date listed on the applicant's Form I-20. USCIS required nonimmigrants applying for COS to F-1 classification to continuously obtain nonimmigrant status up to 30 days before the start date of the program of study listed on the Form I-20, even if that required filing an initial extension and later a subsequent extension or extensions, or filing a COS and subsequent extension or extensions. This policy prevented students from incurring a "gap" in status prior to 30 days before the program's start date, but resulted in the potential filing and adjudication of multiple, duplicative COS or extension of stay (sometimes referred to as "bridging") applications.

In order to limit costs to applicants and the government, especially during periods of high volume and extended adjudication times, USCIS no longer requires the applicant to submit subsequent applications for extension or change of nonimmigrant status while the COS to F-1 application is pending with USCIS, provided that the applicant's nonimmigrant status is unexpired at the time of filing the initial COS to F-1 application, and the applicant otherwise remains eligible for a COS.

To avoid a "gap" in status in cases that are adjudicated more than 30 days prior to the academic program start date but are otherwise approvable, USCIS grants the COS to F-1 effective the day USCIS makes a final decision on the COS application, which may in some cases result in a student being granted F-1 status more than 30 days prior to the program start date.

3. Nonimmigrants Unable to Enroll in a Full Course of Study Seeking Change of Status to F-1 Classification

Certain nonimmigrants, including visitors for business or pleasure (B-1 or B-2), are prohibited from enrolling in a full course of study.[8] Nonimmigrants who wish to enroll in a full course of study but are unable to do so in their current nonimmigrant status must first submit a COS application and request nonimmigrant student (F-1) status. These nonimmigrants must do so while they are still in lawful status.

4. Other Nonimmigrants Seeking Change of Status to F-1 Classification

Some nonimmigrant classifications (PDF) permit applicants to enroll in a full course of study incidental to their primary purpose for being in the United States, while other classifications do not. COS applicants in nonimmigrant classifications that permit such enrollment and who enroll in a full course of study may continue their studies, even if their COS to F-1 is approved more than 30 days before their program start date as listed on their Form I-20.[9]

Nonimmigrants whose classifications do not permit enrolling in a course of study must first acquire F-1 status and may only enroll in a full course of study upon the program start date listed on Form I-20.

When an applicant applies for a COS to F-1 status, the applicant must wait until the COS is approved as well as 30 days before the new program start date before engaging in F status-specific activities (such as on-campus employment and practical training).[10]

5. Travel Abroad and Consular Processing

A nonimmigrant who obtains an F-1 nonimmigrant visa through consular processing may not be admitted more than 30 days before the report date or program start date listed on the Form I-20.[11] If a nonimmigrant travels abroad while their COS application is pending, USCIS considers that COS application abandoned.

If a nonimmigrant student travels abroad after USCIS has approved their F-1 COS application, regulations prohibit re-admission to the United States in F-1 status more than 30 days before the report date or program start date listed on the Form I-20.[12]

B. Vocational Student (M-1) [Reserved]

[Reserved]

C. Extension of Stay

1. F-1 Students

An F-1 student who is admitted for duration of status is not required to apply for an extension of stay with USCIS as long as the student is maintaining status and making normal progress toward completion of the student's educational objective.[13] An F-2 dependent is not required to seek an extension of stay as long as the principal maintains F-1 student status.

An F-1 student who continues from one educational level to another is considered to be maintaining status, provided that the transition to the new educational level is completed according to the transfer procedures.[14] F-1 students continuing their studies at another educational level must request that the DSO change the students' educational level within 60 days of their program end date.

An F-1 student who is maintaining status and making normal progress toward completing their educational objective, but is unable to complete their course of study by the program end date on the Form I-20, must request a program extension from their DSO before the program end date.

The F-1 student may be granted an extension if the DSO certifies that the student has continually maintained status and that the delay is caused by compelling academic or medical reasons, such as a change of major or research topics, unexpected research problems, or documented illnesses. Delays due to academic probation or suspension are not acceptable reasons for program extensions.

An F-2 dependent of an F-1 student unable to complete their course of study by the program end date on the Form I-20 does not need to apply separately for an extension of stay. If the DSO grants a program extension for the F-1 student, the DSO updates SEVIS for both the F-1 student and F-2 dependent.[15]

Failure to receive timely authorization for extension of stay results in the loss of student status.[16] An F-1 student who is unable to complete the educational program within the time listed on the Form I-20 and who is ineligible for a program extension is considered out of status as of the program end date.[17] In either case, the student must request to be reinstated to student status to continue studies.[18]

Reinstatement to F-1 Student Status

Generally, USCIS may reinstate a student's F-1 status if the student makes a request on an Application to Extend/Change Nonimmigrant Status (Form I-539).[19] The request must be accompanied by a properly completed Form I-20 indicating the DSO's recommendation for reinstatement from the school the student is attending.[20]

The student's application must show:

- The student filed the application no more than 5 months after being out of status, or exceptional circumstances resulted in the student's failure to file within 5 months and the request for reinstatement was filed as soon as possible under the circumstances;[21]
- The student does not have a record of repeated or willful violations of DHS regulations;[22]
- The student is currently pursuing or intending to pursue a full course of study in the immediate future at the school that issued the Form I-20;[23]
- The student has not engaged in unauthorized unemployment;[24] and
- The student is not deportable on any ground other than as a noncitizen whose nonimmigrant status has been revoked or a noncitizen who has failed to maintain nonimmigrant status.[25]

The student's application must also show:

- The violation of status resulted from circumstances beyond the student's control;[26] or
- The violation relates to a reduction in the student's course load that would have been within a DSO's power to authorize, and that failure to approve reinstatement would result in extreme hardship to the student.[27]

Violations due to the student's actions, such as criminal activity, are not considered circumstances beyond the student's control.

2. M-1 Students

The cumulative time of extensions, including extensions for practical training, that can be granted to an M-1 student is limited to a period of 3 years from the M-1 student's original start date, plus 30 days.

No extension can be granted to an M-1 student if the student is unable to complete the course of study within 3 years of the original program start date. This limit includes extensions that have been granted due to a drop below a full course of study, a transfer of schools, or reinstatement. M-1 students may be granted an extension of stay if they establish:

- They are currently maintaining M-1 status;
- Compelling educational or medical reasons have resulted in a delay to their course of study (delays caused by academic probation or suspension are not acceptable reasons for program extension); and
- They are able to, and in good faith intend to, continue to maintain that status for the period for which the extension is granted.[28]

Application

An M-1 student must apply to USCIS for an extension on Form I-539. The student must submit the application at least 15 days, but not more than 60 days, before the program end date on the student's Form I-20. A student's M-2 spouse and unmarried children under the age of 21 seeking an extension of stay may be included in the application. The application must also be accompanied by the student's Form I-20 and the Form I-94 of the student's spouse and unmarried children, if applicable.

Period of Stay

If USCIS grants an application for extension, the M-1 student and their spouse and unmarried children under the age of 21 are given an extension of stay for the period of time necessary to complete the course of study, plus 30 days within which to depart from the United States, or for a total period of 1 year, whichever is less.[29]

A student's M-2 spouse and unmarred children under the age of 21 are not eligible for an extension unless USCIS grants the M-1 student an extension of stay, and USCIS does not grant them a longer period than USCIS grants the M-1 student.[30]

Reinstatement to M-1 Student Status

USCIS may consider reinstating a student who makes a request for reinstatement on a Form I-539, accompanied by a properly completed Form I-20 indicating the DSO's recommendation for reinstatement. USCIS may consider granting the request only if the student:[31]

- Has not been out of status for more than 5 months at the time of filing the request for reinstatement (or demonstrates that the failure to file within the 5-month period was the result of exceptional circumstances and that the student filed the request for reinstatement as promptly as possible under these exceptional circumstances);
- Does not have a record of repeated or willful violations of DHS regulations;
- Is currently pursuing, or intends to pursue, a full course of study at the school that issued the Form I-20;
- Has not engaged in unlawful employment;
- Is not deportable on any ground other than INA 237(a)(1)(B) or INA 237(a)(1)(C)(i); and
- Provides evidence that the violation of status resulted from circumstances beyond the student's control[32] or the violation relates to a reduction in the student's course load that would have been within a DSO's power to authorize, and that failure to approve reinstatement would result in extreme hardship to the student.

D. Length of Stay

F-1 students may be admitted for a period of up to 30 days before the indicated report date or program start date listed on the Form I-20.[33] F-1 students are maintaining status if they are making normal progress toward completing a course of study. Admission, except for students enrolled in public high schools, is for duration of status.[34]

M-1 students may be admitted for a period of up to 30 days before the report date or start date of the course of study listed on the Form I-20.

M-1 students are admitted for a fixed time period, which is the period necessary to complete the course of study indicated on the Form I-20, plus any authorized practical training following completion of the course of study, plus an additional 30 days to depart the United States. However, the total time period may not exceed 1 year.[35]

M-1 students are maintaining status if they are making normal progress toward completing a course of study.

E. Duration of Status

F nonimmigrants[36] are admitted into the United States for an unspecified period of time to engage in activities authorized under this nonimmigrant classification. This unspecified period of time is referred to as duration of status.[37] This means that an F nonimmigrant may remain in the United States while maintaining their student status, including any authorized practical training following completion of studies, without being required to apply for an extension of stay with USCIS, or to depart and re-enter the United States in F-1 status.[38]

F. Departure Periods

1. F-1 Students

F-1 students who have completed their course of study and any authorized practical training following completion of studies are allowed an additional 60-day grace period to prepare for departure from the United States or to transfer to another SEVP-certified school.[39] During the grace period, the F-1 student is deemed to be maintaining nonimmigrant status and may apply for a change to another nonimmigrant or immigrant status.

F-1 students authorized by the DSO to withdraw from classes are allowed a 15-day period for departure from the United States.[40] However, F-1 students who fail to maintain a full course of study without the approval of the DSO or otherwise fail to maintain status are not eligible for an additional period for departure.[41]

2. M-1 Students

M-1 students who have completed their course of study and any authorized practical training following completion of their studies are allowed an additional 30-day grace period to prepare for departure from the United States.[42] During the grace period, the M-1 student is deemed to be maintaining nonimmigrant status and may apply for an extension of their stay or change to another nonimmigrant or immigrant status. M-1 students who fail to maintain a full course of study or otherwise fail to maintain status are not eligible for the additional 30-day period of stay.[43]

Footnotes

[^ 1] See INA 248.

[^ 2] According to INA 101(a)(15)(f), a noncitizen is eligible for F nonimmigrant classification if the noncitizen: has a residence in a foreign country which they have no intention of abandoning, is a bona fide student qualified to pursue a full course of study, and seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study consistent with INA 214(m) at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in an accredited language training program in the United States.

[^ 3] Violations of status include, among others, engaging in unauthorized employment and certain criminal activity. See 8 CFR 214.1.

[^ 4] See Subsection 4, Other Nonimmigrants Seeking Change of Status to F-1 Classification [2 USCIS-PM F.8(A)(4)].

[^ 5] See 8 CFR 214.2(f)(9(i).

[^ 6] See Adjudicator's Field Manual Chapter 40.9.2 (PDF, 1017.74 KB). Students may be subject to 3-year or 10-year bars on their readmission to the country, respectively, if they accrue more than 180 days or 1 year of unlawful presence. See INA 212(a)(9)(B).

[^ 7] See 8 CFR 214.2(f)(5).

[^ 8] See 8 CFR 214.2(b)(7).

[^ 9] Under 8 CFR 214.2(f)(15)(ii), an F-2 is permitted to enroll in post-secondary or vocational study at an SEVP-certified school so long as any study remains less than a full course of study.

[^ 10] See 8 CFR 214.2(f)(9(i).

[^ 11] See 8 CFR 214.2(f)(5)(i).

[^ 12] See 8 CFR 214.2(f)(5)(i).

[^ 13] For a discussion of the extension of stay available to certain F-1 beneficiaries of an H-1B petition, under the “cap gap” provisions, see Chapter 5, Practical Training, Section D, F-1 “Cap-gap” Extension [2 USCIS-PM F.5(D)].

^ [14] See 8 CFR 214.2(f)(8).

[^ 15] See 9 FAM 403.9-4(E), Maximum Initial Periods of Admission and Extension of Stay.

[^ 16] See 8 CFR 214.2(f)(7)(iii).

[^ 17] See 8 CFR 214.2(f)(7)(iii).

[^ 18] See 8 CFR 214.2(f)(7)(iii) (directing that the application for reinstatement would be under the provisions of 8 CFR 214.2(f)(16)).

[^ 19] See 8 CFR 214.2(f)(16).

[^ 20] See 8 CFR 214.2(f)(16)(i).

[^ 21] See 8 CFR 214.2(f)(16)(i)(A).

[^ 22] See 8 CFR 214.2(f)(16)(i)(B).

[^ 23] See 8 CFR 214.2(f)(16)(i)(C).

[^ 24] See 8 CFR 214.2(f)(16)(i)(D).

[^ 25] See 8 CFR 214.2(f)(16)(i)(E).

[^ 26] For example, serious injury or illness; closure of the institution; a natural disaster; or inadvertence, oversight, or neglect on the part of the school’s DSO. Situations caused by the student’s willful failure or by a pattern of repeated violations do not qualify. See 8 CFR 214.2(f)(16)(i)(F)(1).

[^ 27] See 8 CFR 214.2(f)(16)(i)(F)(2).

[^ 28] See 8 CFR 214.2(m)(10).

[^ 29] See 8 CFR 214.2(m)(10)(iii).

[^ 30] See 8 CFR 214.2(m)(10)(iii).

[^ 31] See 8 CFR 214.2(m)(16).

[^ 32] Circumstances beyond the student's control might include serious injury or illness, closure of the institution, a natural disaster, or inadvertence, oversight, or neglect on the part of the DSO. They do not include instances where a pattern of repeated violations or a willful failure on the part of the student resulted in the need for reinstatement.

[^ 33] See 8 CFR 214.2(f)(5)(i).

[^ 34] An F-1 student who is admitted to attend a public high school is restricted to an aggregate of 12 months of study at any public high school. See 8 CFR 214.2(f)(5)(i).

[^ 35] See 8 CFR 214.2(m)(5).

[^ 36] Students traveling on M visas (students in vocational or other nonacademic institutions) generally are admitted for a fixed time period, rather than for duration of status, although extensions are possible. See 8 CFR 214.2(m)(5) and 8 CFR 214.2(m)(10).

[^ 37] See 8 CFR 214.2(f)(5)(i). Duration of status is defined as the time during which an F-1 student is pursuing a full course of study at an educational institution certified by U.S. Immigration and Customs Enforcement Student and Exchange Visitor Program for attendance by foreign students or engaging in authorized practical training following completion of studies. The student is considered to be maintaining status if the student is making normal progress toward completing a course of study.

[^ 38] See INA 214(m). See 8 CFR 214.2(f)(5)(i). Statutory and regulatory requirements restrict the duration of study for F-1 students to attend a public high school to an aggregate of 12 months of study at any public high school.

[^ 39] See 8 CFR 214.2(f)(5)(iv).

[^ 40] See 8 CFR 214.2(f)(5)(iv).

[^ 41] See 8 CFR 214.2(f)(5)(iv).

[^ 42] See 8 CFR 214.2(m)(5) and 8 CFR 214.2(m)(10).

[^ 43] See 8 CFR 214.2(m)(5).

Current as of December 20, 2023

U.S. Citizenship and Immigration Services

MENU

Chapter 9 - Dependents

Guidance

Resources (0)

Appendices (1)

Updates (1)

History (0)

A. Accompanying the Student

An F-1 student's spouse and unmarried children under the age of 21 who are accompanying the F-1 student in the United States are eligible for admission in F-2 status as dependent family members.[1] An M-1 student's spouse and unmarried children under the age of 21 who are accompanying are eligible for admission in M-2 status.

At the time they seek admission, the dependent family members of a student with a Certificate of Eligibility for Nonimmigrant Student Status (Form I-20) must each present an original Form I-20 issued in the name of each F-2 or M-2 dependent and issued by a school certified by U.S. Immigration and Customs Enforcement (ICE) Student and Exchange Visitor Program (SEVP) to admit F or M students.

B. Following to Join the Student

An F-1 student's spouse and unmarried children under the age of 21 who are following to join the F-1 student in the United States are eligible for admission in F-2 status as dependent family members if they are able to demonstrate that the F-1 student has been admitted and is, or will be within 30 days, enrolled in a full course of study, or is engaged in approved practical training following completion of studies.

At the time they seek admission, the dependent family members of an F-1 student must individually present an original Form I-20 issued in the name of each F-2 dependent and issued by a school certified by ICE SEVP for attendance by F-1 students. A new Form I-20 is required for a dependent family member where there has been any substantive change in the F-1 student's current information.

An M-1 student's spouse and unmarried children under the age of 21 who are following to join the M-1 student in the United States are eligible for admission in M-2 status if they are able to demonstrate that the M-1 student has been admitted and is, or will be within 30 days, enrolled in a full course of study, or is engaged in approved practical training following completion of studies.

At the time they seek admission, the dependent family members of an M-1 student must individually present an original Form I-20 issued in the name of each M-2 dependent and issued by a school certified by ICE SEVP for attendance by M-1 students. A new Form I-20 is required for a dependent where there has been any substantive

change in the M-1 student's current information.

C. Employment and Study

F-2 and M-2 dependents are not authorized to work in the United States. F-2 and M-2 nonimmigrants are permitted to attend elementary, middle, and high school on a full-time basis. F-2 and M-2 nonimmigrants are also permitted to engage in study that is avocational or recreational in nature, or less than full-time.[2] If a dependent wants to pursue a full course of study beyond the elementary, middle, or high school level, or beyond what is avocational or recreational, the dependent has the option to request a change of status to that of an F-1 or M-1 nonimmigrant.

D. Period of Stay

1. F-2 Dependents

F-2 dependents are generally admitted concurrently with the duration of status of the F-1 student. F-2 dependents are not required to seek an extension of stay as long as they were admitted for duration of status and the F-1 student maintains their student status.

F-2 dependents of an F-1 student who is unable to complete the student's course of study by the program end date on the Form I-20 do not need to apply for an extension of stay if they were admitted for duration of status. If the Designated School Official (DSO) grants an extension of stay for the F-1 student, the DSO updates the Student and Exchange Visitor Information System (SEVIS) for both the F-1 student and their F-2 dependents.

2. M-2 Dependents

M-2 dependents are admitted for the fixed period of stay for which M-1 students are admitted.[3] If USCIS grants an extension to members of a family group, all members are granted the same period of time, with the shortest period of time granted to any member applying to all.

If USCIS grants an application for an extension, the M-1 student and the student's M-2 dependent family members, if applicable, are given an extension of stay for the period of time necessary to complete the course of study, plus 30 days within which to depart from the United States. The period of stay may not exceed a total period of 1 year, or the date a dependent loses eligibility for M-2 status (for example, the date an M-2 child turns 21), whichever is less.

E. Change of Status

Any spouse and minor children of the student who wish to change their status to F-2 dependent status must file their change of status (COS) application on Form I-539 while their current nonimmigrant status is valid and unexpired. Officers must review the expiration date of the applicant's nonimmigrant status as indicated on the applicant's Arrival/Departure Record (Form I-94) or other relevant documents to make this determination.

If USCIS denies the principal nonimmigrant's COS application, officers must deny any dependent's COS application.

Footnotes

[^ 1] See 8 CFR 214.2(f)(3) and 8 CFR 214.2(m)(3).

[^ 2] See 8 CFR 214.2(f)(15)(ii)(A)(1) ("[S]tudy at an undergraduate college or university or at a community college or junior college is not a full course of study solely because the F-2 nonimmigrant is engaging in a lesser course load to

complete a course of study during the current term. An F-2 spouse or F-2 child enrolled in less than a full course of study is not eligible to engage in employment."). See 8 CFR 214.2(m)(17)(ii)(A)(1) ("[S]tudy at an undergraduate college or university or at a community college or junior college is not a full course of study solely because the M-2 nonimmigrant is engaging in a lesser course load to complete a course of study during the current term. An M-2 spouse or M-2 child enrolled in less than a full course of study is not eligible to engage in employment.").

[^ 3] See 8 CFR 214.2(m)(10)(iii).

Current as of December 20, 2023

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director
Camp Springs, MD 20588-0009

U.S. Citizenship and Immigration Services

December 20, 2023 PA-2023-34

Policy Alert

SUBJECT: Nonimmigrant Student Classifications

Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the USCIS Policy Manual to address the nonimmigrant student (F and M) classifications, including USCIS' role in the adjudication of applications for employment authorization and change or reinstatement of status to F or M classifications.

Background

The F and M nonimmigrant categories are for noncitizens who wish to study in the United States. The nonimmigrant academic student (F-1) classification allows a noncitizen to enter the United States as a full-time student at a college, university, seminary, conservatory, academic high school, elementary school, or other academic institution, or in a language training program.[1] The nonimmigrant vocational student (M-1) classification includes students in established vocational or other recognized nonacademic programs, other than language training programs.[2]

In general, U.S. Immigration and Customs Enforcement administers the nonimmigrant student program. However, USCIS adjudicates applications for employment authorization, changes of status, extensions of stay, and reinstatement of status for F and M students and their dependents in the United States.

This guidance, contained in Volume 2 of the Policy Manual, is effective immediately and applies prospectively to applications filed on or after December 20, 2023. Effective immediately, the guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

Policy Highlights

- Provides general information about the nonimmigrant student (F and M) classifications and explains USCIS' role in adjudicating applications for employment authorization, changes of status, extension of stay, and reinstatement of status for F and M students and their dependents in the United States.

[1] See INA 101(a)(15)(f).
[2] See INA 101(a)(15)(m). See 22 CFR 41.61(b)(1).

- Explains that F and M students must have a foreign residence that they have no intention of abandoning, but that F and M students may be the beneficiary of a permanent labor certification application or immigrant visa petition and may still be able to demonstrate their intention to depart after a temporary period of stay.

Summary of Changes

Affected Section: Volume 2 > Part F, Students (F, M)

- In Chapter 1 (Purpose and Background), adds content to previously reserved Section B (Background).
- Adds new Chapters 2, 3, 4, 5, 7, 9, and an appendix.
- Revises Chapter 6 (Employment) in its entirety.

Affected Section: Volume 2 > Part F > Chapter 8, Change of Status

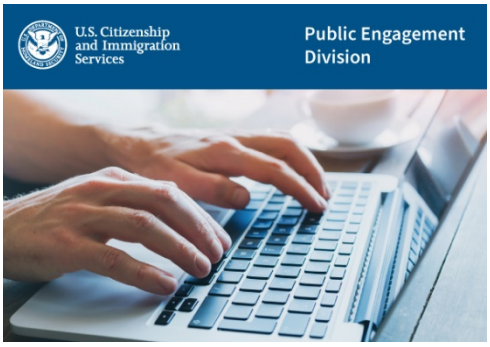
- Retitles Chapter 8 from (Change of Status) to "Change of Status, Extension of Stay, Length of Stay."
- In Section A (General Eligibility for Change of Status to F-1), moves Subsection 6, (Dependents (F-2 Nonimmigrants)) to new Chapter 9, Section D, Subsection 1 (F-2 Dependents).
- Adds new sections C, D, E, and F.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

Citation

Volume 2: Nonimmigrants, Part F, Students (F, M) [2 USCIS-PM F] (Chapters 1-9).

Text of December 20, 2023 USCIS Public Engagement Division Email to Stakeholders



USCIS Updates Policy Guidance for International Students

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance regarding the F and M student nonimmigrant classifications, including the agency's role in adjudicating applications for employment authorization, change of status, extension of stay, and reinstatement of status for these students and their dependents in the United States.

This guidance consolidates existing policy. USCIS expects that this will provide welcome clarity to international students and U.S. educational institutions on a wealth of topics, including eligibility requirements, school transfers, practical training, and on- and off-campus employment.

For example, the guidance clarifies that F and M students must have a foreign residence that they do not intend to abandon, but that such students may be the beneficiary of a permanent labor certification application or immigrant visa petition and may still be able to demonstrate their intention to depart after a temporary period of stay.

In addition, the guidance specifies how F students seeking an extension of optional practical training (OPT) based on their degree in a science, technology, engineering, and mathematics (STEM) field may be employed by startup companies, as long as the employer adheres to the training plan requirements, remains in good standing with E-Verify, and provides compensation commensurate to that provided to similarly situated U.S. workers, among other requirements.

The nonimmigrant academic student (F-1) classification allows a noncitizen to enter the United States as a full-time student at a college, university, seminary, conservatory, academic high school, elementary school, or other academic institution, or in a language training program. The nonimmigrant vocational student (M-1) classification includes students in established vocational or other recognized nonacademic programs, other than language training programs.

For more information about the USCIS guidance, see the Policy Alert and Volume 2, Part F of the Policy Manual. For more information about the role of U.S. Immigration and Customs Enforcement (ICE) in administering these nonimmigrant student programs, see the Student and Exchange Visitor Program (SEVIS).

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