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What Employers Should Know About Hiring International Students

Many employers are concerned about liability related to the employment of international students in the United States due to changes in federal laws governing non-citizens, however, getting permission for international students to work in the U.S. is not as difficult as many employers think. International students are in the U.S. on non-immigrant student visas (F-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. There are two types of practical training: *Curricular Practical Training and Optional Practical Training*.

Curricular Practical Training (CPT) may be authorized by the Services for International Students and Scholars (SISS) office at UC Davis for F-1 students participating in curricular-related employment such as cooperative education, work study, practicum and internship programs and is done prior to completing an academic program. Authorization is printed on the 3rd page of the I-20, a U.S. government-issued document which verifies the student's admission to UC Davis, and will include the name of your company, authorized start and end date, and the signature of the designated school official (DSO). Students must present an offer of employment to a DSO at their institution in order to receive authorization to engage in CPT.

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) or advisor at the school which issued the form I-20. Students who have received OPT permission will be issued an Employment Authorization Document (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 CIS to issue the EAD is three months, and students may begin employment only after they receive the EAD which will indicate the starting and ending dates of employment.

Minimal paper work for the employer

Fortunately, little paperwork is required for an employer to hire an F-1 student. All paperwork is handled by SISS at UC Davis and USCIS. For Curricular Practical Training, the school will make a notation on the students' copy of the I-20 form indicating that curricular practical training has been authorized and the duration and place of employment will be specified. Students authorized for optional practical training are required to apply to USCIS (through the school) for an Employment Authorization Document (EAD).

Continuing employment after the practical/academic training period

Federal regulations require that employment terminate at the conclusion of the authorized practical or academic training.

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)

CFR Title 8 citations governing IRCA requirements are:

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

Copies of Code of Federal Regulations are available from the Superintendent of Documents in Washington D.C. or from the web site: <http://www.access.gpo.gov/nara/cfr/index.html>

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 visas within certain limits. These visas allow students to work in jobs related to their major field of study. F-1 students can engage in "practical 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 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 following graduation. However, if they work full-time for one year or more of curricular practical training, they are not eligible for Optional Practical Training.

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, F-1 students must have a written job offer in order to apply for CPT. Many F-1 students on OPT 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 an Employment Authorization Document (EAD) from USCIS, 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 USCIS) on the back of the student's I-20. "No Service endorsement is necessary" - per 8CFR 274a.12(b)(6)(iii).

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").

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