

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 information addresses concerns employers might have about international students and work.

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.

Minnesota State University, Mankato currently enrolls approximately 1,400 international students on non-immigrant visas. These students are neither U.S. citizens nor permanent residents (“green card” holders). Although the U.S. Immigration Service limits the employment of international students, they are eligible to apply for permission to work under “practical training”.

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:

- Optional Practical Training
- 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. Form I-20 is a government document that verifies the student’s admission to that institution. Students are eligible for 12 months of OPT for each degree level. Students who obtain a degree in Science, Technology, Engineering, and Mathematics (STEM) may be eligible for an additional 24 months of OPT.

Pre-Completion OPT can be done prior to completion of study. Students can request to work

- 1) Part-time, a maximum of 20 hours/week, while school is in session
- 2) Full-time during vacation when school is not in session

Post-Completion OPT can be authorized for full-time after completion of course of study

STEM OPT Extension may be authorized for an additional 24 months if:

- 1) The student is current on post-completion OPT after completing a bachelor’s, master’s, or doctoral degree in a [STEM approved major](#), and
- 2) Has a job or job offer from an [E-Verified employer](#)

Cap-Gap OPT can be granted if student is:

- 1) In a period of authorized post-completion OPT, and
- 2) Is the beneficiary of a timely-filed H-1B petition requesting change of status and an employment start date of October 1 of the following fiscal year.

*The Cap-Gap OPT is an automatic extension of duration of status and employment

authorization to bridge the gap between the OPT and start of H-1B status. The automatic extension of OPT is terminated upon the rejection, denial, or revocation of the H-1B petition.

Employment Authorization Document (EAD): Students who have received OPT permission will be issued an EAD by the USCIS. Their name, photo and valid dates of employment are printed on the EAD. Employers should not that the average processing time for USCIS to issue the EAD 90 days and students may begin employment only *after* they receive the EAD which will indicate the authorized starting and ending dates of employment. Students who have a pending STEM extension application can continue working for up to 180 days while the application is pending.

Curricular Practical Training (CPT) may be authorized by MSU, Mankato (NOT by USCIS) for F-1 students participating in a curricular-related employment such as a cooperative education, work-study, practicum and internship programs. Authorization is indicated on page 2 of the I-20 and includes the name of the company, beginning and ending date, and signature of the designated school official (DSO). Since each institution has different policies related to curricular-related employment, students should speak with their immigration advisor in the Kearney Center at MSU, Mankato. Employers may check with the Kearney Center for an approximate turn-around time. International students on F-1 visas are eligible for both curricular practical training before finishing their students, as well as 12 months of OPT. However, students who work full-time on curricular practical training for one year or more are not eligible for OPT.

Academic Training for J-1 Students. International students on J-1 visas are eligible for up to 18 months of work authorization called Academic Training. Academic Training is work authorization is documented on their form DS-2019 by the Alternate Responsible Officer (ARO). Students should consult Dan Schwartz in the Kearney Center for more details.

Minimal Paperwork for Employer. Fortunately, there is little paperwork for an employer who hires F-1 or J-1 students. All paperwork is handled by the students, the school, and USCIS. For CPT, the school will make a notation on the student's copy of the form I-20 indicating that CPT has been authorized and specifying the duration and place of employment. Students authorized for OPT are required to apply to USCIS (through the Kearney Center) for an Employment Authorization Document (EAD).

Everyone Benefits! International students can offer employers a wide range of skills and abilities. Their outstanding Minnesota State University, Mankato education and their multi-lingual abilities make them a special asset to U.S. employers. International students have initiative, flexibility and experience to adapt to new situations. They can also be of special benefit to employers for short-term (1-2 year and sometimes longer) work assignments.

Practical and Academic Training are designed to allow international students the opportunity to gain work experience directly related to their major field of study. As a result, they stand to gain from the employment they receive from you, but in return, your organization benefits greatly from their unique skills and new approaches to challenges.

Obtaining permission for them to work in the US is not as difficult as many employers may think. Therefore, we urge you to seriously consider hiring an international student from Minnesota State University, Mankato for the cultural and practical benefits that s/he can bring to your organization.

Proof of Work Authorization (I-9)

As you already know, IRCA (the Immigration Reform and Control Act) requires that anyone hired by a US employer after November 6, 1986 complete an I-9 form and present proof of US citizenship, permanent residence status, or a valid passport along with a USCIS documents showing that employment has been authorized.

What Employers Should Know About Hiring International Students

Students in F-1 status who have been authorized to engage in CPT will present Form I-20 (page 2) with a notation indicating the authorized dates of Training. Those students in F-1 status who have been authorized for OPT will have an EAD issued by USCIS. Those students in J-1 status who have been authorized for Academic Training will present Form DS-2019 with a notation indicating the authorized dates of Training.

Continuing Employment after the Practical or Academic Training Period

Federal regulations require that employment terminate at the conclusion of the authorized practical or academic training. However, students on an F-1 visa or students on a J-1 visa who are not subject to a two-year home residency requirement may continue employment if they receive approval for a change in visa category, usually to 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.

What about Taxes?

F-1 and J-1 visa holders are considered "exempt individuals" during the first five calendar years of their physical presence in the United States. This means they are considered NONRESIDENT ALIENS during their first five calendar years in the United States. Once an F-1 or J-1 visa holder has been physically present for more than five years, they are taxed as a RESIDENT ALIEN. For more information please visit: <https://www.irs.gov/individuals/international-taxpayers/foreign-student-liability-for-social-security-and-medicare-taxes>

Frequently Asked Questions (FAQ)

Isn't it illegal to hire an international student if 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.

How long can international students work in the US with their student visa?

F-1 students are eligible for CPT before completing their studies, as well as an additional 12 months of OPT either before or following graduating, or a combination of the two. Students who complete a degree in a STEM approved major may work for an additional 24 more months on the STEM extension at an E-Verify employer. However, if they work full-time for one year or more on CPT, they are not eligible for OPT. J-1 students are usually eligible to work up to 18 months and it may include both pre and post-degree completion employment.

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 academic training work authorization and F-1 students looking for an internship need a job offer to apply for Curricular Practical Training work authorization.

What does the work authorization look like?

For OPT, F-1 students receive an EAD, a small photo identity card that indicates the dates for which they are permitted to work. For CPT, F-1 students receive authorization from the school (not USCIS) on the 2nd page of their form I-20. For Academic Training, J-1 students receive authorization from the school (not USCIS) on their form DS-2019.

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 increments). The H-1B is a temporary employment 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 for 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?

Normally, if the internship involves no form of compensation and is truly voluntary, the students may volunteer without having to do any paperwork with the USCIS. If, however, the internship provides a stipend or any compensation, students must obtain permission for practical training or academic training prior to starting their internship. Students should check with their employers to ensure that the company is allowed by law to offer unpaid internships.

What is the cost of the E-Verify program and how can I enroll in the E-Verify program?

There is no cost to register in the E-Verify program. Information on E-verify and the enrollment procedure can be found at: <https://www.e-verify.gov/>

This resource document was created by members of the International Career Opportunities Network (ICON), a volunteer resource-sharing group that creates tomorrow's global leadership through international career development opportunities and shared best practices from international student and study abroad advisors, career counselors, experiential educators, and employers seeking to build a global workforce.

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