

# The Ingredients to a Successful Change of Status Application

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## Presentation Structure

- Focus:
  - Change of Status (COS) to F-1 or F-2 by application to USCIS
  
- Main considerations:
  - Federal government rules and regulations
  - Office policies and resources
  
- Handouts:
  - Student Information Sheets
    - COS to F-1 by Application
    - COS to F-2 by Application
  - Sample Cover Letters
    - COS to F-1
    - COS to F-2



## Federal Government Rules and Regulations



## Basic COS Principles


- F-1 benefits (i.e. employment) do not start until COS is approved
- Benefits and responsibilities of applicant's current status continue while COS is pending
  - i.e. H-1Bs must continue to work while COS is pending
- If a COS is granted, the applicant obtains the status, but not the visa
  - Next time they leave U.S., must obtain visa to re-enter
- Potential for denial if 30 day or more gap after end of current status and start of academic program

## Is a COS Necessary?

- Reasons a nonimmigrant should change status to F-1:
  - If they cannot remain in their current status while studying at your institution:
    - Current status does not permit full-time and/or degree-seeking study
    - Current status is expiring and cannot be extended
    - No longer eligible for current status
  - If they want the benefits of F-1 status:
    - Eligibility to work on- and off-campus with authorization
- Reasons a nonimmigrant should change status to F-2:
  - To remain in the U.S. with an F-1 parent or spouse

## Who Cannot Study?

- “Nonimmigrants: Who Can Study?”
  - Useful chart to determine if a student can study at your institution in their current status
  - Available on the ICE website at <http://www.ice.gov/sevis/faq.htm>
- Who cannot study?
  - F-2, M-2, B-1, B-2



## Case Study

Rose is currently an H-4 dependent. She would like to enroll full-time to pursue a Master's degree in Electrical Engineering.

Should Rose change her status to F-1 in order to study?

Rose does not have to change her status, but should if she wants to work on campus. But is she eligible to change status in the U.S.?

Razzle Dazzle Recipes

## Eligibility for COS in U.S.

- From the Electronic Code of Federal Regulations
  - <http://ecfr.gpoaccess.gov/>
  - Must be maintaining current nonimmigrant status
  - Must be in a nonimmigrant status that is eligible
- For COS to F-1
  - Must be accepted to attend an SEVP-approved school
  - Institution must issue them an I-20
- For COS to F-2
  - Must be under the age of 21 to become an F-2 child dependent
  - Must be married to an F-1 to become an F-2 spouse dependent

## Ineligible for COS in U.S.

- Cannot apply for any COS in the U.S.
  - C – In transit
  - TWOV – In transit without a visa
  - D – Crewmen
  - K – Fiance/Spouse of U.S. Citizen or their dependents
  - S – Informant on terrorism and organized crime or their dependents
  - J – Exchange Visitor
    - If subject to 212(e) two-year home residence requirement
    - If in U.S. for graduate medical education or training
  - Parolee – Temporarily paroled because not a nonimmigrant
  - WB/WT – Business visitors and tourists of the Visa Waiver Program or the Visa Waiver Pilot Program
- Cannot apply for COS to F-1 in the U.S.
  - M-1

## When to File COS

- Must apply before current status expires unless extraordinary circumstances
- Should apply at least 60 days before expiration of current I-94
- Not recommended to apply during grace period following expiration of current status
- If current status will expire while COS is pending, applicant should consider extending current status before applying for the COS
- There should be no more than a 30-day gap between the end of the applicant's current status and the program start date of the I-20

## Application Process

- Application process for COS to F-1
  - Applicant is admitted at your institution
  - DSO issues an I-20 for the applicant
  - Applicant compiles required documents
  - Application is submitted to the Dallas Lockbox
  - Dallas Lockbox sends application to USCIS Vermont Service Center (VSC)
  - VSC adjudicates
  - VSC updates the applicant's SEVIS record to indicate COS decision
  - If approved, VSC issues an updated Form I-94
  - VSC sends applicant the decision
  
- Application process for COS to F-2
  - Applicant's primary F-1 is/was admitted at your institution
  - Same as above

## Documents Required for COS


- Typical documents required to apply for a COS
  - Proof of Financial Resources
  - Immigration Documents
  - Original Form I-539
  - Form I-539 Fee
  - SEVIS I-901 Fee Receipt (Not required for COS to F-2)
  
- Typical documents recommended to apply for a COS
  - Personal Statement
  - Letter(s) from Institution
  - Letter(s) from Employer and Sponsor
  - Transcripts
  - Marriage / Birth Certificate

## Proof of Financial Resources

- Current evidence of all sources of financial support for the applicant
- Best to submit three months of bank statements if using personal or family funding
- I-134 Affidavit of Support for all financial sponsors who live in the U.S.
- Financial support letters for all individuals listed as owners of bank account

## Immigration Documents

- Original documents to include
  - I-20 issued for “Initial Attendance – Change of Status Requested”
  - I-94 card for each applicant’s current nonimmigrant status
- Photocopied documents to include
  - Passport, Visa, I-94
  - Approval Notices
  - Employment Authorization Documents (EAD cards)
  - Certificates of Eligibility (I-20/DS-2019)
- Provide for
  - Applicant
  - Applicant’s current primary visa holder
  - Applicant’s requested F-1 primary visa holder
  - Any F-2 dependents also included in the application



## Case Study

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Jin, an F-2, is requesting to change status to F-1. His current primary F-1 visa holder was previously in H-1B status without Jin as their H-4 dependent.

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Is Jin required to submit copies of his current primary F-1 visa holder's previous H-1B documents?

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No – not as initial evidence.

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*Razzle Dazzle Recipes*

## Original Form I-539

- Official COS application form
- Available on the U.S. Citizenship and Immigration Services (USCIS) website at <http://www.uscis.gov/> under Forms
- 5-page form
- Best to type or complete and sign in blue ink



OMB No. 1615-0003; Expires 02/29/2012

Department of Homeland Security  
U.S. Citizenship and Immigration Services

## I-539, Application to Extend/ Change Nonimmigrant Status

**START HERE - Please type or print in blue or black ink**

Part 1. Information About You			For USCIS Use Only	
Family Name (Last Name)	Given Name (First Name)	Middle Name	Returned	Receipt
Address - In care of -			Date	
Street Number and Name	Apt. Number		Resubmitted	
City	Phone Number		Date	
Country of Birth	Country of Citizenship		Reloc Sent	
Date of Birth (mm/dd/yyyy)	U.S. Social Security # (if any)	A-Number (if any)	Date	
Date of Last Arrival into the U.S.	I-94 Number		Reloc Rec'd	
Current Nonimmigrant Status <b>F-1, F-2, J-1, or J-2</b>	Expires on (mm/dd/yyyy)	<b>D/S</b>	Date	
<b>Part 2. Application Type</b> (See instructions for fee)			<input type="checkbox"/> Applicant Interviewed on _____ Date _____ <input type="checkbox"/> Extension Granted to (Date): _____ Change of Status/Extension Granted	
1. I am applying for: (Check one) a. <input type="checkbox"/> An extension of stay in my current status. b. <input checked="" type="checkbox"/> A change of status. The new status I am requesting is: _____ c. <input type="checkbox"/> Reinstatement to student status. 2. Number of people included in this application: (Check one) a. <input type="checkbox"/> I am the only applicant. b. <input type="checkbox"/> Members of my family are filing this application with me. The total number of people (including me) in the application is: _____ (Complete the supplement for each co-applicant.)				

Put your office's address if you want the receipt and approval notice sent to you

### Part 3. Processing Information

- I/We request that my/our current or requested status be extended until (mm/dd/yyyy): **I-20 End Date**
- Is this application based on an extension or change of status already granted to your spouse, child, or parent?  
 No  Yes. USCIS Receipt # \_\_\_\_\_
- Is this application based on a separate petition or application to give your spouse, child, or parent an extension or change of status?  No  Yes, filed with this I-539.  
 Yes, filed previously and pending with USCIS. Receipt #: \_\_\_\_\_
- If you answered "Yes" to Question 3, give the name of the petitioner or applicant:  
 \_\_\_\_\_  
 If the petition or application is pending with USCIS, also give the following data:  
 Office filed at \_\_\_\_\_ Filed on (mm/dd/yyyy) \_\_\_\_\_

### Part 4. Additional Information

- For applicant #1, provide passport information: Valid to: (mm/dd/yyyy)  
 Country of Issuance: \_\_\_\_\_
- Foreign Address: Street Number and Name \_\_\_\_\_ Apt. Number \_\_\_\_\_  
 City or Town \_\_\_\_\_ State or Province \_\_\_\_\_  
 Country \_\_\_\_\_ Zip/Postal Code \_\_\_\_\_

**3. Answer the following questions. If you answer "Yes" to any question, describe the circumstances in detail and explain on a separate sheet of paper.**

	Yes	No
a. Are you, or any other person included on the application, an applicant for an immigrant visa?	<input type="checkbox"/>	<input type="checkbox"/>
b. Has an immigrant petition ever been filed for you or for any other person included in this application?	<input type="checkbox"/>	<input type="checkbox"/>
c. Has Form I-485, Application to Register Permanent Residence or Adjust Status, ever been filed by you or by any other person included in this application?	<input type="checkbox"/>	<input type="checkbox"/>
d. 1. Have you, or any other person included in this application, ever been arrested or convicted of any criminal offense since last entering the United States?	<input type="checkbox"/>	<input type="checkbox"/>
d. 2. Have you EVER ordered, incited, called for, committed, assisted, helped with, or otherwise participated in any of the following:		
(a) Acts involving torture or genocide?		
(b) Killing any person?		
(c) Intentionally and severely injuring any person?		
(d) Engaging in any kind of sexual contact or relations with any person who was being forced or threatened?		
(e) Limiting or denying any person's ability to exercise religious beliefs?	<input type="checkbox"/>	<input type="checkbox"/>
d. 3. Have you EVER:		
(a) Served in, been a member of, assisted in, or participated in any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, rebel group, guerrilla group, militia, or insurgent organization?		
(b) Served in any prison, jail, prison camp, detention facility, labor camp, or any other situation that involved detaining persons?	<input type="checkbox"/>	<input type="checkbox"/>
d. 4. Have you EVER been a member of, assisted in, or participated in any group, unit, or organization of any kind in which you or other persons used any type of weapon against any person or threatened to do so?	<input type="checkbox"/>	<input type="checkbox"/>
d. 5. Have you EVER assisted or participated in selling or providing weapons to any person who to your knowledge used them against another person, or in transporting weapons to any person who to your knowledge used them against another person?	<input type="checkbox"/>	<input type="checkbox"/>
d. 6. Have you EVER received any type of military, paramilitary, or weapons training?	<input type="checkbox"/>	<input type="checkbox"/>
e. Have you, or any other person included in this application, done anything that violated the terms of the nonimmigrant status you now hold?	<input type="checkbox"/>	<input type="checkbox"/>
f. Are you, or any other person included in this application, now in removal proceedings?	<input type="checkbox"/>	<input type="checkbox"/>
g. Have you, or any other person included in this application, been employed in the United States since last admitted or granted an extension or change of status?	<input type="checkbox"/>	<input type="checkbox"/>

1. If you answered "Yes" to Question 3f, give the following information concerning the removal proceedings on the attached page entitled "Part 4. Additional information. Page for answers to 3f and 3g." Include the name of the person in removal proceedings and information on jurisdiction, date proceedings began, and status of proceedings.

2. If you answered "No" to Question 3g, fully describe how you are supporting yourself on the attached page entitled "Part 4. Additional information. Page for answers to 3f and 3g." Include the source, amount, and basis for any income.

3. If you answered "Yes" to Question 3g, fully describe the employment on the attached page entitled "Part 4. Additional information. Page for answers to 3f and 3g." Include the name of the person employed, name and address of the employer, weekly income, and whether the employment was specifically authorized by USCIS.

b. Are you currently or have you ever been a J-1 exchange visitor or a J-2 dependent of a J-1 exchange visitor?  Yes  No

If "Yes," you must provide the dates you maintained status as a J-1 exchange visitor or J-2 dependent. Willful failure to disclose this information (or other relevant information) can result in your application being denied. Also, provide proof of your J-1 or J-2 status, such as a copy of Form DS-2019, Certificate of Eligibility for Exchange Visitor Status, or a copy of your passport that includes the J visa stamp.

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**Part 5. Applicant's Statement and Signature** (Read the information on penalties in the instructions before completing this section. You must file this application while in the United States.)

**Applicant's Statement** (Check One):

I can read and understand English, and have read and understand each and every question and instruction on this form, as well as my answer to each question.

Each and every question and instruction on this form, as well as my answer to each question, has been read to me by the person named below in \_\_\_\_\_, a language in which I am fluent. I understand each and every question and instruction on this form, as well as my answer to each question.

**Applicant's Signature**

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it is all true and correct. I authorize the release of any information from my records that U.S. Citizenship and Immigration Services needs to determine eligibility for the benefit I am seeking.

Signature	Print your Name	Date
Daytime Telephone Number	E-Mail Address	

NOTE: If you do not completely fill out this form or fail to submit required documents listed in the instructions, you may not be found eligible for the requested benefit and this application may be denied.

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**Part 6. Interpreter's Statement**

Language used: \_\_\_\_\_

I certify that I am fluent in English and the above-mentioned language. I further certify that I have read each and every question and instruction on this form, as well as the answer to each question, to this applicant in the above-mentioned language, and the applicant has understood each and every instruction and question on the form, as well as the answer to each question.

Signature	Print Your Name	Date
Firm Name (if applicable)	Daytime Telephone Number (Area Code and Number)	
Address	Fax Number (Area Code and Number)	E-Mail Address

**Part 7. Signature of Person Preparing Form, if Other Than Above (Sign Below)**

Signature	Print Your Name	Date
Firm Name (if applicable)	Daytime Telephone Number (Area Code and Number)	
Address	Fax Number (Area Code and Number)	E-Mail Address

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

**Part 4. (Continued) Additional Information. (Page 2 for answers to 3f and 3g.)**

If you answered "Yes" to Question 3f in Part 4 on Page 3 of this form, give the following information concerning the removal proceedings. Include the name of the person in removal proceedings and information on jurisdiction, date proceedings began, and status of proceedings.

If you answered "No" to Question 3g in Part 4 on Page 3 of this form, fully describe how you are supporting yourself. Include the source, amount and basis for any income.

**Explanation about how applicant is supported financially if they have never worked in the U.S.**

If you answered "Yes" to Question 3g in Part 4 on Page 3 of this form, fully describe the employment. Include the name of the person employed, name and address of the employer, weekly income, and whether the employment was specifically authorized by USCIS.

**Explanation about applicant's U.S. employment**

- Only submit this page if F-2 dependents are included with request.
- More than one person may be included if the co-applicants are all members of a single family and either all have the same nonimmigrant status or one holds a nonimmigrant status and the co-applicants are the dependents.
- Original I-94 cards for all family members should be included.

Supplement 1			
Attach to Form I-539 when more than one person is included in the petition or application. (List each person separately. Do not include the person named in Form I-539.)			
Family Name (Last Name)	Given Name (First Name)	Middle Name	Date of Birth (mm/dd/yyyy)
Country of Birth	Country of Citizenship	U.S. Social Security # (if any)	A-Number (if any)
Date of Arrival (mm/dd/yyyy)	I-94 Number		
Current Nonimmigrant Status:	Expires on (mm/dd/yyyy)		
Country Where Passport Issued	Expiration Date (mm/dd/yyyy)		
Family Name (Last Name)	Given Name (First Name)	Middle Name	Date of Birth (mm/dd/yyyy)
Country of Birth	Country of Citizenship	U.S. Social Security # (if any)	A-Number (if any)
Date of Arrival (mm/dd/yyyy)	I-94 Number		
Current Nonimmigrant Status:	Expires on (mm/dd/yyyy)		
Country Where Passport Issued	Expiration Date (mm/dd/yyyy)		
Family Name (Last Name)	Given Name (First Name)	Middle Name	Date of Birth (mm/dd/yyyy)
Country of Birth	Country of Citizenship	U.S. Social Security # (if any)	A-Number (if any)
Date of Arrival (mm/dd/yyyy)	I-94 Number		
Current Nonimmigrant Status:	Expires on (mm/dd/yyyy)		
Country Where Passport Issued	Expiration Date (mm/dd/yyyy)		
Family Name (Last Name)	Given Name (First Name)	Middle Name	Date of Birth (mm/dd/yyyy)
Country of Birth	Country of Citizenship	U.S. Social Security # (if any)	A-Number (if any)
Date of Arrival (mm/dd/yyyy)	I-94 Number		
Current Nonimmigrant Status:	Expires on (mm/dd/yyyy)		
Country Where Passport Issued	Expiration Date (mm/dd/yyyy)		

## Form I-539 Fee

- Current fee amount: \$300.00
- New fee amount: \$290.00
  - Effective for applications mailed, postmarked, or otherwise filed on or after November 23, 2010
- Pay with check or money order
  - Personal checks are recommended
    - Easier to track
    - Receipt number printed on back of check once received
  - Make payable to “Department of Homeland Security”
  - Write “Form I-539” in the Memo section

## SEVIS I-901 Fee Receipt

- Applicants for COS to F-1 must pay the SEVIS I-901 Fee
- Cannot pay until DSO issues the I-20
- Can pay online at <https://www.fmjfee.com/>
- Applicants needs SEVIS ID and School Code to pay SEVIS fee
- Acceptable to submit printed receipt from online payment
- Not required for COS to F-2

## Personal Statement

- Not required, but highly encouraged
- Composed and signed by the applicant
- Content:
  - That the applicant (and primary visa holder) is in legal status
  - A request that the applicant's status be changed to F-1 or F-2
  - Why the change is desired or necessary
  - For COS to F-1:
    - How degree will benefit student upon returning to home country
- Good idea for DSO to review the letter for the student's intent

## Letter(s) from Institution

- Admission Letter
  - Optional, but encouraged for any new student
- Academic Department Letter
  - Optional, but encouraged when:
    - Applicant for F-1 status is currently enrolled as a student
    - Applicant for F-2 status will have an F-1 primary visa holder who is currently enrolled as a student
    - Current primary visa holder of the applicant is a student
  - Elements:
    - When the student began the present program
    - That the student is a full-time student in good academic standing
    - The specific program requirements remaining
    - The expected date of graduation

## Letter(s) from Employer and Sponsor

- Employer letter(s)
  - Optional, but encouraged when:
    - Applicant is in a status that is dependent upon employment in the U.S.
    - Applicant's primary visa holder is in a status that is dependent upon employment in the U.S.
    - Applicant for F-2 status will have an F-1 primary visa holder who is currently authorized for Optional Practical Training (OPT)
  - Should state how long the individual has worked for the employer and that they are a current employee
- Sponsor letter
  - Optional, but encouraged if student is sponsored by an international organization, company or government
  - Should state that the sponsor has no objection to the COS

## Transcripts

- Provide transcripts from all U.S. schools attended for:
  - Applicant
  - Applicant's current primary visa holder
  - Applicant's requested F-1 primary visa holder
  - Any applicant(s) for F-2 status also included in the application
- Unofficial transcripts are ok for VSC, though your institution policy may require official transcript for I-20 issuance

## Marriage / Birth Certificate

- Marriage Certificate recommended if
  - Applicant is the spouse of their primary visa holder
  - Applicant will include an F-2 spouse dependent with their application
  - Applicant is requesting to be an F-2 dependent of their F-1 spouse
- Birth Certificate recommended if
  - Applicant is the child of their primary visa holder
  - Applicant will include an F-2 child dependent with their application
  - Applicant is requesting to be an F-2 dependent of their F-1 parent

## Form G-1145

- Applicant can choose to receive an email and/or text message telling them their application has been accepted
- Must attach Form G-1145 to first page of application
- According to the form itself, doesn't appear to be set up at Dallas Lockbox?

## English Translation

- All documents must be submitted in English or translated into English
- If translated, submit a copy of the original, a translated version, and the certification of the translator
- Translator must certify their ability to translate and that the translation is accurate
- Certification should include translator's name, signature, address and date of certification

## Document Order

- Start with cover letter (see Texas A&M sample)
- No required order but good to be consistent with each application

### Documents Enclosed:

- Fee (\$300.00)
- Original I-539
- Original personal statement
- Original I-94
- Original I-20
- Copy of financial documents
  - Applicant or financial sponsor's bank statements
  - Currency conversion to U.S. Dollars
  - I-134 Affidavit of Support
  - Financial support letter
- Copy of applicant's documents
  - Passport
  - Visa
  - I-94
  - Approval Notice
  - I-20/DS-2019
  - Employer letter
  - EAD card
  - Admission or academic department letter
  - Academic transcript
- Copy of applicant's previous documents
  - Passport(s)
  - Visa(s)
  - I-94(s)
  - Approval Notice(s)
  - I-20(s)/DS-2019(s)
  - Employer letter(s)
  - EAD card(s)
- Admission or academic department letter(s)
- Academic transcript(s)
- Copy of current primary visa holder's documents while applicant was a dependent
  - Passport(s)
  - Visa(s)
  - I-94(s)
  - Approval Notice(s)
  - I-20(s)/DS-2019(s)
  - Employer letter(s)
  - EAD card(s)
  - Admission or academic department letter(s)
  - Academic transcript(s)
- Copy of F-1 visa holder's documents
  - Passport(s)
  - Visa(s)
  - I-94(s)
  - Approval Notice(s)
  - I-20(s)/DS-2019(s)
  - Employer letter(s)
  - EAD card(s)
  - Admission or academic department letter(s)
  - Academic transcript(s)
- Copy of birth/marriage certificate
- Copy of birth/marriage certificate translation
- Copy of translator's certification
- Original SEVIS I-901 Fee Receipt



## Compiling the Application

- Do:
  - Attach original I-94 to top-right corner of original I-20
  - Attach check to top-right corner of original Form I-539
  - Write "Form I-539" on the outer envelope, cover letter, check, etc.
  - Keep a copy of the application
  - Sign in blue ink
- Do not:
  - Submit original documents unless specified
  - Highlight
  - Staple
  - Print double-sided



## Common Errors

- Submitting incomplete or incorrectly completed Form I-539s
- Illegible handwriting
- Unsigned checks and Form I-539s
- Bounced checks
- Temporary checks



## Where to Mail Application

- Starting August 3, 2010, applicants submitting Form I-539 by itself mail to Dallas Lockbox
- Dallas Lockbox filing addresses
  - For U.S. Postal Service (including US Postal Service Express mail):
    - USCIS  
P.O. Box 660166  
Dallas, TX 75266
  - For Express mail and courier deliveries (UPS, Fed Ex, DHL, etc):
    - USCIS  
ATTN: I-539  
2501 S. State Highway 121 Business  
Suite 400  
Lewisville, TX 75067

## e-Filing Form I-539

- Submit Form I-539 electronically and mail supporting documents
- Applicant registers with USCIS E-Filing System and creates account
- Same fee amount as paper I-539, but pay online
- Receive immediate confirmation that application is received
- Processing does not begin until supporting documents are received
- Not recommended!

## While Application is Pending

- Applicant can and should remain in U.S.
- COS application is considered abandoned if applicant leaves U.S. before adjudication
- If current status expires after applicant submits COS application:
  - Applicant is permitted and should stay in U.S.
  - Applicant is not considered to be in a nonimmigrant status until the COS is approved
  - Applicant cannot receive benefits of current status
  - Applicant cannot receive benefits of future status until COS is approved

## Tracking Application Progress

- “My Case Status” (<https://egov.uscis.gov/cris/Dashboard.do>)
  - Enter receipt number to determine COS progress toward adjudication
  - Include the first three letters of the receipt number but not the dashes
  - Updated from a daily download
- Applicants can sign-up for email and text message case updates
  - Create an applicant customer account at <https://egov.uscis.gov/cris/jsps/selectusertype.jsp>
- If applicant does not receive receipt notice within 30 days of mailing application, advise to contact the National Customer Service Center
  - 1-800-375-5283

## USCIS Application Processing Stages

1. Acceptance
  - Determine whether application was properly filed
  - Issue the receipt number
  - Reject application if not properly filed
2. Initial Review
  - Background checks of the applicant, including criminal history and fraud indicators
  - Determine if additional information or documentation is required
3. Request for Evidence
  - Sent if additional documentation is required

## Processing Stages Cont'd.

4. Request for Evidence Response Review
  - USCIS reviews the applicant's response to the request for evidence
6. Testing and Interview
  - Should not be needed for COS to F-1 or F-2
8. Decision
  - Formal decision of Approved or Denied is made
  - Decision mailed to applicant at address provided on Form I-539

## Processing Stages Cont'd.

### 7. Post Decision Activity

- For approved applications, post-decision activity may include USCIS sending notification of the approval to the National Visa Center or the Department of State.
- For denied applications, post-decision activity may include the processing of an appeal and/or motions to reopen or reconsider and revocations, but this is not likely for COS to F-1 or F-2

### 8. Oath Ceremony

- Not applicable to COS to F-1 or F-2

### 9. Card/ Document Production

- Not applicable to COS to F-1 or F-2

## USCIS Processing Times

- USCIS processes applications in the order they are received
- Visit <https://egov.uscis.gov/cris/processTimesDisplayInit.do> to determine how long the VSC is taking to process Form I-539
- Currently, the VSC is taking longer than their processing goal for applications to change to F-1 status.
  - As of August 31, 2010, VSC was processing applications filed on May 22, 2010
- Advise applicants that adjudication can take 3 – 6 months

## Waiting for a Response

- Encourage applicants to let you know if their COS has yet to be adjudicated within 15 days before I-20 program start date
- SEVIS will cancel or terminate a record that has not be registered in SEVIS within 60 days after the I-20 program start date, even if the COS is still pending with USCIS
- To avoid this, use the defer attendance function, even if the student is already enrolled in classes
- Do not register students in SEVIS until the COS is approved and they have enrolled at your institution

## No Response from USCIS

- If the applicant is concerned about the processing time of their application and they already received their receipt, encourage them to:
  - Check case status online
  - Contact the National Customer Service Center
  - Contact the Customer Service Line listed on receipt after 60 days of receipt issuance
- If it has been 90 days from the day the receipt was issued, the DSO can choose to email the VSC at [vsc.schools@dhs.gov](mailto:vsc.schools@dhs.gov)
  - Include receipt number, dates, and circumstances surrounding the COS
  - VSC is not required to adjudicate within 90 days of the receipt notice as they are with OPT
  - Generally, VSC responds between 24-72 hours

## Withdrawing an Application

- To withdraw a COS application, the applicant should compose a letter and mail it to the VSC along with a copy of the receipt notice
- Do not email withdrawal requests to VSC
- If letter is received before adjudication, application will be withdrawn

## After Adjudication

- If Approved
  - F-1/F-2 status start date will be the day of adjudication
    - Include letter with COS application if you don't want this
  - SEVIS record updated with COS decision
  - Granted a new period of time to remain in U.S. as F-1 or F-2
  - Sent Approval Notice and new I-94 Card
- If Denied
  - Will be given reasons for the denial in writing
  - There is no appeal
  - Should prepare to leave the U.S.
  - Can attempt COS by travel

## CLAIMS-SEVIS Interface

- COS decision updated on SEVIS record through CLAIMS interface between the VSC and SEVIS
- SEVIS updates:
  - Requested – When DSO issues the I-20
  - Pending – When application is accepted for processing by VSC
  - Approved or Denied – When application is adjudicated by VSC
- If not done correctly:
  - Use the Request Change to Student Request function to update SEVIS record with Pending, Approved, or Denied
  - Report to NAFSA via IssueNet – Report an Issue
  - SEVP can run a maintenance job that might cancel the COS request if it remains in "Requested" status in SEVIS for more than 180 days

## Specific Situations





## Unique COS Situations

- It is possible to submit COS and I-102, Application for replacement I-94, at the same time
  - Submit copy of I-94 with both applications, if possible
  - Include a cover letter with each application referencing the other
- COS to F-2 is permitted when F-1 is on OPT
- If potential applicant has applied for LPR status, they should speak with an immigration attorney before filing COS application
- If potential applicant has applied for DV lottery, but has yet to be selected, they can still apply for a COS


## Case Study



Kruthi is enrolled at your institution for two years in H-4 status. During her graduating semester, Kruthi's COS to F-1 is approved.

Has Kruthi met the one full academic year eligibility requirement for OPT?

Yes. The time enrolled full-time in a status that allows enrollment counts toward the academic year requirement.



## Case Study

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Blanca applies for a COS to F-2. Her husband, Jose, is an F-1. While the COS is pending, Jose wants to transfer to another SEVP-approved school.

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Can you approve the transfer?

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Yes. VSC will likely send an RFE to submit a new F-2 I-20 from the new school before they will approve the COS, but Blanca should not have to file a new application.

*Razzle Dazzle Recipes*

## F-2 to F-1

- Risk that if F-2 applies for COS to F-1 too soon after entering the U.S., it seems like they use the F-2 status to get the F-1 status
- F-2s must wait for COS to F-1 to be approved before they can enroll in any courses that are not avocational or recreational
- F-2s must wait for COS to F-1 to be approved before they can begin any form of employment

## H-1B/H-4 to F-1/F-2

- The COS paperwork must be received by USCIS before last day of H-1B employment
- Good idea for H-1B employer to include statement about anticipated last day of employment to be after COS application received
- H-1Bs and H-4s can study without a COS to F-1 and while a COS to F-1 is pending
- H-4s cannot work on-campus until a COS to F-1 is approved
- Consider nonimmigrant intent

## B-1/B-2 to F-1

- B-1s/B-2s who enroll in class have violated their status and are not eligible for COS in the U.S.
- Changing from B-1/B-2 to F-1 if intent to attend school is not declared:
  - Potential for denial if VSC believes applicant entered U.S. with intent to become a student and did not disclose this intent to DOS
  - Applicant should include explanation in personal statement that they are changing their primary purpose for entering the U.S.
- Changing from B-1/B-2 to F-1 if intent to visit schools with interest in attending is declared:
  - I-94 will be stamped as Prospective Student
- Program start date must be within 30 days of B-1/B-2 end date

## A or G Statuses to F-1/F-2

- Must submit both Form I-539 and Form I-566
- DOS must approve the COS
- Applicants do not pay the Form I-539 fee
- Typically only approved in the following situations:
  - If the principal is no longer eligible for their status
  - If the principal will be leaving the U.S.
  - If the dependent is no longer eligible for dependent status
- Are eligible to attend school without COS to F-1

## COS Trends



## USCIS Trends

- VSC requesting RFEs for previously submitted documents
  - DSO/Student Letter/DSO Letter from Previous Institution
- Five Month Rule
  - New interpretation and cause for precautionary action and advising students
  - i.e. Application receipt to VSC
- COS going through regardless of category changing from
  - i.e. same outcome for B2, H1, H4, F2, etc.
  - Require a letter of explanation regardless of category for adjudication officer to review

## USCIS Trends, cont.

- VSC: 30 day DOS rule falling into COS interpretation:
  - No regulatory application for new interpretation
  - Denials have resulted from new interpretation
  - Advise students to apply for an extension of current nonimmigrant status concurrently with I-539 COS application
- Even with USCIS approval of F-1 status, when student leaves the U.S., they are not guaranteed an F-1 visa or re-entry to U.S.
  - Should provide proof of bonefide student status and proof as established student as well as financial proof
- Best for student to get “Continued Attendance” I-20 before traveling

## Office Policies and Resources



### Office Policies

- Develop an office policy for COS applications that answers:
  - Require an appointment?
  - Help student compile application?
  - Include a standard cover letter with each application?
  - Keep photocopy of entire COS application?
  - Mail student's application?
  - Receive all mailed correspondence from USCIS?
  - How to record student's status before, during and after COS?
  - When to refer complicated cases to an immigration attorney?

## Office Resources

- Handouts for students
  - Basic information about COS to F-1 and F-2
  - Required documents to submit
  
- Links on your website
  - COS handouts
  - Federal government rules related to COS
  - Information checklist available to students on OCCC website at <http://www.occc.edu/is/>
  
- COS intake form
  - Complete during student appointment to gather pertinent information

## Office Resources, cont.

- Standard cover letter
  - Very helpful for making sure you consistently compile each COS application
  - Helps to submit list of items included in application and request not to separate any documents from original application
  
- Institutional checklist
  - Keep in student's file
  
- Standard Operating Procedure
  - For Advisors to make sure everyone in office processes COS and applications consistently



## Form I-539 Updates

- USCIS Forms Updates webpage
  - <http://www.uscis.gov>
  - Click on “Forms”
  - Click on “Forms Updates”
  
- NAFSA’s Form I-539 Resource Page
  - <http://www.nafsa.org/regulatoryinformation/default.aspx?id=21349>
  - News and links to updates and resources about Form I-539 and the COS application process

## Resources

- Electronic Code of Federal Regulations (e-CFR)
  - <http://www.gpoaccess.gov/index.html>
  - Title 8: Aliens and Nationality
  - Part 248 – Change of Nonimmigrant Classification
    - Section 248.1 Eligibility
    - Section 248.2 Ineligible classes
    - Section 248.2 Ineligible classes
- Email correspondence with Adam Harold, September and October 2010
- NAFSA Adviser’s Manual
  - <http://am.nafsa.org/am>
- U.S. Citizenship and Immigration Services website
  - <http://www.uscis.gov/>
- U.S. Immigration and Customs Enforcement’s (ICE) Student and Exchange Visitor Program website
  - <http://www.ice.gov/sevis/>



Questions?

