

IISWA FAQ

Last updated 6/15/2020

Note: we are currently researching the effects of the July 6 ICE/SEVP guidance and will update shortly with more information.

This document is intended to be a resource for international and immigrant students affected by the pandemic across institutions. The information it contains has been gleaned from various universities, many of whom are interpreting federal guidelines differently. It is a work in progress.

If you have suggestions or corrections, please reach out to

intstudentworkersalliance@gmail.com or @iiswalliance on Twitter or Facebook.

You can add further questions by commenting on the bottom section, "Further Questions."

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Visa

What is the difference between an I-20 (for F1 holders) or DS-2019 (for J1 holders) and a non-immigrant visa?

A visa is a travel document. It acts like a ticket to cross the border. An I-20 or DS-2019 specifically permits you to study in the United States for the duration that it is valid. Both F-1 and J-1 visas are considered non-immigrant visas.

What if my visa expires before my I-20 or DS-2019?

You are allowed to stay for the “duration of status,” which means the time it should take you to complete your program. You can remain in the United States with a valid study permit and an expired visa. Should you leave the country, however, you would need to renew your visa at an embassy outside the US in order to return.

What do I need to renew my visa?

- I-20 or DS-2019
- Proof of funding
- Valid passport
- A transcript from your institution

Can I currently apply for or renew a visa?

As of 23 April 2020, US consulates have suspended visa services globally. Hopefully this will change soon. Keep an eye on announcements from the US Dept. of State.

Do I have to renew my visa from my home country? Could I go to a third country?

You can renew a visa from any embassy or consulate outside the United States. However, those embassies will be prioritizing nationals. Given that they will be swamped with paperwork processing when they reopen, it is advisable to renew your visa from your own home country. This may also reduce the complications arising from quarantining in multiple locations, which would be expensive.

What can I do to expedite visa application appointments in consulates abroad?

Expedition requests are evaluated on a case-by-case basis. You must provide evidence of urgency. Under normal circumstances, the fact that no visa appointments are available before the start of your period of study would qualify as urgent. During the pandemic, processing delays mean that expedited appointments are less likely. We

advise you to make a visa application appointment all the same, even if the date is after your period of study begins, and request expedition a month beforehand. That way, you will be in the consulate system, which is better than not being in the queue.

How long can one be away from the US when enrolled and under an F1 or J1 visa?

Generally, you can be outside the US for five months before USCIS mandates a visa renewal. However, the current guidance is that if you are registered for coursework conducted online over the course of this emergency, you will not be impacted by this rule and can return using the same visa and I-20 or DS-2019.

Can I change my status from F1 to J1, or from a student to a tourist visa, to avoid accumulating unlawful presence?

There can be good reasons for a change of status under the circumstances, but it is worth consulting an immigration attorney if you are considering this option. If your status as an F1 or J1 student expires soon, you may want to consider applying for a change of status to B-1/B-2 tourist visa (or a similar viable status) to remain in the U.S, which would require filling out an I-539 form. The current fee associated with this application is \$370. NB: The change of status application to USCIS must be submitted prior to the expiry of the previous status.

Note: Students with J1 visas who are subject to the two-year home-country residence requirement can change only to A or G status.

Can I take courses during Change of Status?

You cannot begin classes until you are in full F1 status, but a current J1 or F1 visa would still be valid during the processing of a change of status application.

Can I work and get paid during Change of Status?

It depends on the nature and direction of the change. If you are an F2 visa holder changing to F1, you cannot work on campus until you receive full F1 status because the F2 allows for part-time classes only.

Paperwork Extensions

How can I extend my I-20 or DS-2019? What wiggle room do universities have with respect to extending I-20s/DS-2019?

The I-20 and DS-2019 expiry date is based on the date of completion of the program. Basically, inside the SEVIS database, there is a box that lists your program completion date. The program completion date indicates the average length of time it would take a student to complete your course of study. This is not something that the DSO (designated school official) can change on a whim. It is adjudicated through SEVP, the Student and Visitor Exchange Program. As of June 5 2020, SEVP has not changed its criteria for granting I-20/DS-2019 extensions for students. However, if your graduation date is shifted later on documented medical or academic grounds, you can apply for an extension through your DSO on a case-by-case basis and “in a timely manner”.

Could I use the change of status (I-539) to extend my student status?

If you are unable to leave the country before your status expires, consider applying for a change of status (to a different visa category) or an extension of stay. While this application is in process, you will be allowed to remain in the US; you will not “accrue unlawful presence.” USCIS is offering [some flexibility](#) on late applications for extension of stay “if it was due to extraordinary circumstances beyond control, such as those that may be caused by COVID-19.”

The i-539 is used for two purposes by non-immigrant visa holders: extending your status, or changing your status. For more information, [go to the USCIS website](#). This is a good option for people who are worried about overstaying their visas. You can file it either by yourself or with the help of a lawyer. The application fee is about 460USD (non-refundable). To fill it out, you must make an account, fill in the online form (i-539), provide a cover letter about why you have to extend or change your visa, explain in a cover letter why you weren't able to leave, when you intend to leave, and how you intend to support yourself during the extra time. The cover letter is to be uploaded, along with the supporting documents (as jpgs or pdf), in one of the last steps of the online application form. Apparently there is a backlog of several months, but from the moment you file it online it counts as "pending" and eliminates the risk of overstaying your status.

Executive Orders

Who will the May 29 Presidential Proclamation on Chinese students affect?

The exact interpretation of the executive order restricting entry and revoking student status for certain Chinese nationals seen to be linked to the military will be defined by the Secretary of State, and has not been released yet. [However, a detailed summary and expected interpretation of the EO can be found here](#), prepared by Wolsdorf Rosenthal LLP for the UC system.

Are people in universities affected by the June 24 Executive Order suspending nonimmigrant visas?

Based on [this summary from Siskind Susser](#), the order applies to: H-1B, H-2B, J-1s in the following categories: au pairs, interns, trainees, teachers, camp counselors, summer work travel, L-1s, and any dependents accompanying or following to join on any of these categories. The J-1 categories do not include university positions such as student or professor, and F-1 is not affected. The people in the university most likely to be affected are new or prospective faculty hires who were intending to apply for H-1B.

Note that the order only applies to people who fulfill three conditions: they are outside the US on the effective date of the Proclamation, those who lack a nonimmigrant visa that is valid on the effective date and those who lack a travel document.

More information: [UAW 2865 \(University of California system\) FAQ](#), [AFT FAQ](#).

Dear Colleagues,

While Columbia has yet to announce its plans regarding modes of instruction for Fall 2020, the order issued yesterday by U.S. Immigration and Customs Enforcement eliminating temporary exemptions for online instruction for students on F-1 visas is extremely troubling. We are following the media reports closely and thinking about what we might do at the department-level to protect affected students. Given the far-reaching implications of the ruling and the complicated legal questions involved, my sense is that an effective response must come from the university rather than from individual departments. ISSO has sent an email to students who may be affected, but we have not received much communication beyond that. I anticipate that we will receive a general announcement from President Bollinger this week, although I doubt we will have anything definitive given the many questions that the policy raises.

I've emailed the EVP of A&S calling for an emergency meeting to discuss the ruling and how we might respond. We will share any new information and guidance that we receive as soon as possible.

Best,
Greg

Travel

How long do I have to leave the country when my student status expires?

This depends on the category of your visa status. For example, a J-1 student may remain in the U.S. for up to 30 days beyond the end date listed on the DS-2019 form. An F-1 student may remain in the United States for up to 60 days beyond the completion of the program of study.

What happens if I don't?

An overstay (not of your visa but of your student status as listed on your I-20 or DS-2019) can have serious consequences. These include being barred from returning to the U.S. for 3 or 10 years, depending on the period overstayed, voiding of your current visa, an inability to apply for an extension, and the need to apply for future visas in your country of nationality rather than a third country.

Can I enter the US from Canada or Mexico right now as a student? In other words, is going to school considered essential travel?

We are hearing that immigration officials (specifically at the Peace Bridge between Ontario, Canada and New York) are regularly turning away student visa holders if they are enrolled in schools that are currently only providing remote instructions. Although attending a U.S. university was initially considered "essential travel", many officials have taken the position that you are not attending school if you are not required/cannot be physically present in class. This may vary at different ports of entry but we encourage caution.

Which countries does the US currently have travel restrictions for?

[Check the CDC's list of travel restrictions which is regularly updated.](#) As of mid-June, "with specific exceptions, foreign nationals who have been in any of the following countries during the past 14 days may not enter the United States: China, Iran, Schengen Area, UK, Republic of Ireland, and Brazil."

I need a Travel Signature on my I-20. How do I get one?

As of April 24 2020, the Department of State Visa office confirmed that an electronic signature on a printed I-20 would be accepted for adjudication. You can obtain this from your institution's international students office.

Money

Are international students and those without permanent residency status eligible for pandemic unemployment assistance?

Aliens typically qualify for regular Unemployment Insurance benefits if they are authorized to work (both at the time they perform qualifying work and when they apply for and receive benefits). But a State can always establish stricter rules concerning unemployment insurance.

F-1 Visa Holders are legally authorized to work for the school in which they are enrolled. To receive Pandemic Unemployment Assistance (PUA) you must continue to be enrolled in school as a full-time student to be considered “available to work.” If still enrolled full-time, a student with an F-1 Visa who loses their paid employment (and *cannot telework*) may be eligible for PUA benefits. The specific guidelines for who receives PUA are determined on a state-by-state basis.

Note that unemployment benefits, including PUA, are not considered an “unearned” benefit in a public charge analysis and receiving them will not affect future immigration.

I received the \$1200 CARES act stimulus payment. Was I supposed to? What are the potential repercussions for students who received direct deposit stimulus checks in error?

It depends on whether or not you qualify as a resident. The time period to residency status is five years, thus anyone who arrived in the US in 2014 or before would be eligible. If you arrived in 2015 or later, you do not qualify (though if you have held your current visa status from 2015–2019 you may qualify for a refundable income tax credit on your 2020 federal income tax return.)

See this [graphic for more information](#) to determine if you were supposed to receive a check. If you were not, do not cash the check. There should not be repercussions, but don't spend the money to be safe. As there is currently no avenue for returning the money, students are advised to hold onto it until the return process becomes clearer and return it as soon as possible.

Will receiving CARES Act money in the form of emergency relief funds, or public money in the form of COVID-19 testing, count against future naturalization or citizenship applications through a public charge analysis?

The current consensus is no, receiving CARES money via an emergency relief fund will not factor into a public charge analysis. To all intents and purposes the relief money is a kind of tax rebate, and hence subject to different rules.

Can non-citizen grads apply to FAFSA?

Very few non-citizen graduate students are eligible. The eligible group is as follows: Green card holders and legal permanent residents; anyone in possession of an arrival-departure I-94 record that stipulates either indefinite or humanitarian parolee, refugee, asylum granted, or Cuban-Haitian entrant; and those students from the Republic of Palau, the Marshall Islands, and the Federated states of Micronesia.

Remote in the Fall

Where can I learn more about the July 6th ICE guidance? What does it mean?

The July 6th guidance from ICE ends several of the online-learning exemptions. In practice, this means that if your program is all online in the Fall, as an international student you must leave the country. If your program is hybrid or in-person, then as an international student you are not allowed to take online classes *if you are remote* and outside the country. In general, no international student will be permitted to take an all-online courseload.

[You can find more information here. based on notes taken from a livestream by the law firm Siskind Susser.](#)

I've heard that if I as an F student am outside of the country for more than five months at a time, I need to apply for a new I-20. Is that true?

Normally, yes. This is called the “five-month rule.” ICE has [suspended](#) the rule “under current conditions,” i.e. as long as COVID-19 travel restrictions are in place, which is expected to mean through the fall. According to [University of Pittsburgh](#), however, you should make sure you stay in Active SEVIS status. If you, for example, take an academic break or leave of absence, you may have to apply for a new I-20. It is uncertain if the 7/6 ICE guidance overrides the suspension of the five-month rule, but it doesn't seem to.

What are concerns I should be aware of with regard to remote working and classes?

Note: this question and answer may be out of date now.

A small technical distinction between ‘online’ and ‘remote’ classes has been used to ensure that all international students retain status for the duration of the pandemic, if they are registered for coursework in the United States. This is also what is being used to frame remote classes as ‘on campus’ for teaching and other employment purposes.

Employment

Can I keep working for my on-campus employer remotely?

Yes. Per the Department of Homeland Security's COVID-19 FAQs, if your current on-campus employment opportunity has transitioned to remote work or the employment can be done through remote means, you may continue to engage in on-campus employment remotely.

However, once in-person instruction resumes, ICE guidance requires that people return to campus to teach.

Can student-workers employed remotely receive pay as they normally would?

There is no immigration law that says universities cannot send your pay to an overseas account, or that you cannot be paid if you are not in the country. However, there may be tax complications that lead some universities to choose not to send stipends or pay internationally.

Is it advisable to ask for hardship consideration to be allowed to work off-campus, or for longer than 20 hours a week?

We have been told that given the high cost of this application (500USD) it is generally not advised.

When can I work in a field unrelated to my student visa?

No. There is no flexibility with F or J visas.

Is there any technical difference legally between teaching online from your apartment, teaching online out-of-state, and teaching online from your home country?

There is no difference between different states. As for teaching remotely from outside the United States, it depends on which visa you hold. H-1B visas are very specific about location - you will need to talk to the university. The location requirements for teaching are less stringent with F and J visas. There is a concern, however, if students have trouble getting into the US should the university resume in-person instruction.

Incoming Students

CPT/OPT complications under Covid-19

Is there a possibility of applying for OPT from abroad?

No. Generally speaking you must apply for OPT in the United States. However, some people apply for OPT and then leave the US. Many universities do not recommend international travel before approval and receipt of the Employment Authorization Document. That's because if your OPT application is denied while you are abroad, you cannot re-enter the US in F-1 status to re-apply for OPT.

There is word from the federal government that the OPT program may be in jeopardy. What should graduating international students expect?

This information comes from Doug Rand, an immigration lawyer, and was forwarded to us by the American Federation of Teachers.

“Potential rulemakings in the work as early as July on H-1B, OPT, and H-4. While these should be issued as notice and comment rulemaking, there is certainly a valid concern that they could invoke the good cause exception and try to go to final rulemaking – although that will be very susceptible to challenge.

- Promulgate regulation changing post-completion OPT and STEM OPT extension to solely a 12-month OPT program by rescinding the STEM OPT regulation finalized March 2016.
- Issue the H-1B strengthening regulation
 - Focus on employer-employee relations, specialty occupation definition, wage levels.
 - Possible exorbitant fee of \$20,000 (or higher) to be added, although not sure what legal authority they would have to do that by regulation
- Rescind the H-4 Employment Authorization Rule
- Possible rescission of employment authorization for asylees, refugees, and TPS holders that would face significant legal hurdles.”

In other words, there will likely be a protracted battle around OPT. This will not affect OPT currently being processed. We will all be able to participate through the “notice and comment” period by submitting comments that the administration is legally required to respond to. Additionally, our unions and universities should push politicians to defend OPT.

What can I do to lobby against the suspension of OPT?

You can call your senator or representative to tell them that international students are an important part of the US economy and that they should support OPT. The National

Association of Graduate-Professional Students has a list of actions and information for a day of action that took place on June 3 [here](#). More importantly, you should push your university to lobby on your behalf (see the question “*How can universities affect federal immigration policy?*” below).

Politics

I would like to protest. Is it safe?

The risks for an arrest for non-citizen protestors is higher than for citizens. Please find more information [here](#), and a number of practical tips if you do choose to protest [here](#).

How can universities affect federal immigration policy?

The primary way is through lobbying. The main organizations involved in lobbying on behalf of international students are NAFSA and the President’s Alliance for Higher Education and Immigration. Ask your university whether they are actively participating in these organizations.

Additionally, universities can push elected representatives like local senators and representatives to support or oppose specific bills in Congress. You can also do this, whether individually or through your union.

Essential workers

The current international travel restrictions exempt certain essential workers. How would I prove that I fall in this category, and who would I have to prove it to?

Border officials (CBP) have some discretion in determining whether your reason for travel is justified. Currently, only people directly involved in containing or mitigating COVID-19 spread are considered essential workers for purposes of entering the country, i.e. hospital workers or epidemiologists.

Rules are slightly more relaxed at the Canadian and Mexican border, and essential travel is defined more broadly. [See the full list here](#). Although travel to attend an educational institution is considered a form of essential travel, because classes are remote, schools are advising that students traveling for this reason wait until travel restrictions are lifted.

General

Who is in charge of the student visas in the government?

The F and M visas are run by the Department of Homeland Security (and specifically by the School Exchange Visitor Program SEVP which is under Immigrations and Custom Enforcement ICE), while the J visa is run by the Department of State. Both DHS and DOS use a system called SEVIS as a database to track information. Every university that hosts international students and scholars has one designated school official (DSO), usually the director of the office of international student services, who can update information in SEVIS.

Where can I find useful information about regulations affecting international students due to COVID-19?

For general information, <https://studyinthestates.dhs.gov> is a good resource.

However, many things are changing due to the pandemic and executive orders. For more detailed information: for F student status and I-20s, see the [ICE](#) website under the SEVP section. For J students and DS2019, see the ECA section of the [Department of State website](#). There is no government website that collects regulatory information about visas, but NAFSA maintains information [here](#), as well as more general information on [Critical Coronavirus Resources](#).

Further Questions

Please feel free to add further questions here. You can add them as comments, and we will regularly check here to compile similar questions and get answers for them.

Can I travel back to the US from countries that are not on the list of travel restrictions? (for example, can I fly in from Europe and enter using my student visa)

A very specific question to my own situation: I am married to a US citizen and have not yet submitted my paperwork for a Green Card application. Will the new guidelines for F-1 visa holders affect this process?

I am on an F-1 visa, from a banned country (United Kingdom). If I managed to get to the US via another country for 14 days that is not on the list, would this be allowed? Furthermore, if I decided to return home mid-semester would my visa be taken away?