



U.S. Immigration  
and Customs  
Enforcement

September 17, 2010

**POLICY GUIDANCE FOR:** Designated School Officials of SEVP-Certified Schools With F-1 Students Eligible for Off-Campus Employment Related to Emergent Circumstance

**FROM:** SEVP Policy

**SUBJECT:** Policy Guidance 1004-06 – Emergent Circumstance Q&A

**AUTHORITY:** *Section 101(a)(15)(F)(i) of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(15)(F)(i); 8 CFR 214.2(f)(5)(v); 8 CFR 214.2(f)(6)(i)(F); 8 CFR 214.2(f)(9)(ii)(A)*

**Comments on the Federal Register Notice:**

Department of Homeland Security (DHS) is not accepting comments regarding this Federal Register Notice (FRN).

**Comments on Policy Guidance 1004-06:**

To comment on this Policy Guidance or suggest a change, please e-mail [sevis.source@dhs.gov](mailto:sevis.source@dhs.gov) with “Policy Guidance 1004-06 Comment” in the subject line within 60 days of the date of this guidance.

**Purpose:**

On September 15, 2010, DHS published an FRN titled “Employment Authorization for Haitian F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010, Earthquake in Haiti.” 75 FR 56120 (September 15, 2010). For eligible F-1 students, this FRN provides the means of maintaining student status using a reduced course load authorization when the student has been approved for

1. Temporary protected status (TPS) with a Form I-766, “Employment Authorization Document”
2. Extended work authorization either on or off-campus under this special relief

By that FRN, an F-1 student for whom U.S. Citizenship and Immigration Services approves TPS may maintain both TPS and F-1 nonimmigrant statuses.

Policy Guidance 1004-06<sup>1</sup> supplements that FRN, providing more detailed guidance for designated school officials.

**Federal Register Notice:**

The Federal Register published the FRN on September 15, 2010. You can find the text of the FRN ([75 FR 56120](#)) online in the Federal Register website.

**Terms:**

See the [glossary](#) for terms or acronyms.

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<sup>1</sup> This guidance represents SEVP's current thinking on this topic. It is advisory in nature and informational in content. Its purpose is to provide guidance to the SEVIS user community and to all SEVP personnel involved in the adjudication and review of petitions for SEVP certification and appeals.

It reflects the position on, or interpretation of, the applicable laws or regulations DHS has published as of the date of this publication, which appears on the first page of the policy guidance. This guidance does not, in any way, replace or supersede those laws or regulations. Only the latest official release of the applicable law or regulation is authoritative.

This guidance does not create or confer any rights for or on any person and does not operate to bind SEVP or the public.

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## **1. GENERAL CONSIDERATIONS**

### **1.1 Who is covered by the Federal Register Notice (FRN) – “Employment Authorization for Haitian F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010, Earthquake in Haiti”?**

This FRN applies exclusively to F-1 students whose country of citizenship is Haiti and who

- A. On or before January 12, 2010, gained lawful admission into the United States in F-1 classification for duration of status under §101(a)(15)(F)(i) of the *Immigration and Nationality Act, as amended* and 8 U.S.C. 1101(a)(15)(F)(i)
- B. Are enrolled in a school that is Student and Exchange Visitor Program (SEVP) certified for enrollment of F-1 students
- C. Are currently maintaining F-1 status
- D. Are experiencing severe economic hardship as a direct result of the January 12, 2010, earthquake in Haiti

### **1.2 Does this FRN cover M-1 students?**

No, this does not cover M-1 students. While nonimmigrant M-1 students that meet the eligibility requirements may apply for temporary protected status (TPS), no regulatory provision exists under emergent circumstance for those M-1 students to obtain off-campus employment.

### **1.3 Is an F-2 accompanying spouse or minor child of an F-1 student covered by the emergent circumstance provision?**

No, an F-2 dependent of an F-1 student does not have authorization to work in the United States and, therefore, may not accept employment under that status. See 8 *CFR* 214.2(f)(15)(i).

### **1.4 Does this authority travel with the F-1 student when transferring to another SEVP-certified school?**

An F-1 student covered by this FRN who transfers to another school that is SEVP-certified for enrollment of F-1 students remains eligible for the relief provided by means of this FRN.

### **1.5 How long will this FRN remain in effect?**

This FRN grants temporary relief to a specific group of F-1 students until July 22, 2011. During this period, Department of Homeland Security (DHS) will continue to consult with other relevant agencies, including the Departments of State and Treasury, to determine whether economic circumstances in Haiti warrant extension or modification of the special provisions for F-1 students who draw their means of support from Haiti. Should these special provisions be modified or extended, DHS will announce changes in the Federal Register.

**1.6 What regulatory requirements does this FRN temporarily suspend relating to off-campus employment?**

For F-1 students, as provided under 8 *CFR* 214.2(f)(9)(ii)(A), the Secretary of the Department of Homeland Security (Secretary) may suspend the following regulatory requirements relating to off-campus employment:

- A. The requirement that an F-1 student must have been in F-1 status for one full academic year in order to be eligible for off-campus employment
- B. The requirement that an F-1 student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study
- C. The requirement that limits an F-1 student's work authorization to no more than 20 hours per week of off-campus employment while school is in session

**1.7 Generally, what is the minimum course load requirement for F-1 students?**

Undergraduate students with on- or off-campus employment authorization under this FRN must remain registered for a minimum of six semester/quarter hours of instruction per academic term. Graduate-level students with on- or off-campus employment authorization under this FRN must remain registered for a minimum of three semester/quarter hours of instruction per academic term. See 8 *CFR* 214.2(f)(5)(v). In addition, both undergraduate and graduate students granted on- or off-campus employment authorization under this FRN may count up to the equivalent of one class or three credits per session, term, semester, trimester or quarter of distance education toward satisfying this minimum course load requirement. See 8 *CFR* 214.2(f)(6)(i)(G).

**1.8 May a Haitian F-1 student who already has on- or off-campus employment authorization benefit from the suspension of regulatory requirements under this FRN?**

Yes, a Haitian F-1 student who already has on- or off-campus employment authorization may benefit from the suspension of regulatory requirements under this FRN and may do so without having to apply for a new Form I-766, "Employment Authorization Document" (EAD). To benefit from this FRN, the student must request that the designated school official (DSO) enter the following statement in the remarks field of the Student and Exchange Visitor Information System (SEVIS) student record, which the student's Form I-20, "Certificate of Eligibility for Nonimmigrant Student Status" will reflect:

Approved for more than 20 hours per week of [DSO must insert "on-campus" or "off-campus," depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of employment] until [DSO must insert the student's program end date, July 22, 2011, or the current EAD expiration date (if the student is currently working off campus), whichever date comes first].

**1.9 Must the F-1 student apply for reinstatement after expiration of this special employment authorization if the student takes a reduced course of study?**

No, DHS will consider an F-1 student who is granted employment authorization under this FRN engaged in a “full course of study” for the duration of the employment authorization if

- A. A qualifying undergraduate-level F-1 student remains registered for a minimum of six semester/quarter hours of instruction per academic term.
- B. A qualifying graduate-level F-1 student remains registered for a minimum of three semester/quarter hours of instruction per academic term.

See *8 CFR 214.2(f)(5)(v)* and *(f)(6)(i)(F)*. Such a student is not required to apply for reinstatement under *8 CFR 214.2(f)(16)* if otherwise maintaining F-1 status.

**1.10 Will the suspension of the applicability of the standard student employment requirements apply to an alien granted an F-1 visa after publication of this FRN in the Federal Register?**

No, the suspension of the applicability of the standard regulatory requirements does not apply to an alien granted an F-1 visa after publication of this FRN, even if the alien is experiencing severe economic hardship as a direct result of the January 12, 2010, earthquake in Haiti.

**1.11 Does this FRN apply to an F-1 student who departs the United States after publication of the FRN and who needs to obtain a new F-1 visa before returning to the United States to continue an educational program?**

Yes, this FRN applies to those specific F-1 students – provided that the DSO has properly notated the student’s SEVIS record, which will then appear on the student’s Form I-20. Subject to the specific terms of this FRN, the normal rules for visa issuance (including those related to public charge and nonimmigrant intent) remain applicable to a nonimmigrant that needs to apply for a new F-1 visa in order to continue an educational program in the United States.

**2. ON-CAMPUS EMPLOYMENT AUTHORIZATION**

**2.1 Will an F-1 student granted on-campus employment authorization under this FRN have authorization to work more than 20 hours per week while school is in session?**

Yes, for an F-1 student covered in this FRN, the Secretary is suspending the applicability of the requirement in *8 CFR 214.2(f)(9)(i)* that limits on-campus employment to 20 hours per week while school is in session. A student with Haitian citizenship and who is experiencing severe economic hardship as a direct result of the January 12, 2010, earthquake in Haiti will have authorization to work more than 20 hours per week while school is in session.



## **2.2 Will the F-1 student's SEVIS record reflect this authorization?**

The record will reflect this authorization if the F-1 student's DSO has entered the following statement in the remarks field of the student's SEVIS record, which the student's Form I-20 will reflect:

Approved for more than 20 hours per week of on-campus employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of employment] until [DSO must insert the student's program end date or July 22, 2011, whichever comes first].

## **2.3 Who "approves" on-campus employment?**

To obtain on-campus employment authorization, an F-1 student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship directly resulting from the earthquake in Haiti. The DSO must update the student's SEVIS record with the DSO's approval. An F-1 student authorized by the DSO to engage in on-campus employment by means of this FRN does not need to make any filing with U.S. Citizenship and Immigration Services (USCIS).

The standard rules permitting full-time work on campus when school is not in session or during school vacations apply. See *8 CFR 214.2(f)(9)(i)*.

## **2.4 Will an F-1 student with on-campus employment authorization under this FRN have authorization to reduce a normal course load and still maintain F-1 status?**

Yes, DHS will consider an F-1 student with on-campus employment authorization under this FRN as engaged in a "full course of study" for the purpose of maintaining F-1 status for the duration of the on-campus employment if that student satisfies the minimum course load requirements described in this FRN. See *8 CFR 214.2(f)(6)(i)(F)*.

The authorization for reduced course load, however, is solely for DHS's purpose of determining valid F-1 status. Nothing in this FRN mandates that a school allow a student to take a reduced course load if the reduction would not meet the school's minimum course load requirement for continued enrollment.<sup>2</sup>

## **3. OFF-CAMPUS EMPLOYMENT AUTHORIZATION**

### **3.1 Can an F-1 student with off-campus employment authorization under this FRN gain authorization to reduce a normal course load and still maintain F-1 status?**

Yes, DHS will consider an F-1 student with employment authorization by means of this FRN as engaged in a "full course of study" for purpose of maintaining F-1 status for the duration of the

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<sup>2</sup> School officials must establish, in a publicly available document (e.g., catalog, website or operating procedure), minimum course load requirements for enrollment in a school, and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

employment authorization. This designation only applies, however, if the student satisfies the minimum course load requirement described in this FRN. See *8 CFR 214.2(f)(6)(i)(F)*.

The authorization for reduced course load is solely for DHS's purpose of determining valid F-1 status. Nothing in this FRN mandates that a school allow a student to take a reduced course load if such reduced course load would not meet the school's minimum course load requirement.<sup>3</sup>

### **3.2 How may a Haitian F-1 student obtain employment authorization for off-campus employment under this FRN?**

To obtain off-campus employment authorization, an F-1 student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship that directly results from the earthquake in Haiti. The DSO must update the student's SEVIS record with the DSO's approval. The F-1 student (either undergraduate or graduate) must also file a [Form I-765 "Application for Employment Authorization"](#) with USCIS in order to apply for off-campus employment authorization based on severe economic hardship resulting from the January 12, 2010, earthquake in Haiti.

### **3.3 Must an F-1 student who has applied for TPS and obtained an EAD apply for a new EAD when applying for off-campus employment authorization?**

[Please see section 4, questions 4.1 to 4.14, relating to TPS.](#) The F-1 student may use the TPS EAD to work, but in order to maintain F-1 status, the F-1 student must follow other steps with the DSO, as described below. See question 1.8: [May a Haitian F-1 student who already has on- or off-campus employment authorization benefit from the suspension of regulatory requirements under this FRN?](#)

### **3.4 What are the filing fees?**

Submission of a Form I-765 currently requires payment of a \$340 fee. ([See www.USCIS.gov for up-to-date fee information.](#)) An applicant who is unable to pay the fee must submit a [written affidavit or unsworn declaration](#) requesting a waiver of the fee and including this statement: "I declare under penalty of perjury that the foregoing is true and correct." The submission must include an explanation of why USCIS should grant the fee waiver to the applicant and the reasons for the inability to pay. See *8 CFR 103.7(c)*.

### **3.5 What actions must an F-1 student take to initiate off-campus employment?**

An F-1 student seeking off-campus employment authorization due to severe economic hardship must demonstrate to the DSO that this employment is necessary to avoid severe economic hardship resulting from the January 12, 2010, earthquake in Haiti.

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<sup>3</sup> School officials must establish, in a publicly available document (e.g., catalog, website or operating procedure), minimum course load requirements for enrollment in a school, and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

### **3.6 What actions must a DSO take in SEVIS to initiate an off-campus employment authorization?**

If the DSO agrees that the student should receive such employment authorization, the DSO must recommend application approval to USCIS by entering the following statement in the remarks field of the student's SEVIS record, which will then appear on the student's Form I-20:

Recommended for more than 20 hours per week of off-campus employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of employment] until [DSO must insert the earlier of the last day of the student's program, one year from the recommended beginning date of employment, or July 22, 2011].

### **3.7 What is the DSO certifying with this recommendation?**

In making a recommendation that DHS approve a student for Special Student Relief, the DSO certifies that

- A. The student is a citizen of Haiti and is experiencing severe economic hardship as a direct result of the January 12, 2010, earthquake in Haiti, as documented on the Form I-20.
- B. The student is carrying a full course of study at the time of the request for employment authorization.
- C. For the duration of authorized employment, the student will register for a minimum of six semester or quarter hours of instruction per academic term if the student is at the undergraduate level or for a minimum of three semester or quarter hours of instruction per academic term if the student is at the graduate level.
- D. The off-campus employment is necessary to avoid or further alleviate severe economic hardship to the individual caused by the January 12, 2010, earthquake in Haiti.

### **3.8 Who files the Form I-765?**

The F-1 student must file the properly endorsed Form I-20 and Form I-765, according to the instructions for the Form I-765.

### **3.9 What are the processing guidelines an F-1 student should follow for this application package?**

To facilitate prompt adjudication of the F-1 student's application for off-campus employment authorization under *8 CFR 214.2(f)(9)(ii)(C)*, the student should

- A. Ensure that the application package includes
  - 1. A completed Form I-765

2. The required fee or properly documented fee waiver request as defined in *8 CFR 103.7(c)*

3. A signed and dated copy of the student's Form I-20 with the appropriate DSO recommendation, as previously described in this FRN

B. Send the application in an envelope which is clearly marked on the front, bottom, right-hand side of the envelope with the phrase "SPECIAL STUDENT RELIEF." Failure to include this notation may result in significant processing delays. If USCIS approves the student's Form I-765, the USCIS official will send the student an EAD as evidence of employment authorization. The EAD will contain an expiration date that does not exceed the last day of the student's program, one year from the date of issuance, or July 22, 2011, whichever comes first.

#### **4. TPS CONSIDERATIONS**

##### **4.1 What is TPS, and what does it allow nonimmigrants to do?**

TPS is a temporary immigration status granted to eligible nationals of a country (or to persons without nationality who last habitually resided in the designated country) that the Secretary has designated for TPS because the country is experiencing an ongoing armed conflict, an environmental disaster, or extraordinary and temporary conditions. During the period for which the Secretary has designated a country for TPS, TPS beneficiaries may remain in the United States and obtain work authorization, as long as they continue to meet the terms and conditions of the TPS status.

The granting of TPS is available only to persons who were continuously physically present in the United States as of the effective date of this designation, and it does not lead to permanent resident status.

##### **4.2 Would an emergent circumstance notice affect an F-1 student's ability to apply for TPS?**

No, an F-1 student who is covered by the emergent circumstance notice would still be eligible to apply for TPS. When seeking on- or off-campus employment authorization pursuant to *8 CFR 214.2(f)(9)(i)* or *(f)(9)(ii)*, the F-1 student may either seek employment based on emergent circumstance or TPS.

Obviously, an F-1 student with a reduced course load would be able to more easily maintain F-1 status while on TPS.

##### **4.3 Does designation as an emergent circumstance affect the number of hours an F-1 student may work per week in TPS status?**

No, the limit on the number of hours an F-1 student in TPS status may work remains the same in an emergent circumstance.

**4.4 Upon receiving approval for TPS, what happens to a nonimmigrant's F or M status?**

An F or M nonimmigrant has options related to maintaining F or M status while on TPS. SEVP recommends that the nonimmigrant discuss these options with the DSO before applying for TPS. The option the F or M nonimmigrant chooses will determine continuation or termination of F or M status.

**4.5 Is a nonimmigrant required to maintain F or M status upon TPS application approval?**

No, if USCIS approves the application for TPS, the nonimmigrant has no obligation to maintain F or M status. An F or M nonimmigrant that does not maintain status, however, should be aware that the DSO will terminate the SEVIS record.

When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS (unless that status has since expired or been terminated) or to any other status they may have obtained while registered for TPS.

**4.6 May an F-1 or M-1 student approved for TPS continue a course of study but not maintain F-1 or M-1 status?**

Yes, a student may engage in a course of study while in TPS. The student's DSO would terminate the student's SEVIS record. The level of enrollment in this circumstance would be a matter of school policy.

At the expiration of TPS the student would need to petition USCIS for approval of a change of status to the student's previous F-1 or M-1 status or to any other status for which the student qualifies, or the student will be out of status at the lapse of TPS.

**4.7 What must a student do to maintain F-1 or M-1 student status while on TPS?**

Normal requirements for maintaining status apply. If an F-1 or M-1 student does not maintain a full course of study or is not authorized for a reduced course load, the DSO will terminate the SEVIS record. See *8 CFR 214.2(f)(6)* for F-1 students. See *8 CFR 214.2(m)(9)* for M-1 students.

TPS is not an accepted reason for authorizing a reduced course load.

**4.8 May an F-1 student who is currently attending an English as a Second Language (ESL) program apply for TPS? May that student also continue coursework?**

Yes, an F-1 student attending an ESL program may apply for TPS and continue the coursework.

**4.9 Can an F-1 student apply for TPS and for benefits under this FRN at the same time?**

Yes, an F-1 student who has not yet applied for TPS or for student relief under this FRN may file for both. File the TPS application according to the instructions in the FRN designating Haiti for

TPS. [See 75 FR 3476, January 21, 2010](#). All TPS applicants must file a Form I-821, “Application for Temporary Protected Status,” and Form I-765, regardless of whether they are seeking employment authorization under TPS. The Form I-765 fee (or a properly documented fee waiver request) is required only if the applicant is seeking employment authorization under TPS. See *8 CFR 244.6*.

#### **4.10 Should a student report receipt of a TPS-related EAD to the DSO?**

If the student files a TPS application and requests employment authorization under TPS, then upon receiving the TPS-related EAD, the student may use the EAD for benefits under this FRN by going to the DSO and asking the DSO to

- A. Make the required entry in SEVIS
- B. Issue an updated Form I-20 as described in this FRN
- C. Note that the student has been authorized to carry a reduced course load and is working pursuant to a TPS-related EAD

As long as the student maintains the minimum course load described in this FRN, does not otherwise violate nonimmigrant status as provided under *8 CFR 214.1(g)* and maintains F-1 status, then the student maintains F-1 status and TPS concurrently.

#### **4.11 What other option would an F-1 student have for applying for TPS and for benefits under this FRN at the same time?**

Under another option, the F-1 student may apply for an EAD under student relief. In this instance, the student must file a Form I-765 with the location specified in the filing instructions. At the same time, the student may file a separate TPS application, but must submit the TPS filing according to the instructions provided in the FRN designating Haiti for TPS. Because the student has already applied for employment authorization under student relief, the Form I-765 submitted as part of the TPS application has no fee. As long as the student maintains the minimum course load described in this FRN, does not otherwise violate nonimmigrant status as provided under *8 CFR 214.1(g)* and otherwise maintains F-1 status, then the student maintains F-1 status and TPS concurrently.

#### **4.12 When a student simultaneously applies for TPS status and benefits under this FRN, what is the minimum course load requirement while an application for employment authorization is pending?**

The student must maintain normal course load requirements for a full course of study unless or until gaining employment authorization under this FRN. TPS-related employment authorization, by itself, does not authorize a student to drop below the normal course load requirements. Once approved for “severe economic hardship” employment authorization, the student may reduce the course load (with a minimum of six semester or quarter hours of instruction per academic term if the student is at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if the student is at the graduate level). See *8 CFR 214.2(f)(6)*, *214.2(f)(5)(v)*, *214.2(f)(9)(i)* and *(ii)*.

**4.13 How would a student with employment authorization under TPS apply for authorization to take a reduced course load under this FRN?**

There is no further application process. The student only needs to demonstrate economic hardship caused by the January 12, 2010, earthquake in Haiti to the DSO and receive the DSO's recommendation in SEVIS. See sections 2 and 3, above. USCIS will issue no other EAD.

**4.14 Can a student with TPS and lapsed F-1 status apply for reinstatement to F-1 student status?**

Yes, current regulations permit a student who falls out of student status to apply for reinstatement. See *8 CFR 214.2(f)(16)*. For example, this provision would apply to a student who worked on a TPS-related EAD or dropped his or her course load before publication of this FRN, and therefore fell out of student status. The student must satisfy the criteria set forth in the student status reinstatement regulations.

**5. TRAVEL WHILE ON TPS**

**5.1 May a nonimmigrant with TPS approval travel on that status?**

Yes, the nonimmigrant may travel on TPS, but must follow the instructions for advance parole. The nonimmigrant must submit and receive approval of [Form I-131, "Application for Travel Document,"](#) from USCIS. The application process includes a filing fee of \$305. (See [www.USCIS.gov](http://www.USCIS.gov) for up-to-date fee information.) The nonimmigrant will receive written notice of approval or denial of the application from USCIS.

**5.2 May an F or M nonimmigrant on TPS travel on an F or M visa?**

Yes, as long as the nonimmigrant is maintaining F or M status and the student visa has not expired, the nonimmigrant may travel outside the United States and apply for readmission in F or M status.

If the student visa has expired, the student can still travel outside the United States as a student but while traveling would need to apply for and receive a new student visa at a consulate.

A nonimmigrant in both TPS and F or M status may make a choice as to which status to use for travel.

**6. WHEN TPS ENDS**

**6.1 How long will this TPS designation last?**

The 180-day registration period for eligible individuals to submit TPS applications began January 21, 2010, and was to have ended on July 20, 2010. The deadline is now January 18, 2011. This designation of Haiti for TPS is effective on January 21, 2010, and will remain in effect through July 22, 2011.

**6.2 Is the situation reassessed periodically?**

Yes, by law the Secretary periodically reassesses the situation. At least 60 days prior to the expiration of the TPS designation or any extension thereof, the Secretary must review the conditions in a foreign state designated for TPS in order to determine whether the conditions for the TPS designation continue to exist. See *8 U.S.C. 1254a(b)(3)(A)*. The Secretary must terminate the designation upon determining that the foreign state no longer meets the conditions for the TPS designation.

**6.3 Will there be prior notice to the termination of TPS designation for Haiti?**

Termination of TPS may not take effect earlier than 60 days after the date of publication of a Notice of Termination in the Federal Register. *8 U.S.C. 1254a(b)(3)(B)*.

**6.4 Can a nonimmigrant who gains TPS approval and does not maintain student status apply for a change of status back to a previous F or M status?**

Yes, the application process for F-1 or M-1 students would include receiving approval for enrollment at an [SEVP-certified school](#), as reflected in an initial student SEVIS record, payment of the [SEVIS I-901 fee](#), and approval of a [Form I-539, “Application to Extend/Change Nonimmigrant Status.”](#)

In this situation, F-2 or M-2 dependents should file for reinstatement according to the [Form I-539](#) filing instructions.

**6.5 Must a student who gains TPS approval and still maintains F-1 or M-1 student status reinstate at the conclusion of TPS designation for Haiti?**

No, there is no need to apply for F-1 or M-1 student status reinstatement at the end of the relevant TPS.

**7. TPS CONSIDERATIONS FOR M-1 STUDENTS**

**7.1 Does this FRN apply to M-1 students?**

No, M-1 students are not affected by the FRN.

**7.2 May an M-1 student apply for TPS?**

Yes, an M-1 student may apply for TPS.

**7.3 Can an M-1 student approved for TPS maintain student status?**

An M-1 student approved for TPS can maintain status by engaging in the requisite number of course hours while engaging in unlimited work authorized by the TPS designation.



## **8. SEVIS REPORTING REQUIREMENTS FOR F OR M NONIMMIGRANTS THAT APPLY AND ARE APPROVED FOR TPS**

### **8.1 What are the reporting requirements for an F-1 or M-1 student on TPS?**

An F-1 or M-1 student intending to maintain F-1 or M-1 status while on TPS must continue to report to the DSO as directed by *8 CFR 214.2(f)(17)*.

Nonimmigrants solely in TPS must report as directed by *8 CFR 265.1*, using the [Form AR-11, "Alien's Change of Address Card."](#)

### **8.2 What does a DSO need to do to update the SEVIS record of an F-1 or M-1 student approved for TPS?**

An F-1 or M-1 student in active status in SEVIS and with TPS approval, but who has not yet completed a course of study, must inform the DSO of the TPS status. The DSO should consult with the student to determine if the nonimmigrant will maintain F-1 or M-1 student status. The DSO should address considerations such as the requirements for maintaining a full course of study, the impact on current practical training authorization, impact on status of accompanying spouse and dependents, and, in the case of F-1 or M-1 status termination, options for the nonimmigrant at the expiration of TPS.

The DSO must terminate the student SEVIS record within 21 days of the date the student is no longer maintaining F-1 or M-1 status. In most instances, this would occur when the student ceases to attend sufficient classes to qualify as a full course of study. See *8 CFR 214.2(f)* and *(m)*.

### **8.3 What remarks should a DSO use to annotate the SEVIS record for a student who has gained TPS approval but who continues to maintain student status?**

For a student who has gained TPS approval and is continuing to maintain student status, the DSO has no cause to terminate the record. A DSO should not change a SEVIS record status. In the remarks section of the student's SEVIS record, state that the student has maintained status up to the present time and has received approval for change of status to TPS. Include the date, if known, on which the student received TPS approval.

### **8.4 What reason should a DSO select in SEVIS for termination of a record for a student approved for TPS?**

For a student who has gained TPS approval and who chooses not to continue to maintain student status, terminate the SEVIS record for the reason of "Change of Status." In the remarks section of the student's record, state that the student has ceased maintaining F-1 or M-1 status and has gained approval for change of status to TPS. Include the date, if known, on which the student gained approval for TPS.

Note that when the DSO terminates the student record, the F or M status of an accompanying spouse and dependents also ends. If the accompanying spouse and dependents do not have TPS, they will be out of status.

**8.5 What does a DSO need to do to update the SEVIS record for a student’s accompanying spouse or dependents who have applied for and been approved for TPS?**

If the student maintains F-1 or M-1 status, the spouse or dependents in TPS will simultaneously continue to have F-2 or M-2 status, presuming they have taken no other action that would result in status termination.

**8.6 What should a DSO do with an F-1 or M-1 student’s SEVIS record if the student is on optional practical training (OPT) but received TPS?**

A student can continue to work on OPT or to maintain studies. If the student wants to pursue work using an EAD approved for reason of TPS, then the DSO would need to complete or terminate the SEVIS record, as applicable. In the remarks section of the student’s SEVIS information, the DSO should also indicate that the student has TPS and has maintained F-1 or M-1 status to that point.

**9. SUMMARY OF EMPLOYMENT OPTIONS AVAILABLE WITH DECLARATIONS FOR TPS AND EMERGENCY CIRCUMSTANCE**

**9.1 What employment-related benefits are available to Haitian F or M nonimmigrants?**

TABLE: Summary of employment-related benefits available to Haitian F or M students

Benefit	Eligible status	Form and fee	Time in-status requirement	Employment hour limit	Required credit hours	Validity of EAD
On-campus employment (normal)	F-1	No application to DHS	None	20 hours or less while school is in session	Full time	N/A
On-campus employment (emergency circumstance)	F-1	No application to DHS	None	Not limited	6 hours (undergrad); 3 hours (graduate)	N/A
Off-campus employment (economic hardship)	F-1	Form I-765 (see USCIS website for current filing fees)	One full academic year as F-1	20 hours or less while school is in session	Full time	1 year
Off campus employment (emergency circumstance)	F-1	Form I-765 (see USCIS website for current Filings fees)	None	Not limited	6 hours (undergrad); 3 hours (graduate)	1 year renewable until notice rescinded
TPS	F or M	Form I-821 and Form I-765 (See USCIS website for current fees)	Present in United States on January 12, 2010	Not limited	None	Until end of TPS designation (July 22, 2011)

**9.2 Whom should a DSO contact with questions about TPS?**

Direct general questions about TPS to USCIS. See the FOR FURTHER INFORMATION CONTACT section of the FRN, [“Designation of Haiti for Temporary Protected Status.”](#)

**9.3 Whom should a DSO contact with questions about the referenced FRN or this guidance?**

SEVP provides comprehensive information to school officials about F and M nonimmigrants and maintenance of status, as well as recordkeeping and reporting requirements regarding these nonimmigrants at <http://www.ice.gov/sevis/>. If, after reviewing this guidance, a DSO would like further assistance, please e-mail [sevis.source@dhs.gov](mailto:sevis.source@dhs.gov) with “Policy Guidance 1004-06 Question” in the subject line.