

# Optional Practical Training and STEM Extension

## *Understanding F-1 Students and Their Employment Opportunities*

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## Quick Overview of F Status and How Obtained

- Must be admitted to full time academic program in US.
- At institution authorized by DHS to admit foreign students.
- Upon admission, school will issue Form I-20, which the student can use to obtain F-1 visa, seek admission (Canadians) or to change status in the US.
- Admitted for duration of status (D/S) meaning that they have no end date on their admission record (I-94).
- If out of status, they don't accrue unlawful presence (ULP) for the purposes of the 3- or 10-year inadmissibility bar unless there is a written finding by USCIS or an Immigration judge (IJ) that they have failed to maintain status.
- Status violations do not result in auto revocation of visa under INA 222(g) unless there is a written finding by IJ or USCIS.

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# Maintenance of Status—Super Important

- Full time school attendance (generally, 12 credits/semester/quarter for an undergraduate, and 9 credits/semester/quarter for a graduate).
- Lawful transfer from one school to another (DSO must complete steps).
- No unauthorized employment.
- No activity which would render them removable (e.g., criminal convictions).
- Visa revocation by DOS while in the US does not affect maintenance of status.
- Application for TPS, asylum, AOS, T, or U visas does not affect maintenance of status, as long as student continues to abide by all F rules.

# Reinstatement to Student Status

- Student can recover status, despite violations, by making an application for reinstatement to USCIS on Form I-539.
- Must show that violation beyond student's control or failure to reinstate would cause student extreme hardship.
- No reinstatement if student engaged in unauthorized employment.
- Generally, must be filed within five months of violation, but those filed outside this window are often granted.
- Student may continue to attend school while waiting for a decision but may not enjoy any student-related employment benefit. LONG processing!
- **Alternative:** travel. If valid visa, no need for new visa, just I-20. Beware CPT. If no valid visa may be tougher. Travel restarts OPT/CPT "clocks".
- **Alternative:** finish degree in US out of status, leave.

# Student Employment: Seven Common Programs

1. On campus employment
2. Internship with an international organization or DOD
3. Off campus employment for economic necessity
4. Curricular practical training
5. Optional practical training
6. STEM extension of post-completion OPT
7. Special Student Relief

Note: most of these programs have hourly limitation, but there is no “crosswalk” between limitations of any program, except CPT and OPT

# Student Employment: Seven Common Programs

## 1. On-campus employment:

- On the school’s campus, either directly for the school or for a private contractor providing student services, OR
- On campus of an educationally affiliated institution which must be associated with the school’s established curriculum or related to contractually funded research projects at the post-graduate level. 8 CFR 214.2(f)(9)(i).

20 hours per week during school/40 hours during breaks and holidays. Authorized by the I-20 hosting school. No “crosswalk” with any other employment program.

**2. Internship at an international organization or DOD:** Same hourly limitations as on campus. No “crosswalk” with any other employment program.

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46<sup>th</sup> Annual Conference on Immigration and Nationality Law session  
"OPT and STEM"