

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 handout addresses concerns employers might have about international students and employment. ***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.

Minimal Paperwork for the Employer

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

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:

1. Optional Practical Training
2. 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. **Post-Completion OPT** can be authorized for full time employment after completion of the course of study.

- Students are eligible for 12 months of OPT for each higher degree level.
- Students who obtain a degree in Science, Technology, Engineering, and Mathematics (STEM) may be eligible for an additional 24 months of a **STEM OPT Extension** if student has a job or job offer (must be at least 20 hours per week) from an employer registered in USCIS's E-verify Program. STEM OPT also requires students and employers to complete the Form I-983 Training Plan.
- **Employment Authorization Document (EAD):** Students who have received OPT permission will be issued an EAD by the USCIS.

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. 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 12 months or more are not eligible for OPT.

Continuing Employment after the Practical Training Period

Students on an F-1 visa, and some J-1 students, may continue to be employed, if they receive approval for a change in visa category-usually to an 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.

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-1 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.

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 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?

Yes, if students are engaged in either paid or unpaid internships related to their field of study, they normally first need to obtain permission for practical training or academic training prior to starting their internship. If the internship is for work that is not normally paid work for anyone, they can check with their international student office to see if work authorization is needed. Students should check with their employers to ensure that the company is allowed by law to offer unpaid internships. More information about unpaid internships can be found at the DOL website at <http://www.dol.gov/whd/regs/compliance/whdfs71.pdf>

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.