WHAT EMPLOYERS SHOULD KNOW
ABOUT HIRING INTERNATIONAL STUDENTS

Many employers are concerned about liability issues related to the employment of international students in the United States due to changes in federal laws governing non-citizens. This brochure addresses concerns employers might have about international students and work.

Getting permission for international students to work in the U.S. is not as difficult as many employers think. Most international students are in the U.S. on non-immigrant student visas (F-1 and J-1), and these international students are eligible to accept employment under certain conditions.

Practical Training for F-1 Students

Practical training is a legal means by which F-1 students can obtain employment in areas related to their academic field of study. Students, in general, must have completed one academic year (approximately nine months) in F-1 status and must maintain their F-1 status to be eligible for practical training. There are two types of practical training:

- Optional Practical Training
- Curricular Practical Training

Optional Practical Training (OPT) must be authorized by the U.S. Citizenship and Immigration Services (USCIS) based on a recommendation from the designated school official (DSO) at the school which issued the I-20 to the student. Form I-20 is a government document which verifies the student's admission to that institution. Students are eligible for 12 months of OPT for each degree level. Students who obtain a degree in Science, Technology, Engineering, and Mathematics (STEM) may be eligible for additional 17 months of OPT.

Pre-Completion OPT can be done prior to completion of study. Students can request to work

1) part-time, a maximum of 20 hours per week, while school is in session
2) full-time during vacation when school is not in session or
3) full-time/part-time after completing all course requirements for the degree.

Post-Completion OPT can be authorized for full time after completion of the course of study.

STEM OPT Extension can be authorized for additional 17 months if student

1) is currently on post-completion OPT after completing a bachelor's, master's or doctoral degree in Science, Technology, Engineering, and Mathematics (STEM), and
2) has a job or job offer from an employer registered in USCIS E-Verify Program.

Cap-Gap OPT can be granted if student (1) is in a period of authorized post-completion OPT, and (2) is the beneficiary of a timely-filed H-1B petition requesting change of status and an employment start date of October 1 of the following fiscal year. The Cap-Gap OPT is an automatic extension of duration of status and employment authorization to bridge the gap between the OPT and start of H-1B status. The automatic extension of OPT is terminated upon the rejection, denial, or revocation of the H-1B petition.

Employment Authorization Document (EAD): Students who have received OPT permission will be issued an EAD by the USCIS. Their name, photo and valid dates of employment are printed on the EAD. Employers should note that the average processing time for USCIS to issue the EAD is two or three months, and students may begin employment only after they receive the EAD which will indicate the starting and ending dates of employment. Students who have pending STEM extension application can continue working for up to 180 days while the application is pending.

This form was developed by the International Career Opportunities Network (ICON).
For more information on ICON, please contact region12south@gmail.com.

Curricular Practical Training (CPT) may be authorized by the institution (NOT by USCIS) for F-1 students participating in curricular-related employment such as cooperative education, work study, practicum and internship programs. Authorization is indicated on page 3 of the I-20 and includes the name of the company, beginning and ending date, and signature of the designated school official (DSO). Since each institution has different policies related to curricular-related employment, students should speak to the DSO at their institution. Processing time for the authorization of CPT varies at each institution. International students on F-1 visas are eligible for both CPT before finishing their studies, as well as 12 months of OPT. However, students who work full-time on CPT for one year or more are not eligible for OPT.

Academic Training for J-1 Students

International students on J-1 visas are eligible for up to 18 months of work authorization, called academic training. Post-doctoral students may apply for additional 18 months of Academic Training. Some J-1 program participants are also allowed to work part-time during the academic program. Academic Training is granted in the form of a letter by the Responsible Officer (RO) or Alternate Responsible Officer (ARO). Students should consult with the RO or ARO at their institution.

Minimal Paperwork for the Employer

Fortunately, there is little paperwork for an employer who hires F-1 or J-1 students. All paperwork is handled by the students, the school, and USCIS (for OPT).

Continuing Employment after the Practical/Academic Training Period

Federal regulations require that employment terminate at the conclusion of the authorized practical or academic training. However, students on an F-1 visa, or students on a J-1 visa who are not subject to a two-year home residency requirement, may continue to be employed, if they receive approval for a change in visa category-usually to H-1B. Students must have a minimum of a bachelor's degree in order to qualify for H-1B status.

Individuals may work in the U.S. for a maximum of six years under an H-1B visa. This visa is valid only for employment with the company that petitioned for them. They must re-apply to the USCIS if they wish to change employers. As soon as the initial job offer is made, they should petition for an H-1B visa if employment is likely to extend beyond the practical training period.

What about Taxes?

Unless exempted by a tax treaty, F-1 and J-1 students earning income under practical training are subject to applicable federal, state, and local income taxes. Information on tax treaties may be found in Internal Revenue Services Publication 519, U.S. Tax Guide for Aliens, and 901, U.S. Tax Treaties.

Generally, F-1 and J-1 students are exempted from social security and Medicare tax requirements. However, if F-1 and J-1 students are considered "resident aliens" for income tax purpose, social security and Medicare taxes should be withheld. Chapter 1 of Internal Revenue Services Publication 519, U.S. Tax Guide for Aliens explains how to determine the residency status of international students. More information on social security and Medicare taxes can be found in Chapter 8 of Internal Revenue Services Publication 519, U.S. Tax Guide for Aliens and in Section 940 of Social Security Administration Publication No. 65-008, Social Security Handbook.

For your reference:

The Code of Federal Regulations (CFR) Title 8 and Title 22 citation numbers for regulations governing practical training are as follows:

- F-1 students: 8CFR 214.2 (f) (9) &(10)
- J-1 students: 22CFR 62.23 (f)

CFR Title 8 citations governing IRCA requirements are:

- F-1 students: 8CFR 274a.12(b)(6)(iii) and 8CFR 274a.12(c)(3)(i)
- J-1 students: 8CFR 274a.12(b)(11)

Additional Resources

- Code of Federal Regulations
- SEVP Policy Guidance on OPT
- Information for Employers

Frequently Asked Questions

Isn't it illegal to hire international students because they do not have a green card?
No. Federal regulations permit the employment of international students on F-1 and J-1 visas within certain limits. These visas allow students to work in jobs related to their major field of study. F-1 students can work on "practical training." J-I students may work on "academic training."

Even if it's legal to hire international students, won't it cost a lot of money and involve a lot of paperwork?
No. The only cost to the employer hiring international students is the time and effort to interview and select the best candidate for the job. The international student office handles the paperwork involved in securing the work authorization for F-1 and J-1 students. In fact, a company may save money by hiring international students because the majority of them are exempt from Social Security (FICA) and Medicare tax requirements.

How long can international students work in the United States with their student visa?
F-1 students are eligible for curricular practical training before completing their studies, as well as an additional 12 months of optional practical training, either before or following graduation, or a combination of the two. Students who complete bachelor's, master's and doctoral degree in STEM field may work for 17 additional months of optional practical training at an E-Verify employer. However, if they work full-time for one year or more of curricular practical training, they are not eligible for Optional Practical Training.
Students with a J-1 visa are usually eligible to work up to 18 months following graduation. They may also be eligible to work part-time during their program of study. The Responsible Officer (RO) or Alternate Responsible Officer (ARO) will evaluate each student's situation to determine the length of time for which they are eligible to work.

Don't international students need work authorization before I can hire them?
No. International students must have the work authorization before they begin actual employment, but not before they are offered employment. In fact, J-1 students must have a written job offer in order to apply for the work authorization. Many F-1 students will be in the process of obtaining work authorization while they are interviewing for employment. Students can give employers a reasonable estimate of when they expect to receive work authorization.

What does the work authorization look like?
For Optional Practical Training, F-1 students receive from USCIS an Employment Authorization Document (EAD), a small photo identity card that indicates the dates for which they are permitted to work. For Curricular Practical Training, F-1 students receive authorization from the school (NOT from CIS) on the back of the student's I-20. "No Service endorsement is necessary" - per 8CFR 274a.12(b)(6)(iii). J-1 students receive work authorization in the form of a letter issued by the RO or ARO at their institution.

What if I want to continue to employ international students after their work authorization expires?
With a bit of planning ahead, an employer can hire international students to continue to work for them in the H-1B visa category for a total of six years (authorization is granted in two three-year periods). The H-1B is a temporary working visa for workers in a "specialty occupation." The application procedure to the USCIS is straightforward. The job must meet two basic requirements:

1) The salary must meet the prevailing wage as defined by the Department of Labor
2) A bachelor's degree is a minimum normal requirement for the position.

Doesn't an employer have to prove that international students are not taking jobs from a qualified American?
No. American employers are not required to document that a citizen of another country did not take a job from a qualified American if that person is working under an F-1, J-1 or H-1B visa. Employers must document that they did not turn down a qualified American applicant for the position only when they wish to hire foreign citizens on a permanent basis and sponsor them for a permanent resident status ("green card").

Can I hire international students as volunteer interns?
Normally, if the internship involves no form of compensation and is truly voluntary, the students may volunteer without having to do any paperwork with the USCIS. If, however, the internship provides a stipend or any compensation, students must obtain permission for practical training or academic training prior to starting their internship. Students should check with their employers to ensure that the company is allowed by law to offer unpaid internships.

What is the cost of E-Verify program and how can I enroll in E-Verify program?
There is no cost to register in E-Verify program. Information on E-verify and the enrollment procedure can be found at the USCIS website at www.uscis.gov/everify.

This resource document was created by members of the International Career Opportunities Network (ICON), a volunteer resource-sharing group that creates tomorrow's global leadership through international career development opportunities and shared best practices from international student and study abroad advisors, career counselors, experiential educators, and employers seeking to build a global workforce.

This document was originally published in 2000 with a grant from NAFSA: Association of International Educators Region XII. Revisions in 2004 by Laurie Cox, University of Wisconsin, Madison; 2010 co-editors: Lay Tuan Tan, California State University Fullerton, Phil Hofer, University of La Verne & Junko Pierry, Stanford University.