

IMMIGRATION LAWS AND REGULATIONS FOR F-1 STUDENTS

INSERTS/SERVICE LAW BOOKS/SERVICE LAW BOOKS MENU /TITLE 8 OF CODE OF FEDERAL REGULATIONS (8 CFR)/8 CFR PART 214 -NONIMMIGRANT CLASSES/Sec. 214.2(f) Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs -

Sec. 214.2(f) Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs

(1) Admission of student --

(i) Eligibility for admission. A nonimmigrant student may be admitted into the United States in nonimmigrant status under section **101(a)(15)(F)** of the Act, if: (Paragraph (f)(1)(i) revised effective 1/1/03; **67 FR 76256**) (Introductory text amended 8/27/02; **67 FR 54941**)

(A) The student presents a SEVIS Form I-20 issued in his or her own name by a school approved by the Service for attendance by F-1 foreign students. (In the alternative, for a student seeking admission prior to August 1, 2003, the student may present a currently-valid Form I-20A-B/I-20ID, if that form was issued by the school prior to January 30, 2003);

(B) The student has documentary evidence of financial support in the amount indicated on the SEVIS Form I-20 (or the Form I-20A-B/I-20ID);

(C) For students seeking initial admission only, the student intends to attend the school specified in the student's visa (or, where the student is exempt from the requirement for a visa, the school indicated on the SEVIS Form I-20 (or the Form I-20A-B/I-20ID)); and

(D) In the case of a student who intends to study at a public secondary school, the student has demonstrated that he or she has reimbursed the local educational agency that administers the school for the full, unsubsidized per capita cost of providing education at the school for the period of the student's attendance.

(ii) Disposition of Form I-20 A-B/I-20 ID. Form I-20 A-B/I-20 ID contains two copies, the I-20 School Copy and the I-20 ID (Student) Copy. For purposes of clarity, the entire Form I-20 A-B/I-20 ID shall be referred to as Form I-20 A-B and the I-20 ID (Student) Copy shall be referred to as the I-20 ID. When an F-1 student applies for admission with a complete Form I-20 A-B, the inspecting officer shall:

(A) Transcribe the student's admission number from Form I-94 onto his or her Form I-20 A-B (for students seeking initial admission only);

(B) Endorse all copies of the Form I-20 A-B;

(C) Return the I-20 ID to the student; and

(D) Forward the I-20 School Copy to the Service's processing center for data entry. (The school copy of

Form I-20 A-B will be sent back to the school as a notice of the student's admission after data entry.)

(iii) Use of SEVIS. On January 30, 2003, the use of the Student and Exchange Visitor Information System (SEVIS) will become mandatory for the issuance of any new Form I-20. A student or dependent who presents a non-SEVIS Form I-20 issued on or after January 30, 2003, will not be accepted for admission to the United States. Non-SEVIS Forms I-20 issued prior to January 30, 2003, will continue to be acceptable until August 1, 2003. However, schools must issue a SEVIS Form I-20 to any current student requiring a reportable action (e.g., extension of status, practical training, and requests for employment authorization) or a new Form I-20, or for any aliens who must obtain a new nonimmigrant student visa. As of August 1, 2003, the records of all current or continuing students must be entered in SEVIS. (Added effective 1/1/03; **67 FR 76256**)

(2) I-20 ID. An F-1 student is expected to safekeep the initial I-20 ID bearing the admission number and any subsequent copies which have been issued to him or her. Should the student lose his or her current I20 ID, a replacement copy bearing the same information as the lost copy, including any endorsement for employment and notations, may be issued by the designated school official (DSO) as defined in **8 CFR 214.3(l)(1)(i)**.

(3) Admission of the spouse and minor children of an F-1 student. The spouse and minor children accompanying an F-1 student are eligible for admission in F-2 status if the student is admitted in F-1 status. The spouse and minor children following-to-join an F-1 student are eligible for admission to the United States in F-2 status if they are able to demonstrate that the F-1 student has been admitted and is, or will be within 30 days, enrolled in a full course of study, or engaged in approved practical training following completion of studies. In either case, at the time they seek admission, the eligible spouse and minor children of an F-1 student with a SEVIS Form I-20 must individually present an original SEVIS Form I-20 issued in the name of each F-2 dependent issued by a school authorized by the Service for attendance by F-1 foreign students. Prior to August 1, 2003, if exigent circumstances are demonstrated, the Service will allow the dependent of an F-1 student in possession of a SEVIS Form I-20 to enter the United States using a copy of the F-1 student's SEVIS Form I-20. (In the alternative, for dependents seeking admission to the United States prior to August 1, 2003, a copy of the F-1 student's current Form I20ID issued prior to January 30, 2003, with proper endorsement by the DSO will satisfy this requirement.) A new SEVIS Form I-20 (or Form I-20A-B) is required for a dependent where there has been any substantive change in the F-1 student's current information. (Revised effective 1/1/03; **67 FR 76256**)

(4) Temporary absence. An F-1 student returning to the United States from a temporary absence of five months or less may be readmitted for attendance at a Service-approved educational institution, if the student presents:

(i) A current SEVIS Form I-20 (or, for readmission prior to August 1, 2003, a current Form I-20ID which was issued prior to January 30, 2003), properly endorsed by the DSO for reentry if there has been no substantive change to the most recent Form I-20 information; or (Revised effective 1/1/03; **67 FR 76256**)

(ii) A new SEVIS Form I-20 (or, for readmission prior to August 1, 2003, a new Form I-20ID which was issued prior to January 30, 2003), if there has been a substantive change in the information on the student's most recent Form I-20 information, such as in the case of a student who has changed the major area of study, who intends to transfer to another Service approved institution or who has advanced to a higher level of study. (Revised effective 1/1/03; **67 FR 76256**)

(5) Duration of status—

(i) General. Except for border commuter students covered by the provisions of paragraph (f)(18) of this section, an F-1 student is admitted for duration of status. Duration of status is defined as the time during which an F-1 student is pursuing a full course of study at an educational institution approved by the Service for attendance by foreign students, or engaging in authorized practical training following completion of studies, except that an F-1 student who is admitted to attend a public high school is restricted to an aggregate of 12 months of study at any public high school(s). An F-1 student may be admitted for a period

up to 30 days before the indicated report date or program start date listed on Form I-20. The student is considered to be maintaining status if he or she is making normal progress toward completing a course of study. (Revised effective 1/1/03; **67 FR 76256**) (Amended 8/27/02; **67 FR 54941**) (Revised 6/15/99; **64 FR 32146**)

(ii) Change in educational levels. An F-1 student who continues from one educational level to another is considered to be maintaining status, provided that the transition to the new educational level is accomplished according to transfer procedures outlined in paragraph (f)(8) of this section.

(iii) Annual vacation. An F-1 student at an academic institution is considered to be in status during the annual (or summer) vacation if the student is eligible and intends to register for the next term. A student attending a school on a quarter or trimester calendar who takes only one vacation a year during any one of the quarters or trimesters instead of during the summer is considered to be in status during that vacation, if the student has completed the equivalent of an academic year prior to taking the vacation.

(iv) Preparation for departure. An F-1 student who has completed a course of study and any authorized practical training following completion of studies will be allowed an additional 60-day period to prepare for departure from the United States or to transfer in accordance with paragraph (f)(8) of this section. An F-1 student authorized by the DSO to withdraw from classes will be allowed a 15-day period for departure from the United States. However, an F-1 student who fails to maintain a full course of study without the approval of the DSO or otherwise fails to maintain status is not eligible for an additional period for departure. (Revised effective 1/1/03; **67 FR 76256**)

(v) Emergent circumstances as determined by the Commissioner. Where the Commissioner has suspended the applicability of any or all of the requirements for on-campus or off-campus employment authorization for specified students pursuant to paragraphs (f)(9)(i) or (f)(9)(ii) of this section by notice in the **Federal Register**, an affected student who needs to reduce his or her full course of study as a result of accepting employment authorized by such notice in the **Federal Register** will be considered to be in status during the authorized employment, subject to any other conditions specified in the notice, provided that, for the duration of the authorized employment, the student is registered for the number of semester or quarter hours of instruction per academic term specified in the notice, which in no event shall be less than 6 semester or quarter hours of instruction per academic term if the student is at the undergraduate level or less than 3 semester or quarter hours of instruction per academic term if the student is at the graduate level, and is continuing to make progress toward completing the course of study. (Added 6/10/98; **63 FR 31872**)

(vi) Extension of duration of status. The Commissioner may, by notice in the **Federal Register**, at any time she determines that the H-1B numerical limitation as described in section **214(g)(1)(A)** of the Act will likely be reached prior to the end of a current fiscal year, extend for such a period of time as the Commissioner deems necessary to complete the adjudication of the H-1B application, the duration of status of any F-1 student on behalf of whom an employer has timely filed an application for change of status to H-1B. The alien, according to **8 CFR part 248**, must not have violated the terms of his or her nonimmigrant stay in order to obtain this extension of stay. An F-1 student whose duration of status has been so extended shall be considered to be maintaining lawful nonimmigrant status for all purposes under the Act, provided that the alien does not violate the terms and conditions of his or her F nonimmigrant stay. An extension made under this paragraph applies to the F-2 dependent aliens. (Added 6/15/99; **64 FR 32146**)

(6) Full course of study.

(i) General. Successful completion of the full course of study must lead to the attainment of a specific educational or professional objective. A course of study at an institution not approved for attendance by foreign students as provided in § 214.3(a)(3) does not satisfy this requirement. A "full course of study" as required by section **101(a)(15)(F)(i)** of the Act means: (Introductory text revised effective 1/1/03; **67 FR 76256**)

(A) Postgraduate study or postdoctoral study at a college or university, or undergraduate or

postgraduate study at a conservatory or religious seminary, certified by a DSO as a full course of study;

(B) Undergraduate study at a college or university, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter hour systems, where all undergraduate students who are enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or are considered full-time for other administrative purposes, or its equivalent (as determined by the district director in the school approval process), except when the student needs a lesser course load to complete the course of study during the current term;

(C) Study in a postsecondary language, liberal arts, fine arts, or other non-vocational program at a school which confers upon its graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning which are either: (1) A school (or school system) owned and operated as a public educational institution by the United States or a State or political subdivision thereof; or (2) a school accredited by a nationally recognized accrediting body; and which has been certified by a designated school official to consist of at least twelve clock hours of instruction a week, or its equivalent as determined by the district director in the school approval process; (Revised 10/29/93; 58 FR 58097)

(D) Study in any other language, liberal arts, fine arts, or other nonvocational training program, certified by a designated school official to consist of at least eighteen clock hours of attendance a week if the dominant part of the course of study consists of classroom instruction, or to consist of at least twenty-two clock hours a week if the dominant part of the course of study consists of laboratory work; or

(E) Study in a curriculum at an approved private elementary or middle school or public or private academic high school which is certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation. (Revised effective 1/1/03; **67 FR 76256**)

(F) Notwithstanding paragraphs (f)(6)(i)(A) and (f)(6)(i)(B) of this section, an alien who has been granted employment authorization pursuant to the terms of a document issued by the Commissioner under paragraphs (f)(9)(i) or (f)(9)(ii) of this section and published in the **Federal Register** shall be deemed to be engaged in a "full course of study" if he or she remains registered for no less than the number of semester or quarter hours of instruction per academic term specified by the Commissioner in the notice for the validity period of such employment authorization. (Added 6/10/98; **63 FR 31872**)

(G) For F-1 students enrolled in classes for credit or classroom hours, no more than the equivalent of one class or three credits per session, term, semester, trimester, or quarter may be counted toward the full course of study requirement if the class is taken on-line or through distance education and does not require the student's physical attendance for classes, examination or other purposes integral to completion of the class. An on-line or distance education course is a course that is offered principally through the use of television, audio, or computer transmission including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, or computer conferencing. If the F-1 student's course of study is in a language study program, no on-line or distance education classes may be considered to count toward a student's full course of study requirement. (Revised effective 1/1/03; **67 FR 76256**)

(H) On-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship is deemed to be part of the academic program of a student otherwise taking a full course of study. (Revised effective 1/1/03; **67 FR 76256**)

(ii) Institution of higher learning. For purposes of this paragraph, a college or university is an institution of higher learning which awards recognized associate, bachelor's, master's, doctorate, or professional degrees. Schools which devote themselves exclusively or primarily to vocational, business, or language instruction are not included in the category of colleges or universities. Vocational or business schools which are classifiable as M-1 schools are provided for by regulations under **8 CFR 214.2(m)**.

(iii) Reduced course load. The designated school official may allow an F-1 student to engage in less than a full course of study as provided in this paragraph (f)(6)(iii). Except as otherwise noted, a reduced course load must consist of at least six semester or quarter hours, or half the clock hours required for a full course of study. A student who drops below a full course of study without the prior approval of the DSO will be considered out of status. On-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship is deemed to be part of the academic program of a student otherwise taking a full course of study. (Paragraph (f)(6)(iii) revised effective 1/1/03; **67 FR 76256**)

(A) Academic difficulties. The DSO may authorize a reduced course load on account of a student's initial difficulty with the English language or reading requirements, unfamiliarity with U.S. teaching methods, or improper course level placement. The student must resume a full course of study at the next available term, session, or semester, excluding a summer session, in order to maintain student status. A student previously authorized to drop below a full course of study due to academic difficulties is not eligible for a second authorization by the DSO due to academic difficulties while pursuing a course of study at that program level. A student authorized to drop below a full course of study for academic difficulties while pursuing a course of study at a particular program level may still be authorized for a reduced course load due to an illness medical condition as provided for in paragraph (B) of this section.

(B) Medical conditions. The DSO may authorize a reduced course load (or, if necessary, no course load) due to a student's temporary illness or medical condition for a period of time not to exceed an aggregate of 12 months while the student is pursuing a course of study at a particular program level. In order to authorize a reduced course load based upon a medical condition, the student must provide medical documentation from a licensed medical doctor, doctor of osteopathy, or licensed clinical psychologist, to the DSO to substantiate the illness or medical condition. The student must provide current medical documentation and the DSO must reauthorize the drop below full course of study each new term, session, or semester. A student previously authorized to drop below a full course of study due to illness or medical condition for an aggregate of 12 months may not be authorized by a DSO to reduce his or her course load on subsequent occasions while pursuing a course of study at the same program level. A student may be authorized to reduce course load for a reason of illness or medical condition on more than one occasion while pursuing a course of study, so long as the aggregate period of that authorization does not exceed 12 months.

(C) Completion of course of study. The DSO may authorize a reduced course load in the student's final term, semester, or session if fewer courses are needed to complete the course of study. If the student is not required to take any additional courses to satisfy the requirements for completion, but continues to be enrolled for administrative purposes, the student is considered to have completed the course of study and must take action to maintain status. Such action may include application for change of status or departure from the U.S.

(D) Reporting requirements for non-SEVIS schools. A DSO must report to the Service any student who is authorized to reduce his or her course load. Within 21 days of the authorization, the DSO must send a photocopy of the student's current Form I-20ID along with Form I-538 to Service's data processing center indicating the date and reason that the student was authorized to drop below full time status. Similarly, the DSO will report to the Service no more than 21 days after the student has resumed a full course of study by submitting a current copy of the students' Form I20ID to the Service's data processing center indicating the date a full course of study was resumed and the new program end date with Form I-538, if applicable.

(E) SEVIS reporting requirements. In order for a student to be authorized to drop below a full course of study, the DSO must update SEVIS prior to the student reducing his or her course load. The DSO must update SEVIS with the date, reason for authorization, and the start date of the next term or session. The DSO must also notify SEVIS within 21 days of the student's commencement of a full course of study. If an extension of the program end date is required due to the drop below a full course of study, the DSO must update SEVIS by completing a new SEVIS Form I-20 with the new program end date in accordance with paragraph (f)(7) of this section.

(iv) Concurrent enrollment. An F-1 student may be enrolled in two different Service-approved schools at one time as long as the combined enrollment amounts to a full time course of study. In cases where a student is concurrently enrolled, the school from which the student will earn his or her degree or certification should issue the Form I-20, and conduct subsequent certifications and updates to the Form I-20. The DSO from this school is also responsible for all of the reporting requirements to the Service. In instances where a student is enrolled in programs with different full course of study requirements (e.g., clock hours vs. credit hours), the DSO is permitted to determine what constitutes a full time course of study. (Added effective 1/1/03; **67 FR 76256**)

(7) Extension of stay—

(i) General. An F-1 student who is admitted for duration of status is not required to apply for extension of stay as long as the student is maintaining status and making normal progress toward completion of his or her educational objective. An F-1 student who is currently maintaining status and making normal progress toward completing his or her educational objective, but who is unable to complete his or her course of study by the program end date on the Form I-20, must apply prior to the program end date for a program extension pursuant to paragraph (f)(7)(iii) of this section. (Paragraph (f)(7) revised effective 1/1/03; **67 FR 76256**)(Amended 8/27/02; **67 FR 54941**)

(ii) Report date and program completion date on Form I-20. When determining the report date on the Form I-20, the DSO may choose a reasonable date to accommodate a student's need to be in attendance for required activities at the school prior to the actual start of classes. Such required activities may include, but are not limited to, research projects and orientation sessions. However, for purposes of employment, the DSO may not indicate a report date more than 30 days prior to the start of classes. When determining the program completion date on Form I-20, the DSO should make a reasonable estimate based upon the time an average student would need to complete a similar program in the same discipline.

(iii) Program extension for students in lawful status. An F-1 student who is unable to meet the program completion date on the Form I-20 may be granted an extension by the DSO if the DSO certifies that the student has continually maintained status and that the delays are caused by compelling academic or medical reasons, such as changes of major or research topics, unexpected research problems, or documented illnesses. Delays caused by academic probation or suspension are not acceptable reasons for program extensions. A DSO may not grant an extension if the student did not apply for an extension until after the program end date noted on the Form I-20. An F-1 student who is unable to complete the educational program within the time listed on Form I-20 and who is ineligible for program extension pursuant to this paragraph (f)(7) is considered out of status. If eligible, the student may apply for reinstatement under the provisions of paragraph (f)(16) of this section.

(iv) Notification. Upon granting a program extension, a DSO at a non-SEVIS school must immediately submit notification to the Service's data processing center using Form I-538 and the top page of Form I-20A-B showing the new program completion date. For a school enrolled in SEVIS, a DSO may grant a program extension only by updating SEVIS and issuing a new Form I-20 reflecting the current program end date. A DSO may grant an extension any time prior to the program end date listed on the student's original Form I-20.

(8) School transfer –

(i) A student who is maintaining status may transfer to another Service approved school by following the notification procedure prescribed in paragraph (f)(8)(ii) of this section. However, an F-1 student is not permitted to remain in the United States when transferring between schools or programs unless the student will begin classes at the transfer school or program within 5 months of transferring out of the current school or within 5 months of the program completion date on his or her current Form I-20, whichever is earlier. In the case of an F-1 student authorized to engage in post-completion optional practical training (OPT), the student must be able resume classes within 5 months of transferring out of the school that recommended OPT or the date the OPT authorization ends, whichever is earlier. An F-

1 student who was not pursuing a full course of study at the school he or she was last authorized to attend is ineligible for school transfer and must apply for reinstatement under the provisions of paragraph (f)(16) of this section, or, in the alternative, may depart the country and return as an initial entry in a new F-1 nonimmigrant status. (Revised effective 1/1/03; **67 FR 76256**)

(ii) Transfer procedure. To transfer schools, an F-1 student must first notify the school he or she is attending of the intent to transfer, then obtain a Form I-20 A-B, issued in accordance with the provisions of **8 CFR 214.3(k)**, from the school to which he or she intends to transfer. The transfer will be effected only if the F-1 student completes the Student Certification portion of the Form I-20 A-B and returns the form to a designated school official on campus within 15 days of beginning attendance at the new school.

(A) Non-SEVIS School to Non-SEVIS school. To transfer from one non-SEVIS school to a different non-SEVIS school, the student must first notify the school he or she is attending of the intent to transfer, then obtain a Form I-20 issued in accordance with the provisions of 8 CFR **214.3(k)** from the school to which he or she intends to transfer. Prior to issuance of any Form I-20, the DSO at the transfer school is responsible for determining that the student has been maintaining status at his or her current school and is eligible for transfer to the new school. The transfer will be effected only if the student completes the Student Certification portion of the Form I-20 and returns the form to a DSO of the transfer school within 15 days of the program start date listed on Form I-20. Upon receipt of the student's Form I-20 the DSO must note "transfer completed on (date)" in the space provided for the DSO's remarks, thereby acknowledging the student's attendance at the transfer school; return the Form I-20 to the student; submit the School copy of the Form I-20 to Service's Data Processing Center within 30 days of receipt from the student; and forward a photocopy of the school copy to the school from which the student transferred. (Added effective 1/1/03; **67 FR 76256**)

(B) Non-SEVIS school to SEVIS school. To transfer from a non-SEVIS school to a SEVIS school, the student must first notify the school he or she is attending of the intent to transfer, then obtain a SEVIS Form I-20 issued in accordance with the provisions of 8 CFR **214.3(k)** from the school to which he or she intends to transfer. Prior to issuance of any Form I-20, the DSO at the transfer school is responsible for determining that the student has been maintaining status at his or her current school and is eligible for transfer to the new school. Once the transfer school has issued the SEVIS Form I-20 to the student indicating a transfer, the transfer school becomes responsible for updating and maintaining the student's record in SEVIS. The student is then required to notify the DSO at the transfer school within 15 days of the program start date listed on SEVIS Form I-20. Upon notification that the student is enrolled in classes, the DSO of the transfer school must update SEVIS to reflect the student's registration and current address, thereby acknowledging that the student has completed the transfer process. In the remarks section of the student's SEVIS Form I-20, the DSO must note that the transfer has been completed, including the date, and return the form to the student. The transfer is effected when the transfer school updates SEVIS indicating that the student has registered in classes within the 30 days required by **§ 214.3(g)(3)(iii)**. (Added effective 1/1/03; **67 FR 76256**)

(C) SEVIS school to SEVIS school. To transfer from a SEVIS school to a SEVIS school the student must first notify his or her current school of the intent to transfer and must indicate the school to which he or she intends to transfer. Upon notification by the student, the current school will update the student's record in SEVIS as a "transfer out" and indicate the school to which the student intends to transfer, and a release date. The release date will be the current semester or session completion date, or the date of expected transfer if earlier than the established academic cycle. The current school will retain control over the student's record in SEVIS until the student completes the current term or reaches the release date. At the request of the student, the DSO of the current school may cancel the transfer request at any time prior to the release date. As of the release date specified by the current DSO, the transfer school will be granted full access to the student's SEVIS record and then becomes responsible for that student. The current school conveys authority and responsibility over that student to the transfer school, and will no longer have full SEVIS access to that student's record. As such, a transfer request may not be cancelled by the current DSO after the release date has been reached. After the release date, the transfer DSO must complete the transfer of the student's record in SEVIS and may issue a SEVIS Form I-20. The student is then required to

contact the DSO at the transfer school within 15 days of the program start date listed on the SEVIS Form I-20. Upon notification that the student is enrolled in classes, the DSO of the transfer school must update SEVIS to reflect the student's registration and current address, thereby acknowledging that the student has completed the transfer process. In the remarks section of the student's SEVIS Form I-20, the DSO must note that the transfer has been completed, including the date, and return the form to the student. The transfer is effected when the transfer school notifies SEVIS that the student has enrolled in classes in accordance with the 30 days required by **§ 214.3(g)(3)(iii)**. (Added effective 1/1/03; **67 FR 76256**)

(D) SEVIS school to non-SEVIS school. To transfer from a SEVIS school to a non-SEVIS school, the student must first notify his or her current school of the intent to transfer and must indicate the school to which he or she intends to transfer. Upon notification by the student, the current school will update the student's status in SEVIS as "a transfer out", enter a "release" or expected transfer date, and update the transfer school as "non-SEVIS." The student must then notify the school to which he or she intends to transfer of his or her intent to enroll. After the student has completed his or her current term or session, or has reached the expected transfer date, the DSO at the current school will no longer have full access to the student's SEVIS record. At this point, if the student has notified the transfer school of his or her intent to transfer, and the transfer school has determined that the student has been maintaining status at his or her current school, the transfer school may issue the student a Form I-20. The transfer will be effected only if the student completes the Student Certification portion of the Form I-20 and returns the form to a designated school official of the transfer school within 15 days of the program start date listed on Form I-20. Upon receipt of the student's Form I-20 the DSO must do as follows: note "transfer completed on (date)" in the space provided for the DSO's remarks, thereby acknowledging the student's attendance; return the Form I-20 to the student; submit the school copy of the Form I-20 to the Service's data processing center within 30 days of receipt from the student; and forward a photocopy of the school copy to the school from which the student transferred. (Added effective 1/1/03; **67 FR 76256**)

(iii) Notification. Upon receipt of the student's Form I-20 A-B, the DSO must:

(A) Note "transfer completed on (date)" on the student's I-20 ID in the space provided for the DSO's remarks, thereby acknowledging the student's attendance;

(B) Return the I-20 ID to the student;

(C) Submit the I-20 School copy to the Service's Data Processing Center within 30 days of receipt from the student; and

(D) Forward a photocopy of the Form I-20 A-B School Copy to the school from which the student transferred.

(9) Employment –

(i) On-campus employment. On-campus employment must either be performed on the school's premises, (including on-location commercial firms which provide services for students on campus, such as the school bookstore or cafeteria), or at an off-campus location which is educationally affiliated with the school. Employment with on-site commercial firms, such as a construction company building a school building, which do not provide direct student services is not deemed on-campus employment for the purposes of this paragraph. In the case of off-campus locations, the educational affiliation must be associated with the school's established curriculum or related to contractually funded research projects at the post-graduate level. In any event, the employment must be an integral part of the student's educational program. Employment authorized under this paragraph must not exceed 20 hours a week while school is in session, unless the Commissioner suspends the applicability of this limitation due to emergent circumstances, as determined by the Commissioner, by means of notice in the **Federal Register**, the student demonstrates to the DSO that the employment is necessary to avoid severe economic hardship resulting from the emergent circumstances, and the DSO notates the Form I-20

in accordance with the **Federal Register** document. An F-1 student may, however, work on campus full-time when school is not in session or during the annual vacation. A student who has been issued a Form I-20 A-B to begin a new program in accordance with the provision of **8 CFR 214.3(k)** and who intends to enroll for the next regular academic year, term, or session at the institution which issued the Form I-20 A-B may continue on-campus employment incident to status. Otherwise, an F-1 student may not engage in on-campus employment after completing a course of study, except employment for practical training as authorized under paragraph (f)(10) of this section. An F-1 student may engage in any on-campus employment authorized under this paragraph which will not displace United States residents. In the case of a transfer in SEVIS, the student may only engage in on-campus employment at the school having jurisdiction over the student's SEVIS record. Upon initial entry to begin a new course of study, an F-1 student may not begin on-campus employment more than 30 days prior to the actual start of classes. (Amended effective 1/1/03; **67 FR 76256**) (Amended 6/10/98; **63 FR 31872**)

(ii) Off-campus work authorization --

(A) General. An F-1 student may be authorized to work off-campus on a part-time basis in accordance with paragraph (f)(9)(ii)(B) or (C) of this section after having been in F-1 status for one full academic year provided that the student is in good academic standing as determined by the DSO. Part-time off-campus employment authorized under this section is limited to no more than twenty hours a week when school is in session. A student who is granted off-campus employment authorization may work full-time during holidays or school vacation. The employment authorization is automatically terminated whenever the student fails to maintain status. In emergent circumstances as determined by the Commissioner, the Commissioner may suspend the applicability of any or all of the requirements of paragraph (f)(9)(ii) of this section by notice in the **Federal Register**. (Amended 6/10/98; **63 FR 31872**)

(B) Reserved. (Removed and reserved effective 1/1/03; **67 FR 76256**)

(C) Severe economic hardship. If other employment opportunities are not available or are otherwise insufficient, an eligible F-1 student may request off-campus employment work authorization based upon severe economic hardship caused by unforeseen circumstances beyond the student's control. These circumstances may include loss of financial aid or on-campus employment without fault on the part of the student, substantial fluctuations in the value of currency or exchange rate, inordinate increases in tuition and/or living costs, unexpected changes in the financial condition of the student's source of support, medical bills, or other substantial and unexpected expenses.

(D) Procedure for off-campus employment authorization. Procedure for off-campus employment authorization due to severe economic hardship. The student must request a recommendation from the DSO for off-campus employment. The DSO at a non-SEVIS school must make such a certification on Form I-538, Certification by Designated School Official. The DSO of a SEVIS school must complete such certification in SEVIS. The DSO may recommend the student for work off-campus for one year intervals by certifying that: (Revising paragraph (f)(9)(ii)(D); **67 FR 76256**)

- (1) The student has been in F-1 status for one full academic year;
- (2) The student is in good standing as a student and is carrying a full course of study as defined in paragraph (f)(6) of this section;
- (3) The student has demonstrated that acceptance of employment will not interfere with the student's carrying a full course of study; and
- (4) The student has demonstrated that the employment is necessary to avoid severe economic hardship due to unforeseen circumstances beyond the student's control pursuant to paragraph (f)(9)(ii)(C) of this section and has demonstrated that employment under paragraph (f)(9)(i) of this section is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

(E) Reserved. (Removed and reserved effective 1/1/03; **67 FR 76256**)

(F) Severe economic hardship application-

(1) The applicant should submit the economic hardship application for employment authorization on Form I-765, with the fee required by **8 CFR 103.7(b)(1)**, to the service center having jurisdiction over his or her place of residence. Applicants at a non-SEVIS school should submit Form I-20, Form I-538, and any other supporting materials such as affidavits which further detail the unforeseen circumstances that require the student to seek employment authorization and the unavailability or insufficiency of employment under paragraph (f)(9)(i) of this section. Students enrolled in a SEVIS school should submit the SEVIS Form I-20 with the employment page demonstrating the DSO's comments and certification. (Paragraph (f)(9)(ii)(F)

(1) revised effective 1/1/03; **67 FR 76256**)

(2) The Service shall adjudicate the application for work authorization based upon severe economic hardship on the basis of Form I-20 ID, Form I-538, and Form I-765, and any additional supporting materials. If employment is authorized, the adjudicating officer shall issue an EAD. The Service director shall notify the student of the decision, and, if the application is denied, of the reason or reasons for the denial. No appeal shall lie from a decision to deny a request for employment authorization under this section. The employment authorization may be granted in one year intervals up to the expected date of completion of the student's current course of study. A student has permission to engage in off-campus employment only if the student receives the EAD endorsed to that effect. Off-campus employment authorization may be renewed by the Service only if the student is maintaining status and good academic standing. The employment authorization is automatically terminated whenever the student fails to maintain status.

(iii) Internship with an international organization. A bona fide F-1 student who has been offered employment by a recognized international organization within the meaning of the International Organization Immunities Act (59 Stat. 669) must apply for employment authorization to the service center having jurisdiction over his or her place of residence. A student seeking employment authorization under this provision is required to present a written certification from the international organization that the proposed employment is within the scope of the organization's sponsorship, Form I-20 ID or SEVIS Form I-20 with employment page completed by DSO certifying eligibility for employment, and a completed Form I-765, with required fee as contained in **§ 103.7(b)(1)** of this chapter. (Revised effective 1/1/03; **67 FR 76256**)

(10) Practical training. Practical training may be authorized to an F-1 student who has been lawfully enrolled on a full time basis, in a Service-approved college, university, conservatory, or seminary for one full academic year. This provision also includes students who, during their course of study, were enrolled in a study abroad program, if the student had spent at least one full academic term enrolled in a full course of study in the United States prior to studying abroad. A student may be authorized 12 months of practical training, and becomes eligible for another 12 months of practical training when he or she changes to a higher educational level. Students in English language training programs are ineligible for practical training. An eligible student may request employment authorization for practical training in a position that is directly related to his or her major area of study. There are two types of practical training available: (Introductory text revised effective 1/1/03; **67 FR 76256**)

(i) Curricular practical training programs. An F-1 student may be authorized by the DSO to participate in a curricular practical training program that is an integral part of an established curriculum. Curricular practical training is defined to be alternative work/study, internship, cooperative education, or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school. Students who have received one year or more of full time curricular practical training are ineligible for post-completion academic training. Exceptions to the one academic year requirement are provided for students enrolled in graduate studies that require immediate participation in curricular practical training. A request for authorization for curricular practical training must be made to the DSO. A student may begin curricular practical training only after receiving his or her Form I-20 with the DSO endorsement. (Revised effective 1/1/03; **67 FR 76256**)

(A) Non-SEVIS process. A student must request authorization for curricular practical training using

Form I-538. Upon approving the request for authorization, the DSO shall: certify Form I-538 and send the form to the Service's data processing center; endorse the student's Form I-20 ID with "full-time (or part-time) curricular practical training authorized for (employer) at (location) from (date) to (date)"; and sign and date the Form I-20ID before returning it to the student.

(B) SEVIS process. To grant authorization for a student to engage in curricular practical training, a DSO at a SEVIS school will update the student's record in SEVIS as being authorized for curricular practical training that is directly related to the student's major area of study. The DSO will indicate whether the training is full-time or part-time, the employer and location, and the employment start and end date. The DSO will then print a copy of the employment page of the SEVIS Form I-20 indicating that curricular practical training has been approved. The DSO must sign, date, and return the SEVIS Form I-20 to the student prior to the student's commencement of employment.

(ii) Optional practical training--

(A) General. A student may apply to the Service for authorization for temporary employment for optional practical training directly related to the student's major area of study. The student may not begin optional practical training until the date indicated on his or her employment authorization document, Form I-766 or Form 688B. A student may submit an application for authorization to engage in optional practical training up to 90 days prior to being enrolled for one full academic year, provided that the period of employment will not begin until after the completion of the full academic year as indicated by the DSO. A student may be granted authorization to engage in temporary employment for optional practical training: (Paragraph (f)(10)(ii)(A) revised effective 1/1/03; **67 FR 76256**)

(1) During the student's annual vacation and at other times when school is not in session, if the student is currently enrolled, and is eligible for registration and intends to register for the next term or session;

(2) While school is in session, provided that practical training does not exceed 20 hours a week while school is in session; or

(3) After completion of the course of study, or, for a student in a bachelor's, master's, or doctoral degree program, after completion of all course requirements for the degree (excluding thesis or equivalent). Continued enrollment, for the school's administrative purposes, after all requirements for the degree have been met does not preclude eligibility for optional practical training. However, optional practical training must be requested prior to the completion of all course requirements for the degree or prior to the completion of the course of study. A student must complete all practical training within a 14-month period following the completion of study.

(B) Termination of practical training. Authorization to engage in optional practical training employment is automatically terminated when the student transfers to another school or begins study at another educational level. (Revised effective 1/1/03; **67 FR 76256**)

(C) Request for authorization for practical training. A request for authorization to accept practical training must be made to the designated school official (DSO) of the school the student is authorized to attend on Form I-538, accompanied by his or her current Form I-20 ID.

(D) Action of the DSO-Non SEVIS schools. In making a recommendation for practical training, a designated school official must: (Heading revised effective 1/1/03; **67 FR 76256**)

(1) Certify on Form I-538 that the proposed employment is directly related to the student's major area of study and commensurate with the student's educational level;

(2) Endorse and date the student's Form I-20 ID to show that practical training in the student's major field of study is recommended "full-time (or part-time) from (date) to (date)"; and

(3) Return to the student the Form I-20 ID and send to the Service data processing center the school certification on Form I-538.

(E) SEVIS process. In making a recommendation for optional practical training under SEVIS, the DSO will update the student's record in SEVIS as having been recommended for optional practical training. A DSO who recommends a student for optional practical training is responsible for maintaining the record of the student for the duration of the time that training is authorized. The DSO will indicate in SEVIS whether the employment is to be full-time or part-time, and note in SEVIS the start and end date of employment. The DSO will then print the employment page of the student's SEVIS Form I-20, and sign and date the form to indicate that optional practical training has been recommended. The student must file with the service center for an Employment Authorization Document, on Form I-765, with fee and the SEVIS Form I-20 employment page indicating that optional practical training has been recommended by the DSO. (Added effective 1/1/03; **67 FR 76256**)

(11) Employment authorization. The total periods of authorization for optional practical training under paragraph (f)(10) of this section shall not exceed a maximum of twelve months. Part-time practical training, 20 hours per week or less, shall be deducted from the available practical training at one-half the full-time rate. As required by the regulations at **8 CFR 274a**, an F-1 student seeking practical training (excluding curricular practical training) under paragraph (f)(10) of this section may not accept employment until he or she has been issued an Employment Authorization Document (EAD) by the Service. An F-1 student must apply to the INS for the EAD by filing the Form I-765. The application for employment authorization must include the following documents: (Amended 6/3/95; **60 FR 21973**)

(i) A completed Form I-765, with the fee required by **Sec. 103.7(b)(1)**; and

(ii) A DSO's recommendation for optional practical training on Form I-20ID, or, for a SEVIS school, on an updated SEVIS Form I-20. (Revised effective 1/1/03; **67 FR 76256**)

(12) Decision on application for employment authorization. The Service shall adjudicate the Form I-765 and issue an EAD on the basis of the DSO's recommendation unless the student is found otherwise ineligible. The Service shall notify the applicant of the decision and, if the application is denied, of the reason or reasons for the denial. The applicant may not appeal the decision. An F-1 student authorized by the Service to engage in practical training is required to report any change of name or address, or interruption of such employment to the DSO for the duration of the authorized training. A DSO who recommends a student for optional practical training is responsible for updating the student's record to reflect these reported changes for the duration of the time that training is authorized. (Revised effective 1/1/03; **67 FR 76256**) (Amended 6/3/95; **60 FR 21973**)

(13) Temporary absence from the United States of F-1 student granted employment authorization.

(i) A student returning from a temporary trip abroad with an unexpired off-campus employment authorization on his or her I-20 ID may resume employment only if the student is readmitted to attend the same school which granted the employment authorization.

(ii) An F-1 student who has an unexpired EAD issued for post-completion practical training and who is otherwise admissible may return to the United States to resume employment after a period of temporary absence. The EAD must be used in combination with an I-20 ID endorsed for reentry by the DSO within the last six months.

(14) Effect of strike or other labor dispute. Any employment authorization, whether or not part of an academic program, is automatically suspended upon certification by the Secretary of Labor or the Secretary's designee to the Commissioner of the Immigration and Naturalization Service or the Commissioner's designee, that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. As used in this paragraph, "place of employment" means the facility or facilities where a labor dispute exists. The employer is prohibited from transferring F1 students working at other facilities to the facility where the work stoppage is occurring.

(15) Spouse and children of F-1 student. The F-2 spouse and minor children of an F-1 student shall each be issued an individual SEVIS Form I-20 in accordance with the provisions of **§ 214.3(k)**. (Revised effective 1/1/03; **67 FR 76256**)

(i) Employment. The F-2 spouse and children of an F-1 student may not accept employment.

(ii) Study.

(A) The F-2 spouse of an F-1 student may not engage in full time study, and the F-2 child may only engage in full time study if the study is in an elementary or secondary school (kindergarten through twelfth grade). The F-2 spouse and child may engage in study that is avocational or recreational in nature.

(B) An F-2 spouse or F-2 child desiring to engage in full time study, other than that allowed for a child in paragraph (f)(15)(ii)(A) of this section, must apply for and obtain a change of nonimmigrant classification to F-1, J-1, or M-1 status. An F-2 spouse or child who was enrolled on a full time basis prior to January 1, 2003, will be allowed to continue study but must file for a change of nonimmigrant classification to F-1, J-1, or M-1 status on or before March 11, 2003.

(C) An F-2 spouse or F-2 child violates his or her nonimmigrant status by engaging in full time study except as provided in paragraph (f)(15)(ii)(A) or (B) of this section.

(16) Reinstatement to student status.-- (Revised effective 1/1/03; **67 FR 76256**)(Amended 6/3/95; **60 FR 21973**)

(i) General. The district director may consider reinstating a student who makes a request for reinstatement on Form I-539, Application to Extend/Change Nonimmigrant Status, accompanied by a properly completed SEVIS Form I-20 indicating the DSO's recommendation for reinstatement (or a properly completed Form I-20A-B issued prior to January 30, 2003, from the school the student is attending or intends to attend prior to August 1, 2003). The district director may consider granting the request if the student:

(A) Has not been out of status for more than 5 months at the time of filing the request for reinstatement (or demonstrates that the failure to file within the 5 month period was the result of exceptional circumstances and that the student filed the request for reinstatement as promptly as possible under these exceptional circumstances);

(B) Does not have a record of repeated or willful violations of Service regulations;

(C) Is currently pursuing, or intending to pursue, a full course of study in the immediate future at the school which issued the Form I-20;

(D) Has not engaged in unauthorized employment;

(E) Is not deportable on any ground other than section **237(a)(1)(B)** or **(C)(i)** of the Act; and

(F) Establishes to the satisfaction of the Service, by a detailed showing, either that:

(1) The violation of status resulted from circumstances beyond the student's control. Such circumstances might include serious injury or illness, closure of the institution, a natural disaster, or inadvertence, oversight, or neglect on the part of the DSO, but do not include instances where a pattern of repeated violations or where a willful failure on the part of the student resulted in the need for reinstatement; or

(2) The violation relates to a reduction in the student's course load that would have been within a DSO's power to authorize, and that failure to approve reinstatement would result in extreme hardship to the student.

(ii) Decision. If the Service reinstates the student, the Service shall endorse the student's copy of Form I-20 to indicate the student has been reinstated and return the form to the student. If the Form I-20 is from a non-SEVIS school, the school copy will be forwarded to the school. If the Form I-20 is from a SEVIS school, the adjudicating officer will update SEVIS to reflect the Service's decision. In either case, if the

Service does not reinstate the student, the student may not appeal that decision.

(17) Current name and address. A student must inform the DSO and the Service of any legal changes to his or her name or of any change of address, within 10 days of the change, in a manner prescribed by the school. A student enrolled at a SEVIS school can satisfy the requirement in **8 CFR 265.1** of notifying the Service by providing a notice of a change of address within 10 days to the DSO, who in turn shall enter the information in SEVIS within 21 days of notification by the student. A student enrolled at a non-SEVIS school must submit a notice of change of address to the Service, as provided in **8 CFR 265.1**, within 10 days of the change. Except in the case of a student who cannot receive mail where he or she resides, the address provided by the student must be the actual physical location where the student resides rather than a mailing address. In cases where a student provides a mailing address, the school must maintain a record of, and must provide upon request from the Service, the actual physical location where the student resides. (Added effective 1/1/03; **67 FR 76256**)(Added and reserved 8/27/02; **67 FR 54941**)

(18) Special rules for certain border commuter students. (Paragraph (f)(18) added 8/27/02; **67 FR 54941**)

(i) Applicability. For purposes of the special rules in this paragraph (f)(18), the term "border commuter student" means a national of Canada or Mexico who is admitted to the United States as an F-1 nonimmigrant student to enroll in a full course of study, albeit on a part-time basis, in an approved school located within 75 miles of a United States land border. A border commuter student must maintain actual residence and place of abode in the student's country of nationality, and seek admission to the United States at a land border port-of-entry. These special rules do not apply to a national of Canada or Mexico who is:

(A) Residing in the United States while attending an approved school as an F-1 student, or

(B) Enrolled in a full course of study as defined in paragraph (f)(6) of this section.

(ii) Full course of study. The border commuter student must be enrolled in a full course of study at the school that leads to the attainment of a specific educational or professional objective, albeit on a part-time basis. A designated school official at the school may authorize an eligible border commuter student to enroll in a course load below that otherwise required for a full course of study under paragraph (f)(6) of this section, provided that the reduced course load is consistent with the border commuter student's approved course of study.

(iii) Period of admission. An F-1 nonimmigrant student who is admitted as a border commuter student under this paragraph (f)(18) will be admitted until a date certain. The DSO is required to specify a completion date on the Form I-20 that reflects the actual semester or term dates for the commuter student's current term of study. A new Form I-20 will be required for each new semester or term that the border commuter student attends at the school. The provisions of paragraphs (f)(5) and (f)(7) of this section, relating to duration of status and extension of stay, are not applicable to a border commuter student.

(iv) Employment. A border commuter student may not be authorized to accept any employment in connection with his or her F-1 student status, except for curricular practical training as provided in paragraph (f)(10)(i) of this section or post-completion optional practical training as provided in paragraph (f)(10)(ii)(A)(3) of this section.