

USCIS Issues New Guidance on F and M Student Visa Classifications

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On December 20, 2023, U.S. Citizenship and Immigration Services (USCIS) updated its official policy manual chapters on F and M nonimmigrant student classifications.

Quick Hits

- USCIS's updated policy manual consolidates existing policy to provide clarity for international students and U.S. educational institutions on topics including eligibility requirements, school transfers, practical training, and on- and off-campus employment.
- USCIS clarified that F and M students may be the beneficiaries of permanent labor certification applications or immigrant petitions and still be able to demonstrate their intent to depart after a temporary period of stay.
- For F students seeking an extension of OPT based on their degree in a STEM field, the guidance outlines provisions for employment by a start-up business.

The [updated policy guidance for F and M student classifications](#) consolidates and clarifies existing policy into one cohesive document in an effort to provide clarity to international students and U.S. educational institutions. The guidance covers topics including the agency's role in adjudicating applications for employment authorization, change of status, extension of stay, and reinstatement of status for students and their dependents in the United States.

In order to be eligible for F and M student classifications, students must intend to depart from the United States following their temporary periods of stay, typically following the end of the degree program and any period of practical training. Students must maintain a foreign residence that they do not intend to abandon. Notably, the policy guidance clarifies that F and M students may be the beneficiary of a permanent labor certification application or immigrant visa petition and still be able to demonstrate their intent to depart after a temporary period of stay. Having a pending or approved labor certification application or immigrant visa petition will not necessarily impact a student's eligibility for these classifications. USCIS officers will consider all facts when determining if a student has demonstrated eligibility.

In the employment context, the guidance clarifies that an F-1 student seeking the two-year science, technology, engineering, and mathematics (STEM) optional practical training (OPT) extension may be employed by a start-up business provided that the start-up adheres to the regulatory requirements, including complying with training plan requirements and maintaining good standing with E-Verify. The guidance also clarifies that alternative compensation may be permitted during the STEM OPT extension as long as the F-1 student can demonstrate “they are a bona fide employee and that their compensation ... is commensurate with the compensation provided to other similarly situated U.S. workers.”

Key Takeaways

The policy guidance offers new clarity for students and U.S. educational institutions with regard to the considerations made by officers when determining eligibility for F and M student classifications and when assessing options for employment.

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