



U.S. Immigration and Customs Enforcement

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Student and Exchange Visitor Program

SEVP Draft Policy Guidance for Adjudicators 1306-02: Annual Vacation

Issue Date: (date signed)
Effective Date: (date implemented)
Supersedes: N/A

1. **Purpose/Background.** This document gives Student and Exchange Visitor Program (SEVP) interpretation of the F-1 student annual vacation regulation (*8 CFR 214.2(f)(5)(iii)*) to guide adjudicators.
2. **Definitions.**
 - 2.1. **Academic term.** Semester, trimester, quarter or other method of dividing the school year
 - 2.2. **Academic year.** As defined in [U.S. Department of Education's regulations](#), the minimum instructional time for an academic year is one of the following:
 - Thirty weeks of instructional time if the school uses credit hours
 - Twenty-six weeks of instructional time if the school uses clock hoursFor schools offering postgraduate study or postdoctoral study at a college or university, or undergraduate or postgraduate study at a conservatory or religious seminary, the DSO certifies the full course of study and completion of an academic year.

For schools using a combination of credit and clock hours, SEVP requires a minimum of 30 weeks of instructional time.
 - 2.3. **Annual.** Occurring once yearly
 - 2.4. **Break.** A period of recess between terms of study during which a school does not conduct classes
 - 2.5. **Vacation.** A fixed period of suspension of study or authorized employment during which a school may or may not conduct classes

3. **Policy.** An F-1¹ student violates nonimmigrant status by taking annual vacation inconsistent with *8 CFR 214.2(f)(5)(iii)* and its interpretation in this guidance.

An eligible F-1 student may have an annual vacation only once per year and must intend to enroll for the term following annual vacation. A school break (e.g., winter or spring break) when school is not in session does not constitute annual vacation.

4. **Procedures/Requirements.**

4.1. **Eligibility.**

- **Initial annual vacation.** The academic terms of the enrolling school, within one of the following two groups, determines initial eligibility for annual vacation of an F-1 student:
 - **Semester schedule.** An F-1 student must have completed at least one semester of full-time enrollment or authorized reduced course load (see section [4.6](#)).
 - **Other schedules.** An F-1 student attending a school on a quarter or trimester calendar who takes only one vacation a year during any one of the quarters or trimesters instead of during the summer is in status during that vacation if the student has completed the equivalent of an academic year (see section [2.2](#)) prior to taking the vacation.
- **Subsequent annual vacation.** An F-1 student may have only one annual vacation per calendar year, though it may occur during a different term from one year to the next.

4.2. **Intent.** An F-1 student must intend to enroll in the next term.

- **Program end date with pending extension of status.** An F-1 student may take an annual vacation when changing educational level, enrolling in a new course of study or transferring to another school if that vacation allows enrollment in the next term.

4.3. **Pending reinstatement.** An F-1 student with a pending petition for reinstatement has no annual vacation benefit. If USCIS approves the petition for reinstatement, affirming that there was no violation of F-1 student status, the student may use the time while the petition was pending toward establishing eligibility (section [4.1](#)) for annual vacation.

4.4. **Length and specific term.** Duration of the annual vacation is a function of the school calendar.

- An annual vacation may not exceed the length of time stipulated in section [4.5](#).

¹ Regulation pertaining to M-1 students (*8 CFR 214.2(m)*) is silent on annual vacation. An M-1 student may not take an annual vacation.

- A student at a school with a semester calendar generally takes annual vacation during the summer term. A student may take the annual vacation during any term. A student who takes annual vacation during a fall or spring semester must enroll in and maintain a full course of study during the school’s scheduled summer term.

4.5. Annual vacation quick reference chart

Student	F-1 academic	F-1 academic	F-1 academic	F-1 language
Term type	Semester	Trimester	Quarter	Variable
Required minimum time before annual vacation	One semester	Three trimesters	Four quarters	One academic year (section 2.2)
Maximum allowable time for annual vacation	One semester	One trimester	One quarter	One term

4.6. Annual Vacation and a Reduced Course Load or Leave of Absence. According to 8 *CFR 214.2(f)(6)(iii)*, an F-1 student may be eligible for an RCL while maintaining status. Below are four caveats when taking an annual vacation immediately following or preceding an RCL.

4.6.1. Annual vacation and RCL for medical conditions. Annual vacation does not increase the allowable total period for a medical RCL.

- An F-1 student on an RCL for medical conditions (8 *CFR 214.2(f)(6)(iii)(B)*) may be eligible for annual vacation if enrolled in a class or classes and anticipating capability to enroll in a class or classes following annual vacation.
- An F-1 student on an RCL for medical conditions (8 *CFR 214.2(f)(6)(iii)(B)*) not enrolled in a class or classes is eligible for annual vacation concurrent with the RCL.

4.6.2. Annual vacation following an RCL.

An F-1 student who is currently on authorized an RCL may take annual vacation if the student anticipates meeting the requirements of an RCL or enrolling full-time following annual vacation.

- An F-1 student on an RCL for academic difficulties is eligible for annual vacation only if intending to enroll full-time after the annual vacation.
- An F-1 student on an RCL for medical reasons for a total of 12 months is eligible for annual vacation only if the student intends one of the following:

- Enrolling full-time after the annual vacation.
- Requesting an RCL for completion of course of study.

4.6.3. Annual vacation preceding a leave of absence or authorized early withdrawal. A DSO may authorize a leave of absence or authorized early withdrawal for an F-1 student on annual vacation. The start date of the leave or withdrawal will be the date of the authorization or the date the student departs the United States, whichever is first.

4.6.4. Annual vacation following a temporary absence. An F-1 student whose SEVIS status is *Terminated* for reason of authorized early withdrawal may return to the United States from a temporary absence of less than five months if a DSO has coordinated adjustment of SEVIS status to *Active*.² In this case, the student resumes the previous program of study, but has not maintained F-1 status during the period of absence. Consequently, the student must complete the required term(s) as described in [4.5](#) with a full course of study (unless authorized for an RCL and enrolled in classes) before being eligible for annual vacation.

4.7. Vacation during post-completion optional practical training (OPT). Vacation during the period of authorized employment for post-completion OPT, including the 17-month extension, is not annual vacation as addressed in this guidance. During this period, the F-1 student is no longer on the school’s schedule.

- An employed F-1 student may take vacation with employer approval and in accordance with employer guidelines.
- Time taken as vacation by an unemployed F-1 student counts toward the total amount of unemployment time. Exceeding limits of allowable unemployment will result in loss of nonimmigrant status. See *8 CFR 241.2(f)(10)(ii)(E)*.
- Whether the student is employed or unemployed, any vacation the student takes outside of the United States must not be for more than five months.

5. Authorities and References.

8 CFR 214.2(f)(5)(i), (iii)

8 CFR 214.2(f)(6)(iii)

8 CFR 214.2(f)(10)(ii)(A)(3)

8 CFR 214.2(f)(10)(ii)(C)

8 CFR 241.2(f)(10)(ii)(E)

8 CFR 214.2(f)(13)(ii)

² See SEVP Policy Guidance 1306-07, “Temporary Absence.”

8 CFR 214.2(m)(5)

[34 CFR 668.3\(a\)-\(b\)](#)

6. Attachments.

None.

- 7. Limits of use – no private right of action.** This SEVP Draft Policy Guidance applies to and is binding on all SEVP employees unless specifically exempt. Its intention is solely for the guidance of SEVP personnel in the performance of their official duties. It is not intended to, does not and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or in equity by any person, individual or other party, public or private, in any administrative, civil or criminal matter. Until issued in final form, this SEVP Draft Policy Guidance for Adjudicators does not constitute SEVP policy in any way or for any purpose.

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