

IIT Office of General Counsel Educational Program

Immigration Issues for International
Students and Employees



Introduction

Mary Anne Smith

INTERNATIONAL STUDENTS

Enrollment

Elizabeth Adamska

Categories of Student Visas

- F-1: Studying full-time in an accredited program.
- J-1 (Exchange Visitor): Studying full-time at an accredited institution under the auspices of the US Department of State.

All F-1 and J-1 students must maintain FULL TIME status.

- Full Time is minimum of 12 credit hours per semester for undergraduates, 9 for graduates and 10.8 for business students.
- Students holding a TA or RA must register for a minimum of 6 credit hours.

Acceptable reasons for students to be enrolled less than full time:

- Preparing for Ph.D., e.g., qualifying/comprehensive examinations.
- Completed all coursework and is researching thesis or dissertation.
- Improper course level placement.
- Unavailability of courses for the student's program.

Allowed reasons for less than full time, but only during first year:

- Initial difficulties with English language or reading requirements.
- Unfamiliarity with American teaching methods.

The following are not reasons for less than full time:

- Impending failure in a course.
- Financial hardship.
- Intent to delay graduation due to the economy.

Other Issues: INS Form I-20 and USIA Form IAP-66

- INS Form I-20: “Status for Academic and Language Students” for F-1 Students.
- USIA Form IAP-66: “Certificate of Eligibility for Exchange Visitor Status.” for J-1 Students.

Both I-20 and IAP-66 show terms of IIT's acceptance of foreign students.

- Is required for student to get visa at U.S. embassy in his/her home country.
- Shows program of study.
- Shows duration of his/her stay at IIT.

Extending Stay or Changing Major at IIT

- For I-20 and IAP-66, students must apply for extension with International Office by expiration of original I-20 or IAP-66.
- For both, must notify International Office of new major by the start of the new program.

Hypothetical

A foreign student on a F-1 visa is in his second semester of his first year. It is March 15th and he is failing his Calculus I course. He has been enrolled on a full time basis but will not be if he drops Calculus. Can he?

INTERNATIONAL STUDENTS

Employment

Elizabeth Adamska

The Categories of Off-Campus Employment

- Curricular practical training
- Optional practical training
- Academic training
- Economic hardship

Curricular Practical Training (F-1 Students)

- 9 months in-status requirement
- Available only while in the program of study
- Job offer is required at the time of application
- Authorized by the International Center

Optional Practical Training (F-1 Students)

- 9 months in-status requirement
- Available during or after completing a program of study
- Job offer is not required at the time of application
- Authorized by INS

Academic Training (J-1 Students)

- Employment can begin immediately
- Available during or after completing a program of study
- Job offer is required at the time of application
- Authorized by the International Center

Economic hardship (F-1 Students)

- In status for one academic year (9 months)
- Financial problems caused by unforeseen circumstances beyond the student's control, e.g., death of financial sponsor.
- Permission granted by the INS.

On Campus Employment Eligibility:

- F-1 and J-1 students registered full time.
- F-1 students with valid Employment Authorization Card (EAD), on optional practical training.
- J-2 dependents with valid EAD card.

Time Limitations for On-Campus Employment

F-1/J-1 Students

- 20 hours a week during academic term
- Full-time during annual vacations/semester breaks
- F-1 and J-1 students with EAD cards: full or part-time.

Hypothetical

Jose is a F-1 student and will graduate in May. He has been doing curricular practical training this semester at Acme Engineering. Acme likes his work so much, it wants him to work in the summer. Can he?

Hypothetical

If Jose has authorization to do optional practical training, could he work after graduation?

INTERNATIONAL EMPLOYEES (Other Than Students)

Visa Categories

Elizabeth Adamska

Categories of Employee Visas

J-1 - Professor, Researcher (Exchange Visitor) Carried by individuals working for the designated program sponsor, e.g., IIT.

H-1B - Temporary Worker in a Specialty Occupation. Employment permitted only for the sponsoring institution/company. May engage in incidental study while maintaining H-1 status.

Categories of Employee Visas

TN – Temporary Entry Under NAFTA. Available to Canadian and Mexican nationals in one year increments. Employment is allowed for the sponsoring employer. May engage in incidental study.

Hypothetical

Dr. Ilda Lopez is on a H-1B visa and is teaching biology at the University of Chicago. IIT's Chairman of Biology, Chemistry and Physical Sciences wants to hire her to teach a summer school course. Can he?

COMPLETING THE 1-9 FORM

Jose Padilla

Purpose of the I-9.

To verify a new employee's identify and eligibility to work in the United States.

Every New Employee Must Fill Out the I-9.

Applies to every new employee: U.S. citizens, permanent resident aliens and foreign students and employees.

Must be filled out within 3 days after employment begins.

The IIT Offices that Collect the I-9.

Payroll Office for part-time faculty.

International Center for On-Campus F-1/J-1 students.

Human Resources for everyone else.

These offices collect the information when they bring in the employees to fill out employee benefits forms.

Filling Out The I-9.

- Section 1. The employee is to fill this out. Employer checks to see if this section is properly filled out.
- Section 2. The employer fills this out based on original documents the employee provides. The documents must have photographic proof of identity and proof of work authorization.

Filling Out The I-9 (continued)

- Certification: Employer fills this out. You must include the date employment begins.
- Section 3. Employer fills this out. You must do this before the foreign employee's work authorization expires. He/she must present original documents verifying continuing eligibility to work.

Documents Showing Identity and Eligibility.

List A. These documents show both identity and eligibility.

List B & C. Must have document from each list to show both identity and eligibility.



RECENT DEVELOPMENTS

JOSE PADILLA

Student and Exchange Visitor Information System (SEVIS)

- Internet-based reporting system, operated by INS, on foreign and exchange students
- Mandatory participation on January 1, 2003

Enhanced Border Security and Visa Entry Reform Act of 2002

- Universities are required to notify INS if foreign student fails to enroll.
- Starting in 2004, INS will begin bi-annual review of universities' record keeping of immigration documents.

Hypotheticals

Review of Problem I-9s.

Summary & Conclusion

Mary Anne Smith