



Follow-Up Questions and Answers

The CIS Ombudsman's Webinar Series: Interagency Engagement on International Student Issues

Thursday, August 25, 2022

1 - 2:15 p.m. EDT

U.S. Citizenship and Immigration Services (USCIS) provided these answers to stakeholder questions gathered from the webinar.

Maintaining F-1 status

Q1. Can a student under [Optional Practical Training \(OPT\)](#) travel out of the country for a few days (less than five days) without notifying the designated school official (DSO) or employer or do they need permission to travel?

A1. No, students should consult their DSO prior to travelling. The student must have a current [Student and Exchange Visitor Information System's \(SEVIS\) Form I-20, Certificate of Eligibility for Nonimmigrant Student Status](#) endorsed for travel and their DSO needs to be able to verify that the student's SEVIS record is accurate and up to date under Title 8 of the Code of Federal Regulations (8 CFR) section 214.2(f)(13). In addition to a Form I-20, endorsed for travel and signed by their DSO, other basic requirements for re-entry include:

- The student has been out of the United States for less than five months;
- A current passport valid for at least six months after the date of the student's reentry or, if they are from certain countries, a passport that is current through the date of entry;
- A valid, current visa or the student travelled to a contiguous country or adjacent island for less than thirty days; and
- Financial information showing proof of necessary funds to cover tuition and/or living expenses.

Reinstatement

Q2. Is there a plan for USCIS to communicate updates about reinstatement applications from [Form I-539, Application to Extend/Change Nonimmigrant Status](#) to F-1 into SEVIS? Currently, DSOs cannot see any updates on pending applications.

A2. Officers adjudicating reinstatement cases update SEVIS in the remarks section of SEVIS to notify DSOs if a request for evidence (RFE) has been sent or if the case has been denied. If the case is approved, an approval notice for reinstatement is provided to the DSO via SEVIS upon approval of the case in SEVIS.

Q3. Can an F-1 student who files for reinstatement through USCIS and subsequently graduates while the application is still pending continue to remain in the U.S. indefinitely without pursuing any additional educational objective while their application is pending?

A3. An F-1 student is considered to be maintaining status if he or she is making normal progress toward completing a course of study. 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 to depart the United States or to transfer in accordance with the regulations.

Q4. What actions can the DSO take at that point and what deadlines must be met?

A4. DSOs must update a student's Program End Date to reflect graduation from or successful completion of the program within 21 days of the change.

OPT

Q5. When a foreign national in F-1 status applies for adjustment of status, is their [OPT](#) employment authorization document (EAD) or science, technology, engineering, and mathematics (STEM) OPT EAD invalidated? If they hold an OPT EAD, can they file a STEM OPT EAD extension while their adjustment of status application is pending?

A5. There are no prohibitions to applying and qualifying for multiple EADs under different categories.

An F-1 student does not violate the terms of his or her nonimmigrant status, including any employment authorization issued to engage in OPT, merely by filing an application to adjust status. The F-1 nonimmigrant must continue to comply with all requirements for maintaining F-1 status in order to remain eligible for OPT and STEM OPT.

To qualify for [STEM OPT](#), the F-1 nonimmigrant must:

- Have been granted OPT and currently be in a valid period of post-completion OPT;
- Have earned a bachelor's, master's, or doctoral degree from a school that is accredited by a U.S. Department of Education-recognized accrediting agency and is certified by at the time he or she submits the STEM OPT extension application.

Q6. What are the current processing times for F-1 OPT EADs?

A6. Eighty percent of cases are completed within 1.5 months. You can see processing times on USCIS' [Check Case Processing Times](#) page.

Q7. Does a student with one semester on H-4 and a subsequent semester on F-1 have two semesters required for post-completion OPT? Or must a student have two semesters on F-1 status to qualify for post-completion OPT?

A7. Students are required to be registered full-time in a degree program for at least one academic year in valid F-1 status.

Q8. Students are reporting that when filing for STEM OPT, their Form I-765 reflects their current address but the receipt notice doesn't update and reflects their old address used when they filed for OPT. Is this a glitch? How can this be rectified?

A8. The system is designed to capture the mailing address provided on the Form I-765 unless an update is provided following the receipt of the application. If a card is not received after 90 days of approval, [you can submit an e-request for non-delivery of card](#).

Form I-765, Application for Employment Authorization

Q9. Is there a way to require that the DSO recommendation is included before allowing applicants to file Form I-765 online?

A9. USCIS follows the same intake procedures for paper and online filings. In both procedures, USCIS will reject filings for lack of fee, using an outdated form, lack of signature, or if the form is not filled out completely. USCIS does not reject a [Form I-765, Application for Employment Authorization](#) for failure to submit required evidence. However, an applicant must follow all form instructions and regulations when completing an online application. The applicant must upload a copy of Form I-20 endorsed by the DSO.

If you filed Form I-765 without originally uploading Form I-20, you can upload Form I-20 as unsolicited evidence under the "Documents Tab" in your online account up to the point of adjudication. For the (c)(3)(B) eligibility category, your DSO must have entered the recommendation for OPT into the SEVIS record within 30 days of you submitting Form I-765. For the (c)(3)(C) eligibility category, the Form I-20 must have been endorsed by the DSO within 60 days of submitting Form I-765.

Q10. Students have been able to print or download a draft Form I-765 before submitting online. Will this function return in the future?

A10. When the applicant files online through their USCIS online account, they have the ability to print or save an electronic version of their application before and after submitting. This electronically submitted form has an "Electronic Form Only" watermark and should never be printed and mailed to USCIS. It is for the applicant's records only. Any forms submitted with this watermark will be rejected by USCIS.

Q11. Is it better to have students complete and submit the Form I-765 by mail or online? Which method is recommended and why?

A11. As a practical matter, USCIS will receive an online application sooner than a mailed one. However, that does not mean the case will be adjudicated faster. When you submit your Form I-765 online, you will get a receipt notice and receipt number immediately. After that, you will be able to see other notices in the documents tab, like your biometrics appointment notice (if required), any RFE, or a decision letter. We also will mail paper notices to you, and to your attorney if you have one. In your account profile, you can sign up to receive automatic case updates via email or text message so you will know when we have added a document to your account. Having the convenience and assurance that your notices are all in the account is one of the best benefits of applying online.

Q12. Can a DSO withdraw a Form I-20 recommendation and enter a new one to correct an error? If so, would the 30/60 days be reset?

A12. No, the filing deadlines are mandated by regulations and cannot be modified. DSOs can withdraw or correct records under certain circumstances, but such a withdrawal/correction does not change the regulatory requirement that students file the Form I-765 for post-completion OPT with USCIS no later than 60 days after completing the degree.

Systematic Alien Verification for Entitlements (SAVE)

Q13. Can USCIS clarify how long students need to wait from entry until information is in [SAVE](#) and available to the Social Security Administration (SSA) and departments of motor vehicles (DMVs)?

A13. SAVE does not contain student immigration status information. Instead, SAVE accesses U.S. Department of Homeland Security (DHS) records and, for student status, relies upon information reflected in SEVIS. The DHS Student and Exchange Visitor Program (SEVP) recommends waiting at least 10 calendar days after arriving in the United States to apply for a Social Security number (SSN).

Q14. Can SAVE work with other USCIS components to allow for validation through SAVE for those in a pending immigration status? For example, for H-4s who have applied for an extension, processing times may be eight months or more, and if they need a driver's license, they have a difficult time getting the benefits and no recourse to expedite processing.

A14. As stated above, SAVE accesses DHS records and does verify whether a noncitizen has a pending application or petition. Historically, this often required additional manual verification, but SAVE has implemented pending asylum and pending adjustment of status as automated initial verification responses for web browser users and published specifications for system-to-system users (web services) to implement. SAVE is also exploring how to implement automated responses for other applications and petitions.

Please also know that certain H-4 nonimmigrants¹ are subject to the May 4, 2022 [temporary final rule](#) (found in [87 Federal Register 26614](#)) that temporarily increases employment authorization and/or the EAD auto-extension period for certain applicants who apply to renew their EAD on

¹ Noncitizen spouses (H-4) of H-1B nonimmigrants with an unexpired Form I-94 showing H-4 nonimmigrant status (C26).

time. Specifically, the rule temporarily increases employment authorization and/or the EAD auto-extension period up to 540 days from the expiration date on their EAD. Previously, the EAD auto-extension was only up to 180 days. SAVE will generally verify employment authorization for this EAD auto-extension as part of the automated initial verification.

Student and Exchange Visitor Information System (SEVIS)

Q15. Some students are running into issues with USCIS not updating SEVIS with the H-1B cap change of status application. Is anything being done to improve this?

A15. This issue has been prioritized for USCIS' Office of Information Technology (OIT) and will be included as an action item in upcoming meetings with the SEVIS team.

Q16. There have been problems with integration between USCIS and SEVIS for I-765 withdrawals. Since the online application has gained traction, there is an uptick in students applying for OPT without the supporting recommendation in SEVIS. After withdrawal, DSOs issue a recommendation and the student submits a new application, but the recommendation for the second application is being removed from SEVIS as part of the withdrawal for the unsupported application. Is USCIS aware and is there a fix coming?

A16. There is no immediate systemic fix available to account for improper filings. Under the regulations, students must file their Form I-765 with USCIS after the DSO authorizes the student for post-completion OPT in the SEVIS record. If a student applies for post-completion OPT without the DSO recommendation in their SEVIS record, the Form I-765 will be denied due to the lack of the DSO recommendation in SEVIS. The student *must* then file a second Form I-765. All regulatory deadlines still apply. The student must file the Form I-765 with USCIS within 30 days after the DSO enters the recommendation in SEVIS. They may apply up to 90 days before program end date but no later than 60 days after program end date. If the second Form I-765 is denied, the DSO can use the DSO mailbox to request a USCIS review.

In terms of the withdrawal, if the withdrawal request is submitted through a customer service ticket or the mailbox, those requests are processed as soon as they are reviewed. If the withdrawal is uploaded to the student's online account, the request will not be processed until the officer processes the Form I-765. For the scenario in which the student files late, the student must first obtain a USCIS withdrawal acknowledgement, *then* request that the DSO enter a new recommendation for post-completion OPT in their SEVIS record, before submitting another Form I-765 with USCIS. Again, all regulatory deadlines still apply.

Q17. Can the Vermont Service Center (VSC) and California Service Center (CSC) coordinate the [Form I-612, Application for Waiver of the Foreign Residence Requirement](#) approval of the State 30 waiver notification? There is always a delay with this notification which causes delays with the H-1B adjudication. Perhaps an email notification? Does CSC have access to VSC I-612 approvals through a shared system?

A17. Officers at VSC and CSC do coordinate the Form I-612 approval and have information available to help inform the adjudication of the Form I-129 H-1B petition and the I-612 waiver application. Earlier this year, the VSC had a frontlog in data entering the information pulled in from the Department of State system, which delayed the generation of a receipt number and

adjudication of the I-612 applications. That frontlog has since been eliminated and receipt numbers are being generated and cases are being adjudicated accordingly.

Change of Address

Q18. Can USCIS please confirm that if a student has already reported a change of address for a pending case through their USCIS online account, they should also still report their new address through the change of address form on the USCIS website, but they should not provide their pending case number?

A18. Applicants are legally required to complete [Form AR-11, Alien's Change of Address Card](#) (either electronically or by mailing the paper form) within 10 days of changing their address. Applicants do not need to mail Form AR-11 if they use the [Form AR-11 webform](#) on the USCIS [Change of Address](#) page. Filing the Form AR-11 webform will update their address on all pending applications, petitions, or requests that the applicant includes in the webform. If an applicant does not have a receipt number, they can still submit an address update, but that update will not be recorded in any systems where the individual may have a pending benefit request. USCIS strongly recommends that applicants also change their address in their USCIS online account to ensure they receive all notices sent to them.

USCIS is working to improve change of address online, including by ensuring that updates in change of address in an account can will meet the Form AR-11 address change update requirement.

Q19. SEVP already requires students to update their U.S. residential address within 10 days of any change. Therefore, do students also need to complete the AR-11 any time they move post-graduation even once their I-765 application is approved?

A19. According to Section 265 of the Immigration and Nationality Act (8 U.S.C. Section 1305), noncitizens are required to update their address with USCIS while in the United States. Students therefore need to continue to update their address with USCIS by completing Form AR-11 any time they move after graduation, including after USCIS has approved their Form I-765. If a student or applicant does not have a receipt number or does not have a pending case, they may respond "NO" in order to submit the Form AR-11 for an address change only. USCIS strongly recommends that applicants who have a USCIS online account also update their address in their online account profile.

Other

Q20. Given processing times and case-by-case determinations, it is possible there are applicants who have been waiting to change to F-1 status before COVID-19 was identified in the United States? We have an example of a request for assistance involving an applicant that filed a [Form I-539](#) to change to F-1 status in September 2019. Since then, COVID-19 restrictions and SEVP guidance have been in flux, affecting the applicant's eligibility for change of status and their school's operations. The university was probably operating completely in person when the Form I-539 was filed, then moved to 100 percent virtual instructions during the initial stage of the pandemic, and then moved to some sort of combination in person and virtual learning as restrictions eased. During all of this, the applicant's change of status request is still pending.

While we do not question SEVP's actions in light of COVID-19, we believe the agency's changes complicated DSOs' ability to comply with SEVP requirements. How are the agencies taking into account these changes during adjudication? What suggestions do you have for DSOs who are advising their schools and potential international students?

A20. As stated in the March 2020 guidance, *active* F and M students will be permitted to temporarily count online classes toward a full course of study in excess of the regulatory limits stated in 8 CFR 214.2(f)(6)(i)(G) and 8 CFR 214.2(m)(9)(v) for the 2021-22 academic year. The March 2020 guidance applies to continuing F and M nonimmigrant students who were in valid F-1 or M-1 nonimmigrant status on March 9, 2020, including those previously enrolled in entirely online classes who are outside of the United States and seeking to re-enter the country for the 2022-23 academic year. Students actively enrolled at a U.S. school on March 9, 2020, who subsequently took courses online while outside of the country can re-enter the United States, even if their school is engaged solely in distance learning. As far as suggestions for DSOs, it is critical that DSOs update student records in SEVIS in a timely manner.