

# EMPLOYER'S GUIDE TO HIRING INTERNATIONAL STUDENTS

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## FREQUENTLY ASKED QUESTIONS

### **Will it cost a lot of money to hire an International Student?**

No! The main cost to the employer hiring international students is the time and effort to interview and select the best candidate for the job. Visa and Immigration Services 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 United States with their student visa?**

This varies depending on visa type and the duration of work authorization already granted. For instance, F-1 students are eligible for Curricular Practical Training (CPT) before completing their studies, as well as an additional 12 months of Optional Practical Training (OPT) following graduation. However, if they work full-time for one year or more under CPT, they are not eligible for Optional Practical Training.

### **Do 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 and J-1 students must have a written job offer in order to apply for CPT or AT. 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.

### **I have an OPT candidate on my staff, and want to see if they will qualify for the STEM extension. How do I do that, and what do I need to do to make it possible?**

In order to qualify for the STEM extension, the candidate must hold a degree listed on the STEM-Designated Program List, and their position with your company must require this specific degree. Additionally your company must be registered with the Federal E-Verify program. We encourage you to discuss this process with an immigration attorney.

### **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 in certain categories (including F-1 and J-1) within certain limits. These visas allow students to work in jobs related to their major field of study. F-1 and J-1 students may engage in "practical training."

### **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 and Academic Training, F-1 and J-1 students receive authorization from the school (NOT from USCIS) in the form of an updated I-20/DS-2019.

### **Doesn't an employer have to prove that international students are not taking jobs from a qualified American?**

No! There are no restrictions in this regard for employing F-1 and J-1 students. H-1B employees must be the most qualified for the position, while Permanent Resident petitions require the employee to be the only qualified candidate for the position.

### **If I hire someone on OPT/AT am I required to apply for an H-1B visa for them?**

No! If you determine through the international student's work that you do not wish to continue employment after their OPT /AT authorization expires, you are not required to sponsor them for an H-1B visa; however it is inappropriate to promise H-1B sponsorship to a candidate if you aren't certain you can support it.

### **If I apply for an H-1B visa for an employee, what happens if they decide to leave the company?**

There is no guarantee that the employee will not move on to another company; however, H-1B visas are tied to the employer. If you sponsor someone for an H-1B visa, they cannot take that work authorization with them if they decide to leave. They would need work authorization (H-1B) from the new employer in order to change companies.

	<b>Curricular Practical Training (CPT) F-1 Students</b>	<b>Optional Practical Training (OPT) F-1 Students</b>	<b>Academic Training (AT) J-1 Students</b>	<b>H-1B Employee Status</b>
<b>Process</b>	<p>Work authorization which allows students to accept employment <b>directly</b> related and integral to their academic program.</p> <p>Student requests authorization from Host Institution. Employment dates must correspond with the university's academic calendar.</p> <p>Part-Time ≤ 20 hours/week Full-Time ≥ 21 hours/week</p>	<p>Work authorization which allows students to accept employment <b>directly</b> related to their academic program before or after completion of studies.</p> <p>Student files OPT request with VIS. I-20 recommending OPT issued by International Student Advisor.</p> <p>Student mails completed I-765 application, required fee, and I-20 to USCIS to secure OPT work authorization.</p>	<p>Work authorization which allows students to accept employment <b>directly</b> related to their academic program before or after completion of studies.</p> <p>Student files AT request with VIS.</p> <p>Student is eligible to work anywhere from 18 to 36 months depending on length of study.</p>	<p>Work visa available to foreign nationals who:</p> <ul style="list-style-type: none"> <li>• Have at least a U.S. Bachelor's degree or foreign equivalent</li> <li>• Will be working in a job that requires at least a Bachelor's degree</li> </ul>
<b>Employer Requirements</b>	<p>Issue an Offer Letter and/or job specifications which verify the following points:</p> <ul style="list-style-type: none"> <li>• Description of specific duties</li> <li>• Dates of employment (start &amp; end dates)</li> <li>• Number of hours of work per week</li> <li>• Physical address of the employment</li> <li>• Name of supervisor</li> </ul>	None	<p>Issue an Offer Letter and/or job specifications which verify the following points:</p> <ul style="list-style-type: none"> <li>• Description of specific duties</li> <li>• Dates of employment (start &amp; end dates)</li> <li>• Number of hours of work per week</li> <li>• Physical address of the employment</li> <li>• Name of supervisor</li> </ul>	<p>File petition on employee's behalf with DOL and USCIS</p> <p>It is recommended to work with HR experts or immigration attorneys for processing.</p>
<b>Timing</b>	Processing and approval of requests take 10 business days.	<p>VIS processes student requests within 10 business days.</p> <p>USCIS processing times takes an average of 3-5 months. Students are encouraged to apply as early as 90 days prior to graduation.</p>	Processing and approval of requests take 10 business days.	On average 5-6 months. Employer can request expedited processing for an additional \$1,225 and can take up to 15 days to adjudicate.
<b>Cost</b>	No cost to the student or employer.	<p>There is no cost to the employer.</p> <p>\$410 processing fee paid by student</p>	No cost to the student or employer	<p><b>I-129 Filing Fee</b> of \$460 payable to <i>Department of Homeland Security</i></p> <p><b>Fraud Prevention and Detection Fee</b> of \$500 payable to <i>Department of Homeland Security</i></p> <p><b>Premium Processing Fee</b> (if applicable) of \$1,410 payable to <i>Department of Homeland Security</i></p>
<b>Proof of Authorization</b>	The employer and dates for which the student is authorized will be printed on student's Form I-20 (certificate of eligibility).	<p>Employment Authorization Document (EAD card).</p> <p>EAD specifies the dates of authorized employment.</p> <p>Student may not begin working until they have received their EAD <u>and</u> the start date listed on the card has been reached.</p>	A letter of authorization for the specific opportunity and a new DS-2019 reflecting any extension of status (if applicable). Information regarding the student's activity, location, and the duration of approved academic training will be entered into SEVIS, but may not appear on the updated DS-2019.	H-1B Visa Stamp within passport <u>or</u> I-129 Approval Notice