



Process for International Students to Obtain H-1B and/or Employment Authorization

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Murray Osorio PLLC is focused on assisting individuals to live and work in the United States. Hudaidah advises businesses and professionals by providing them with immigration strategies and representing them before various US government agencies within the US and abroad. Whether the cases involve non-immigrant visas or permanent resident applications, Hudaidah guides them on a full range of business visas including:

- H-1B professional,
- E-1 and E-2 investors,
- L-1 intra-company transferees,
- O-1 artists,
- P-1 athlete;
- EB-1 executives,
- EB-2 advanced professional, and
- Employees through the PERM process.

Hudaidah's global immigration involvement affords her with unique expertise to guide international students through the immigration process by advising clients on:

- F-1 issues such as F-1 reinstatement,
- STEM OPT,
- STEM extensions and
- Change of status from F-1 to J-1, H-1B and other non-immigrant visa categories.

US Employment Rules for F1 Students

All employment is contingent on remaining within the terms and conditions of valid F-1 status:

1. On-Campus Employment

- During first academic year
- 20 hours/week during school year or
- Full-time during holidays and vacation periods

2. Severe Economic Hardship or Emergent Circumstance

Off-Campus Employment if:

- Be in valid F-1 status for at least one academic year (9 months)
- Good academic standing
- Provide evidence of economic hardship based on unforeseen circumstances beyond the student's control
- Show that on-campus employment is neither available nor sufficient
- Make a good faith effort to locate employment on campus before applying

US Employment Rules for F1 Students, cont'd

3. Internship with International Organization

Off-Campus Employment if:

- valid F-1 status for at least one full academic year (9 months)
- must be in good academic standing
- must have an internship/employment with a “recognized international organization.”
- employment must be within the scope of the organization’s sponsorship, and within the student’s field of study.

US Employment Rules for F1 Students, cont'd

4. Curricular Practical Training (CPT)

- Enrolled in school full-time for one year on valid F-1 status
- Employment must be an integral part of degree program or requirement for a course for which academic credit is gained
- Must have a job offer in field of study

5. Optional Practical Training (OPT)

- Employment must be "directly related" to major
- Must apply for OPT before completion of all work towards a degree
- If engaged in 12 months or more of full-time CPT are not eligible for OPT
- OPT is permitted for up to 12 months full-time in total – part-time OPT (while still in school) reduces available full-time OPT by half of the amount of part-time work (for instance, if you work part time for 6 months, you can work full-time for up to 9 months)

US Employment Rules for F1 Students, cont'd

i. Pre-Completion OPT

- 20 hours/week while school is in session
- Full-time during summer and other break

ii. Post-Completion OPT

- After completion of course of study
- Part-time or Full-time
- Limited to 12 months

US Employment Rules for F1 Students, cont'd

- STEM OPT Extension
 - Earned degree in certain science, technology, engineering and math fields
 - Employer enrolled in E-verify
 - Initial Post-Completion OPT based on STEM degree
 - Can apply for 24 month extension of Post-Completion OPT

F-1 to H-1B Change of Status

F-1 students can apply for H-1B visa after graduation or during OPT. H-1B visa is a nonimmigrant visa program that allows US employers to hire foreign workers in a “specialty occupation” and who possess a minimum of a bachelor’s degree or its equivalent.

Cap-Gap Relief

- Timely file Change of Status
- EAD automatically extended until September 30 of that fiscal year
- OPT expire April 1 or later
 - If USCIS does not adjudicate H-1B by Sept. 30, can remain in US but cease employment
- OPT expires before April
 - Remain in US but may not be employed again until H-1B begins Oct. 1
- H-1B denied, revoked or rejected
 - 60 day grace period after OPT expires

QUESTIONS / COMMENTS

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