

# A Guide to Essential Legal Considerations for Working with International Students



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## **Introduction**

International students face many challenges studying in the U.S., not the least of which is complying with an array of governmental regulations that do not apply to domestic students. This guide is provided to help familiarize university faculty, staff, and administrators with the basics of these requirements in order to enhance their awareness of related issues when interacting with international students.

Although we have individuals representing many different immigration status categories enrolled at the university, the focus of this information targets those classified as F-1 and J-1. These two categories, designated specifically for students, represent the majority of our international student community. The federal regulations governing these students are complex. Therefore, please consult directly with the International Student Services (ISS) advising staff at (785) 864-3617, or email [iss@ku.edu](mailto:iss@ku.edu) to discuss specific questions or concerns regarding a given student's individual situation.

## **Understanding Immigration Status**

When a person from another country enters the U.S. they are assigned a "status" at the port of entry. The status classification, generally denoted by an alpha-numeric pairing, such as F-1, TN, H-1b, codes the individual's purpose in being in the U.S. and establishes the length of time they may legally remain in the country.

The assigned "status" is generally defined by the corresponding designation on the visa that was used to enter the U.S. Consequently, it is often erroneously referred to as "visa status". In some instances, however, an individual may be assigned a status that is different from their visa type. Likewise, a person may potentially change their status classification once they are inside the U.S., if their purpose for being in the country changes. Neither situation, however, alters their visa type, as a visa is merely a document that is used to facilitate entry.

Each status classification has its own unique set of rules that are grounded in federal regulations. Violating the rules of the respective status places the person in jeopardy of potential detention and/or deportation. Therefore, it is important to know the assigned status (not the visa type) of an international student and the rules and limitations pertaining to that status in order to avoid misadvising or illegally hiring them. Furthermore, it must be emphasized that what is allowed for domestic students is not necessarily permitted for international students.

## **Most Common Status Types for Students**

Since the presence of international students in the U.S. is presumed to be temporary in nature, they are assigned a "non-immigrant" status classification. Most international students on our campus are in either F-1 or J-1 status. While both are specifically designated categories for students, there are obvious, as well as subtle differences between the two. Essentially, J-1 students are participating in a sponsored exchange program linked to an agreement between governmental entities and/or educational institutions, both domestically and abroad. F-1 students, on the other hand, are basically studying here on their own accord, although they may receive funding from a financial sponsor.

There are also some students enrolled here in F-2 status, who are the accompanying dependents of an F-1, and some in J-2 status, who are the accompanying dependents of a J-1. Dependents in this context may either be a spouse or be a child who is 21 years of age or younger. Additionally, we have international students in various other status types, but since the primary objective of their status is not to attend school, their enrollment is incidental to their defined presence in the U.S.

## **Length of Stay**

Most types of status have a defined length of permitted stay in the U.S., with a specific date of departure assigned at the time of entry. This length of stay is determined by the regulations governing the status, not by the validity dates of the visa. F-1 and J-1 students, however, do not typically have defined limits on their length of stay. Instead, they have what is referred to as “Duration of Status”, often denoted by the letters “D/S”. This means that they may remain legally in the U.S. for as long as it takes for them to complete their program of study, plus any period of authorized post-completion employment-based training and a defined grace period to prepare for departure from the country.

Although they have what may appear to be an ambiguous date of departure, these students do have a program completion date by which they must either finish or extend their program. The completion date for F-1 students is noted on an immigration document called an I-20. J-1 students have a similar document called a DS-2019. If authorized, a period of post academic training employment is also considered part of the student’s program. Additionally, F-1 students are allowed 60 days and J-1 students 30 days as a grace period to prepare to depart the U.S. following completion. Neither study nor employment is allowed during the grace period.

## **Primary Immigration Documents**

There are a number of immigration documents commonly held by F-1 and J-1 international students. These documents are interrelated in establishing legal presence and in defining the period of valid authorized stay in the U.S. You may hear students referring to one or more of these documents during your conversations with them.

- **Passport** – document issued by the student’s home country government verifying the ties to that country. It needs to be valid at least 6 months into the future at the time of entry to the U.S. and should not be allowed to expire during their stay. Renewal or extension of a passport from within the U.S. may be possible by applying to the embassy or a consulate office of the issuing country. While it may be used for identification purposes, the passport does not verify legal presence or length of stay.
- **Visa** – typically affixed to a page in the passport, a document issued by the U.S. Department of State at a U.S. embassy or consulate office abroad for the purpose of consideration to enter the U.S. for a stated purpose. The visa needs to be valid at the time of admission, but does not guarantee entry to the U.S., does not determine length of stay, and does not verify legal presence. It is okay for a visa to expire during the period of stay in the U.S., but it cannot be renewed or replaced from within the U.S.
- **I-94** – form that registers the individual’s legal entry into the U.S., documents their assigned status and notes their allowable length of stay. Originally a paper document issued at the Port of Entry to the U.S., this document is now provided as a printable online electronic form. While rarely seen, paper versions are still issued for some situations, such as a change to a different immigration status.
- **I-20 – Certificate of Eligibility** issued to study as an F-1 student at the issuing institution. This document confirms admission to the school, details the source and amount of financial support, and outlines the educational level, field of study, and length of program. It may also show authorizations for off-campus employment or reduced enrollment, if applicable. The I-20 is also used to verify eligibility for reentering the U.S. to resume studies or authorized post-completion training following a trip abroad.
- **DS-2019 – Certificate of Eligibility** to participate in a J-1 exchange program that is issued by the student’s J-1 program sponsor. The sponsor may be the attending institution, a U.S. government agency, or an organization authorized by the U.S. government. This document specifies the student’s level and field of study, duration of the program, and source and amount of financial support. It also shows off-campus employment authorizations, if any, and is used to verify eligibility to reenter the U.S. to resume studies or authorized post-completion training following a trip abroad.

# AT-A-GLANCE GUIDE

## F-1 Students

### Fundamental Legal Considerations Advising Staff, Faculty, and Campus Employers Should Know About Working with F-1 International Students

The following is an overview of essential guidelines established by federal regulation that must be adhered to by international students in F-1 status. Failure to follow these requirements could have significant negative consequences, up to and including potential detention and deportation. This guide is provided for general reference purposes only. For more specific details or questions regarding a given student's individual situation, please contact International Student Services (ISS) at (785) 864-3617 or email [iss@ku.edu](mailto:iss@ku.edu).

#### Program Plan and Duration

- **Indicated on I-20 "Certificate of Eligibility" Document**
  - Major(s), degree level, start date, and completion date
  - Program of study must match what is on I-20
  - Change of major or degree level requires new I-20
  - If initial attendance, may not arrive in U.S. more than 30 days prior to start date
  - Must complete by date indicated or apply for extension (if eligible)

#### Enrollment

- **Full Course: Minimum Credits Fall and Spring Terms**
  - Undergraduate = 12 credit hours
  - Graduate = 9 credit hours, or 6 hours if GTA/GRA/GA, or as required by academic department for doctoral students who have passed the Doctoral Oral Comprehensive exam
- **Full Course: Minimum Credits Summer Term**
  - None unless first or final term or required by academic program
  - At least 1 credit hour if first or final term, or as required by academic program
- **Full Course Exceptions**
  - Requires prior review and approval by ISS advisor
  - Limited to specific allowable academic situations or medical condition
  - Has term limits
  - Requires documentation for approval
- **Online Enrollment**
  - Allowed, unless enrolled in ESL (AEC or AAP) classes, but limited to one 3-hour class per semester towards full enrollment requirement
  - Additional online classes may be taken but cannot count towards full enrollment requirement
  - Requires prior approval from ISS advisor and documentation of enrollment if taken concurrently at another school and counting towards full enrollment requirement
  - May not be the only course enrolled in that term

- **Concurrent Enrollment**

- Allowed, but requires prior approval from ISS advisor if counting towards full enrollment requirement
- Requires documentation of enrollment from other school where enrolled for approval
- May not be the only course enrolled in that term
- Must take at least half of required credit hours needed that term from KU

### **Extension of Program (I-20 Extension)**

- **Allowed under certain circumstances**

- Must be making normal progress
- Must have a compelling academic reason or medical condition for failing to complete on time
- Requires documentation of reason
- Academic suspension or probation not a valid reason
- Must apply to ISS and be approved by ISS advisor prior to expiration date on I-20

### **Employment**

- **On-Campus**

- Allowed without any special authorization
- Limited to 20 hours per week during regular academic term (Fall and Spring)
- Multiple jobs allowed, but combined total cannot exceed 20 hour limit
- More than 20 hours per week permitted when classes not in session (Summer, Winter Break, Spring Break, etc.)
- Not allowed to continue once degree is completed
- Restricted to jobs providing services to students
- Employment not related to functions of the university, such as contracted construction work on campus, does not qualify
- Will need letter from ISS verifying employment and eligibility to work to apply for a Social Security Number; verification of employment by employer to ISS required for issuance of letter

- **Off-Campus**

- Always requires official written authorization from either ISS or USCIS (US Citizenship and Immigration Services), depending on type
- Allowed only as practical training related to degree, for severe economic hardship, or as an internship with designated international organizations
- Specific eligibility criteria to qualify for each type of authorization
- May have time-sensitive application deadlines
- Time limitations on duration of authorization period, varies by when and type
- USCIS authorization requires application fee and can take several months to process
- Unauthorized employment is basis for termination of immigration status

### **Post-Completion**

- **Departure Grace Period**

- May remain in U.S. for up to 60 days to prepare for departure following completion of academic program or post-completion practical training
- May not work or study during grace period

# AT-A-GLANCE GUIDE

## J-1 Students

### Fundamental Legal Considerations Advising Staff, Faculty, and Campus Employers Should Know About Working with J-1 International Students

The following is an overview of essential guidelines established by federal regulation that must be adhered to by international students in J-1 status. Failure to follow these requirements could have significant negative consequences, up to and including potential detention and deportation. This guide is provided for general reference purposes only. For more specific details or questions regarding a given student's individual situation, please contact International Student Services (ISS) at (785) 864-3617 or email [iss@ku.edu](mailto:iss@ku.edu)

Note that J-1 students have a program sponsor that may or may not be KU. The program sponsor is the institution, agency, or organization that issued the student's DS-2019, and is responsible for monitoring compliance with the J-1 regulations. However, please direct any concerns to International Student Services (ISS), and if needed, ISS will assist the student to contact their program sponsor if it is not KU.

### Program Plan and Duration

- **Indicated on DS-2019 "Certificate of Eligibility" Document**
  - Field and level of study, degree/ non-degree, start date, and completion date
  - Program of study must match what is on DS-2019
  - Change of major typically not allowed
  - If initial attendance, may not arrive in U.S. more than 30 days prior to start date
  - Must complete by date indicated or apply for extension (if eligible)

### Enrollment

- **Full Course Minimum Credits Fall and Spring Terms**
  - Undergraduate = 12 credit hours
  - Graduate = 9 credit hours, or 6 hours if GTA/GRA/GA, or as required by academic department for doctoral students who have passed the Doctoral Oral Comprehensive exam
  - Non-degree program may define specific courses or course load at less than full time
- **Full Course Minimum Credits Summer Term**
  - None unless first or final term or required by academic program
  - At least 1 credit hour if first or final term, or as prescribed by program of study
- **Full Course Exceptions**
  - Requires prior review and approval by program sponsor
  - Limited to bona fide academic situations or medical conditions
  - Has term limits
  - Requires documentation for approval

- **On-line Enrollment**
  - Typically not allowed
  - Refer requests for exceptions to ISS
- **Concurrent Enrollment**
  - Typically not allowed
  - Refer requests for exceptions to ISS

### **Extension of Program (DS-2019 Extension)**

- **Allowed under certain circumstances**
  - Must be making normal progress
  - Have a compelling academic reason or medical condition for failing to complete on time
  - Academic suspension or probation not a valid reason
  - Requires documentation of reason
  - Approved by program sponsor at their discretion
  - Must apply and be approved prior to expiration/completion date on DS-2019

### **Employment**

- **On-Campus**
  - Allowed if permitted by program sponsor
  - ALWAYS requires prior official written authorization from program sponsor
  - Limited to 20 hours per week during regular academic term (Fall and Spring)
  - Multiple jobs allowed, but combined total cannot exceed 20 hour limit
  - More than 20 hours per week permitted when classes not in session (Summer, Winter Break, Spring Break, etc.)
  - Not allowed to continue once program is completed
  - Work authorization from program sponsor needed to apply for Social Security Number
- **Off-Campus**
  - Permitted if allowed by program sponsor
  - Only as training related to degree, or for severe economic hardship
  - ALWAYS requires prior official written authorization from program sponsor
  - Specific eligibility criteria to qualify for each type
  - May have time-sensitive application deadlines
  - Limitations on duration of authorization period
  - Unauthorized employment is basis for termination of immigration status

### **Post-Completion**

- **Departure Grace Period**
  - May remain in U.S. for up to 30 days to prepare for departure following completion of academic program or post-completion training
  - May not work or study during grace period