



## U.S. Immigration and Customs Enforcement

### U.S. Immigration and Customs Enforcement Student and Exchange Visitor Program

#### SEVP Policy Guidance 1311-02: F-1 and M-1 General Employment

**Issue Date:** [Click here to enter a date.](#)

**Effective Date:** [Click here to enter a date.](#)

**Supersedes:** Portions of the following: “On-Campus – Basic Guidelines for Designated School Officials (DSOs),” “On Campus - Work Hours,” “A DSO’s Guide to Off Campus – Application Process,” “Off Campus - Work Hours and Period of Work Authorization” and “Policy Guidance 1004-03 – Update to Optional Practical Training”

**Status:** Draft

**Purpose/Background:** This document gives the Student and Exchange Visitor Program’s (SEVP) interpretation of general content (i.e., content applicable to more than one type of employment benefit) found within employment-related regulation for F-1 or M-1 students<sup>1</sup> (*8 CFR 214.2(f)(9)–(14)* and *8 CFR 214.2(m)(13)* and *(14)*) to guide SEVP adjudicators.

An F-1 or M-1 student participating in employment, including practical training,<sup>2</sup> must respectively comply with *8 CFR 214.2(f)(9)–(14)* or *8 CFR 214.2(m)(13)* and *(14)*, and should comply with their interpretation in this guidance and other associated employment guidance to maintain nonimmigrant status. Where more restrictive, the student should comply with school policies.

**Attachments:** None.

**Definitions:** None.

**Policy:**

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<sup>1</sup> This guidance pertains only to adult, postsecondary F-1 and M-1 students. All use of the term “student(s)” in the guidance refers to adult, postsecondary F-1 and M-1 student(s). F-2 and M-2 dependents are prohibited from employment (*8 CFR 214.2(f)(15)(i)* and *8 CFR 214.2(m)(17)(i)*). Future guidance will address employment for secondary and minor, postsecondary F-1 students.

<sup>2</sup> Hereafter referred to collectively as employment. Practical training is employment per *8 CFR 214.2(f)(10)* and *8 CFR 214.2(m)(14)* unless otherwise noted.

**1. Employment authorization.** Before beginning any type of employment, a student<sup>3</sup> must secure authorization as follows:

- For on-campus employment and curricular practical training (CPT), an F-1 student must receive authorization from a designated school official (DSO).
- For all other employment benefits, a student must receive a recommendation from a DSO and authorization (i.e., a Form I-766, “Employment Authorization Document” (EAD)) from U.S. Citizenship and Immigration Services (USCIS).

A DSO must record the recommendation and/or authorization<sup>4</sup> in the student’s Student and Exchange Visitor Information System (SEVIS) record. A DSO must terminate<sup>5</sup> the SEVIS record of a student employed without authorization.

**2. Employment authorization, problems encountered.**

**2.1. Employment authorization and the Form I-515A, “Notice to Student or Exchange Visitor.”** A student seeking to enter the United States may receive a Form I-515A from U.S. Customs and Border Protection (CBP). A student who receives a Form I-515A receives temporary admittance into the United States and has 30 days to submit proper admission documentation to SEVP, or SEVP may terminate the student’s nonimmigrant status. If the documentation is timely and properly submitted, the student will remain in status while the Form I-515A is pending adjudication. During the time the student’s Form I-515A is pending adjudication, the following apply:

- An initial F-1 student<sup>6</sup> who has reported to school may begin on-campus employment if the student has enrolled in a full course of study, has a SEVIS record in *Active* status and has received DSO authorization.
- A continuing F-1 student who has transferred to another SEVP-certified school may begin on-campus employment or other types of employment (if eligible) if the student has enrolled in a full course of study, has a SEVIS record in *Active* status and has received the appropriate employment authorization.
- A continuing F-1 student may resume previously authorized employment if the student is enrolled in a full course of study and has a SEVIS record in *Active* status.
- A continuing F-1 student authorized for post-completion optional practical training

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<sup>3</sup> A DSO may only authorize employment to a student enrolled under “special rules” for certain border commuters as follows: For F-1 border commuters, CPT or post-completion OPT (*8 CFR 214.2(f)(18)*). For M-1 border commuters, M-1 practical training (*8 CFR 214.2(m)(19)*).

<sup>4</sup> The recommendation and/or authorization confirm that the employment benefit meets that type of employment’s specific regulatory requirements and that the student has maintained and is maintaining nonimmigrant status.

<sup>5</sup> Using the SEVIS Termination reason of “*Unauthorized Employment*”

<sup>6</sup> I.e., a student admitted into the United States on a new Form I-20, “Certificate of Eligibility for Nonimmigrant Student Status,” with a new SEVIS ID number.

(OPT), including the 17-month extension of post completion OPT, or a continuing M-1 student authorized for practical training, may resume previously authorized employment if the student's SEVIS record is in *Active* status.

See [section 2.4](#), [section 6](#) and [section 7](#) for more information related to student travel and employment.

- 2.2. Employment when the student has a lost or stolen EAD.** If a student's EAD is lost or stolen, the student continues to have employment authorization until the expiration date on the lost or stolen EAD. While the student's employment authorization is verifiable in SEVIS, the student should apply for a replacement as soon as possible ([section 2.3](#)). This allows an employer to more easily confirm a student's work authorization.
- 2.3. Replacing an EAD.** A student may request a replacement EAD from USCIS by filing a [Form I-765, "Application for Employment Authorization,"](#) following [applicable instructions](#).
- When USCIS approves the issuance of the replacement document, the replacement EAD sent to the student should have the same dates and eligibility category as the previous EAD.
  - A student who has applied for a replacement EAD may present the receipt for the replacement Form I-765 as evidence of employment eligibility. The receipt is valid for 90 days; thereafter the student must present the replacement EAD.<sup>7</sup> USCIS may issue an interim EAD if adjudication of the replacement EAD application is delayed causing the student not to receive the replacement EAD within 90 days.<sup>8</sup>
  - An F-1 student approved in SEVIS for the 17-month extension, who has completed the initial period of authorization for post-completion OPT, but who has not yet received an EAD reflecting the newly approved dates of the 17-month extension, may continue OPT employment. The student should carry with them a newly issued and signed Form I-20 reflecting the newly approved 17-month extension as evidence of employment authorization in the interim.<sup>9</sup>
- 2.4. Employment and a pending application for reinstatement.** With the exception of CPT,<sup>10</sup> a student with a pending Form I-539 for reinstatement to F-1 status:
- May not continue existing employment.

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<sup>7</sup> 8 CFR 274a.2(b)(1)(vi)(A); for more information see [USCIS's page on Receipts](#).

<sup>8</sup> 8 CFR 274a.13(d)

<sup>9</sup> "The employment authorization period for the 17-month OPT extension begins on the day after the expiration of the initial post-completion OPT... regardless of the date the actual extension is approved," per

8 CFR 214.2(f)(11)(iii)(A).

<sup>10</sup> 8 CFR 214.2(f)(16)(i)(C) requires a student to be "...currently pursuing, or intending to pursue, a full course of study in the immediate future..." to be approved for reinstatement. As CPT is integral to a student's program of study, inability to continue CPT would deny the student eligibility for reinstatement.

- Must wait for reinstatement before initiating new employment.

A DSO should not recommend reinstatement of a student who violates status by engaging in employment not approved or recommended by the DSO prior to its initiation.

**3. Obtaining a Social Security number (SSN).** Anyone employed in the United States must have an SSN.<sup>11</sup> A student who wants to apply for an SSN<sup>12</sup> will need both of the following:

- A letter from the DSO on school letterhead stating the student's name, current nonimmigrant status, prospective employer and type of employment.
- A letter of employment from the employer consistent with the DSO letter and including the following information:
  - Employer
  - Employment start date
  - Number of hours the student is working or will work
  - Supervisor's name and telephone number
  - Dated signature by the student's supervisor

**4. Combining different forms of employment.** An F-1 student may not have concurrent employment in more than one of the following while school is in session:<sup>13</sup>

- On-campus employment
- Off-campus employment
- Pre-completion OPT (part-time only)

As CPT is an integral part of an F-1 student's program of study, it does not impact a student's eligibility for concurrent employment with one of the above while school is in session.

**5. Study abroad and employment.** An F-1 student remains in *Active* SEVIS status but is not in nonimmigrant status while enrolled in study abroad.

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<sup>11</sup> The [United States Internal Revenue Service \(IRS\)](#) does not require an applicant to have an SSN before they begin employment. However, a student must have applied for an SSN before beginning employment. The employer can use a letter from the IRS stating that the applicant has applied to demonstrate employment authorization.

<sup>12</sup> For more information, please see the Social Security Administration's publication: [International Students and Social Security Numbers](#).

<sup>13</sup> A DSO may waive this limitation for a student eligible for special student relief via an emergent circumstances designation.

**5.1. Prior study abroad.** An F-1 student who has participated in a study abroad program may be eligible for employment after returning to the United States in the following circumstances:

- On-campus employment and an internship with an international organization (IIO): Prior study abroad has no effect on an F-1 student's eligibility to receive on-campus or IIO employment authorization.
- Off-campus employment and practical training: An F-1 student who has participated or is participating in a study abroad program may be eligible for off-campus employment or practical training after returning to the United States if the student has been in F-1 status for at least one full academic year.<sup>14</sup> A DSO may count a student's time spent studying abroad towards fulfilling the one full academic year requirement if the F-1 student was enrolled in a full course of study at the school that issued the current Form I-20 and maintained an *Active* SEVIS record while studying abroad.

**5.2. Current study abroad.** An F-1 student currently enrolled in study abroad that is planning to return the next academic term may have employment authorized, if eligible, upon the student's return to the United States.

**6. Temporary absence<sup>15</sup> (other than annual vacation or school breaks), travel and employment.**

**6.1. Temporary absence and employment during the program of study.**

- An F-1 student may continue on-campus employment or CPT following a temporary absence if the student:
  - Has a valid F-1 visa status
  - Has not re-entered the United States on a new SEVIS ID number
  - Returns to and is still enrolled in the same program of study at the same SEVP-certified school whose DSO authorized the employment (i.e., has not transferred to another school or changed program of study)
  - Has not changed education level

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<sup>14</sup> For more information, see SEVP Policy Guidance 1408-01: Academic Year.

<sup>15</sup> Section 7 of this guidance pertains to temporary absence as interpreted in SEVP Policy Guidance 1306-07: F-1 Student Absence and SEVP Policy Guidance 1401-01: M-1 Student Absence. As detailed in SEVP Policy Guidance 1306-07: F-1 Student Absence, temporary absence requires termination of the student's SEVIS record and is limited to a five month duration or less. It is distinguished from short-term absence (30 days or less) and does not require any change to SEVIS status. It is further distinguished from long-term absence (more than five months) as the student must return in *Initial* status with a new Form I-20. As detailed in SEVP Policy Guidance 1401-01: M-1 Student Absence, temporary absence is limited to 30 days or less, and does not require any change to SEVIS status. It is distinguished from long-term absence (more than 30 days) as the student must return in *Initial* status with a new Form I-20.

- Has valid and properly endorsed travel authorization on page 2 of the Form I-20 at the time the student will apply for re-admission into the United States<sup>16</sup>
- Is otherwise admissible by U.S. Customs and Border Protection (CBP)
- Continuance of CPT also depends upon how long the student is gone and if this impacts the student's ability to complete the applicable coursework for that academic term. If so, the DSO should not re-authorize CPT until the student enrolls in a class that requires it again.
- An F-1 student cannot continue off-campus employment, an IIO, or pre-completion OPT following a temporary absence. These types of employment are automatically cancelled when a student fails to maintain status, which the student does when the student's SEVIS record is terminated by a DSO for *Authorized Early Withdrawal* upon initiation of a temporary absence.

**6.2. Temporary absence and pending authorization for post-completion OPT or M-1 practical training.** A student should avoid travel after the program end date with a pending application for employment authorization if possible as the student may experience complications. Some problems that may occur include the following:

- While an application for post-completion OPT or M-1 practical training is pending, the student is responsible for responding to any requests for evidence from USCIS<sup>17</sup>
- If USCIS approves the application, the student must be able to receive the EAD after authorization; USCIS can only mail the EAD to a valid U.S. address
- A nonimmigrant student may remain in the United States past the program end date until the expiration of the grace period.<sup>18</sup> However, nonimmigrant student status ends for a student that departs after the program end date; and an application for post-completion OPT or for M-1 practical training authorization may be considered abandoned by USCIS.
- The student must be in the United States before the practical training start date, as indicated on the student's EAD card, otherwise the student forfeits the employment authorization.

**6.3. Temporary absence, travel and post-completion OPT.** F-1 students participating in post-completion OPT, including the 17-month extension and M-1 students participating

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<sup>16</sup> The endorsement is valid for one year and the student must ensure that the DSO is aware of all student travel during that period. In addition, the DSO must also ensure that the Form I-20 is completed (i.e., DSO signature on page 1) to facilitate student admittance into the United States.

<sup>17</sup> Usually 30 to 60 days, but generally not longer than 12 weeks.

<sup>18</sup> Sixty days for an F-1 student, 30 days for an M-1 student

in practical training can no longer take a temporary absence.<sup>19</sup> However, students with an unexpired EAD and a Form I-20 with valid and properly endorsed travel authorization on page 2 may travel outside the country as follows:

- On employment related travel
- During employer approved vacation periods

For an F-1 student, travel during an authorized period of post-completion OPT while unemployed is allowed; however, travel time accrues toward unemployment. The student must return to the United States before reaching the aggregate maximum period of unemployment allowed. Exceeding limits of allowable unemployment will result in termination of nonimmigrant status.<sup>20</sup>

## **7. Annual vacation<sup>21</sup> and employment.**

**7.1. Annual vacation and employment during the program of study.** An F-1 student employed in on-campus employment, off-campus employment, an IIO, or pre-completion OPT<sup>22</sup> may continue employment while taking an annual vacation from school.<sup>23</sup>

**7.2. Annual vacation and employment during post-completion OPT.** During post-completion OPT, including the 17-month extension, an F-1 student is no longer entitled to an annual vacation. However, an F-1 student authorized for post-completion OPT may take time away from employment (i.e., a vacation) if the student has employer approval and in accordance with the employer's guidelines.

## **8. Alternative income and employment.**

**8.1 Starting a business.** SEVP considers starting a business as self-employment. If the business is located in the United States, doing so is only allowable as OPT, requiring both a recommendation from a DSO and authorization from USCIS.<sup>24</sup>

**8.2. Income from investments or gambling.** SEVP does not consider income from investments (e.g., stocks and bonds) and gambling as employment. However, the student should consult the [IRS](#) and state and local governments for details on required taxation

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<sup>19</sup> Per 8 CFR 214.2(f)(4), 8 CFR 214.2(f)(13), 8 CFR 214.2(m)(4) and 8 CFR 214.2(m)(14)(iv); for more information, see SEVP Policy Guidance 1306-07: F-1 Student Absence and 1401-01: M-1 Student Absence.

<sup>20</sup> 8 CFR 241.2(f)(10)(ii)(E); for more information, see SEVP Policy Guidance 1307-05: F-1 Optional Practical Training.

<sup>21</sup> Per 8 CFR 214.2(f)(5)(iii); for more information, see SEVP Policy Guidance 1306-02: F-1 Annual Vacation.

<sup>22</sup> Existing pre-completion OPT would be part-time and would remain such; however, an F-1 student may apply for full-time pre-completion OPT while on vacation. For more information, see SEVP Policy Guidance 1307-05: F-1 Optional Practical Training.

<sup>23</sup> As CPT is an integral part of an F-1 student's program of study, a DSO should not approve CPT during a student's annual vacation and should, if necessary, have the student's CPT re-authorized upon returning to the program of study.

<sup>24</sup> For more information, see SEVP Policy Guidance 1307-05: F-1 Optional Practical Training.

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**Authorities/References:**

*8 CFR 214.2(f)(4)*

*8 CFR 214.2(f)(5)(iii)*

*8 CFR 214.2(f)(9)*

*8 CFR 214.2(f)(10)*

*8 CFR 214.2(f)(11)(iii)(A)*

*8 CFR 214.2(f)(13)*

*8 CFR 214.2(f)(15)(i)*

*8 CFR 214.2(f)(18)*

*8 CFR 214.2(m)(4)*

*8 CFR 214.2(m)(13)*

*8 CFR 214.2(m)(14)*

*8 CFR 214.2(m)(17)(i)*

*8 CFR 214.2(m)(19)*

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