



What employers should know

About hiring international students

Many employers are concerned about liability issues related to the employment of international students in the United States due to changes in federal laws governing non-citizens. This brochure addresses common concerns employers might have about international students and employment in the U.S.

Getting permission for international students to work in the U.S. is not as difficult as many employers think. Most international students are in the U.S. on non-immigrant student visa statuses (either F-1 or J-1), and these international students are eligible to accept certain kinds of employment under certain conditions. The International Affairs Office at UCCS is able to answer further questions about any of these topics for any interested employer, on behalf of our current students.

The take-home message: employers CAN legally and simply hire international students in F-1 or J-1 visa status in many cases, in an internship or appropriate job for their field of studies before or after graduation for a limited time. This employment from the employer's perspective is easy: the authorization documentation is the responsibility of the student to obtain, from the IA Office adviser at UCCS, and in some cases also from the U.S. government (via the IA office). See below for details and relevant U.S. regulations.

Practical Training for F-1 Students

'Practical training' is a legal means by which F-1 students can obtain employment in areas related to their academic field of study. Students, in general, must have completed one academic year (approximately nine months) in F-1 status and must maintain their F-1 status through full compliance with the F-1 regulations to be eligible for practical training. There are two types of practical training:

1. Optional Practical Training (OPT) – before or after graduation
2. Curricular Practical Training (CPT) – before graduation only

Optional Practical Training (OPT) must be authorized by the U.S. Citizenship and Immigration Services (USCIS) based on a recommendation from the designated school official (DSO) at the school which issues the I-20 to the student. Form I-20 is a government document which verifies the student's admission to that institution. Students are eligible for 12 months of OPT for each degree level. Students who obtain a degree in Science, Technology, Engineering, and Mathematics (STEM) may be eligible for an additional 24 months of OPT.

- **Pre-completion OPT** can be done prior to the completion of study. Students can request to work
 - Part-time, a maximum of 20 hours per week, while school is in session
 - Full-time (more than 20 hours) during vacation when school is not in session **or**
 - Full-time/part-time after completing all course requirements for the degree but before completion of thesis or dissertation (for graduate students only).

What employers should know

About hiring international students

- **Post-Completion OPT** can be authorized for full time employment after completion of the course of study.
- **STEM OPT Extension** can be authorized for an additional 24 months if the student
 - Is currently on post-completion OPT
 - Has completed all course requirements (excluding thesis or equivalent) for a bachelor's, master's, or doctoral degree in Science, Technology, Engineering, and Mathematics (STEM)
 - Has a job or job offer from an employer registered in USCIS E-Verify Program
 - Completes additional documentation with the employer
 - Has not done more than one previous STEM OPT extension
- **Cap-Gap OPT** can be granted if student (1) is in a period of authorized post-completion OPT, and (2) is the beneficiary of a timely-filed H-1B petition requesting change of status and an employment start date of October 1 of the following fiscal year. The Cap-Gap OPT is an automatic extension of duration of status and employment authorization to bridge the gap between the OPT and start of the H-1B status. The automatic extension of OPT is terminated upon the rejection, denial, or revocation of the H-1B petition.

[How to Hire and Employ an F-1 student on Optional Practical Training \(OPT\)](#)

Students who have received OPT permission will be issued an EAD (Employment Authorization Document) card by the USCIS. Their name, photo, and valid dates of employment are printed on the EAD card. Employers should note that the average processing time for USCIS to issue the EAD is two to three months, and students may begin employment only after they receive the EAD which will indicate the starting and ending dates of employment. These dates are strict, in most cases unchangeable, and must be adhered to. Students who have a pending STEM extension application can continue working for up to 180 days while the application is pending.

Hiring of these students on their first OPT application (not STEM extension) is simple as the EAD is the only needed employment authorization for the hiring I-9 to be completed. If the student does not have a social security number, they will have to apply for one with their immigration documents, and the EAD, at the nearest SS Administration office. For more information about SSNs for a legally employable F-1 or J-1 status international student, see the helpful publication [International Students and Social Security Numbers](#) at <http://www.ssa.gov/pubs/EN-05-10181.pdf>.

During STEM OPT extensions, the employer has some additional requirements that they must agree to, according to federal regulations:

1. To be an E-Verify employer
2. To employ the student in accordance with U.S. labor laws and the OPT regulations
3. To complete the I-983, the mentoring/training plan, and submit the completed form for approval to IA as part of the student's extension application
4. To do regular evaluations and updates of the I-983, and report these to the school official
5. To report the end of employment to the student's international advisor/office within 5 business days

Employers of STEM OPT employees should also be aware that they are subject to site visits from Immigration and Customs Enforcement staff, aimed at ensuring compliance.

See the STEM updates for 2016 (effective May 10, 2016) summarized here: <https://studyinthestates.dhs.gov/stem-opt-hub>.



What employers should know

About hiring international students

How to Hire and Employ an F-1 student on Curricular Practical Training (CPT)

Curricular Practical Training (CPT) may be authorized by the institution (NOT by USCIS) for F-1 students participating in approved curricular-related employment that is required or can be documented as 'integral' to their degree. Authorization is indicated on page 2 of the I-20 and includes the name of the company, beginning and ending date, and signature of the designated school official (DSO). This I-20 documentation must match the employment, meaning the student is not eligible to have any employment other than that approved on the I-20. UCCS is limited in approving CPT, since most degree programs do not have formalized internship requirements. Students should speak to their international student advisor in the IA office to inquire about the possibility of CPT while at UCCS. International students on F-1 visas are eligible for both CPT (if an internship is part of their degree) before finishing their studies as well as 12 months of full-time OPT. However, students who work full-time on CPT for one year or more are not eligible for OPT.

How to Hire and Employ a J-1 student on Academic Training:

Academic training for J-1 Students: International students on J-1 visas are eligible for up to 18 months of work authorization or for the length of time of their academic program at UCCS, if that is shorter. This permission is called academic training (AT). Post-doctoral students may apply for additional 18 months of Academic Training. Some J-1 program participants are also allowed to work part-time during the academic program. Academic Training is granted in the form of a letter by the Responsible Officer (RO) or Alternate Responsible Offer (ARO). Students should consult with the RO or ARO at their institution.

Minimal Paperwork for the Employer

Fortunately, there is usually little paperwork for an employer who hires F-1 or J-1 students in most cases. Most paperwork is handled by the students and the school, and in some cases also by USCIS (for OPT). The student properly authorized for OPT, CPT, or AT will be able to provide you a document by which employers are legally able to hire the student, subject to the conditions of the authorization. STEM OPT has some new requirements for government reporting, as of May 2016, that require the completion of a mentoring/training plan, and regular evaluations.

Continuing Employment after the Practical/Academic Training Period

Federal regulations require that employers terminate at the conclusion of the authorized practical or academic training. However, students in F-1 status who are not subject to a two-year home residency requirement may continue to be employed if they obtain approval for a change in visa category—usually to H-1B. Students must have a minimum of a bachelor's degree in order to qualify for H-1B status. The H-1B visa/status is a status requiring a more extensive application process (than for OPT or CPT) requiring review by the U.S. government. The application and fee must be submitted by the employer, not the employee. The H-1B visa program also has an annual quota limiting the number of H-1Bs granted.

Individuals may work in the U.S. for a maximum of six years under an H-1B visa. This visa is valid only for employment with the company that petitioned for them. They must re-apply to the USCIS if

What employers should know

About hiring international students

they wish to change employers. As soon as the initial job offer is made, they should petition for an H-1B visa if employment is likely to extend beyond the practical training period.

What about taxes?

Unless exempted by a tax treaty, F-1 and J-1 students earning income under practical training are subject to applicable federal, state, and local income taxes. Information on tax treaties may be found in Internal Revenue Services Publication 519, U.S. Tax Guide for Aliens, and 901, U.S. tax Treaties.

Generally, F-1 and J-1 students are exempted from social security and Medicare tax requirements. However, if F-1 and J-1 students are considered “resident aliens” for income tax purposes, social security and Medicare taxes should be withheld. Chapter 1 of Internal Revenue Services Publication 519, U.S. Tax Guide for Aliens, explains how to determine the residency status of international students. More information on social security and Medicare taxes can be found in Chapter 8 of Internal Revenue Service Publication 519, U.S. tax Guide for Aliens and in Section 940 of Social Security Administration Publication No. 65-008, Social Security Handbook.

For your reference:

The code of Federal Regulations (CFR) Title 8 and Title 22 citation numbers for regulations governing practical training are as follows:

- F-1 students: 8CFR214.2(f)(9) & (10)
- J-1 students: 22CFR62.23(f)

CFR Title 8 citations governing IRCA requirements are:

- F-1 students: 8CFR 274a.12(b)(6)(iii) and 8CFR 274a.12(c)(3)(i)
- J-1 students: 8CFR 274a.12(b)(11)

Additional resources

- Code of Federal Regulations
- SEVP Policy Guidelines on OPT
- Information for Employers

Frequently Asked Questions (FAQs)

Isn't it illegal to hire international students because they do not have a green card?

Not necessarily. There are legal ways for F-1 and J-1 students to be legally employed in some situations. It is important to be aware of the regulations as outlined in this publication. Federal regulations permit the employment of international students on F-1 and J-1 visas within certain limits. These visas allow students to work in jobs related to their major field of study. F-1 students can work on authorized “practical training.” J-1 students may work on authorized “academic training.”

Even if it's legal to hire international students, won't it cost a lot of money and involve a lot of paperwork?

No, except in the case of H-1B visa status. The only cost to the employer hiring international students in normal F-1 and J-1 statuses with approved OPT, CPT, or AT is the time and effort to interview and select the best candidates for the job. STEM OPT has slightly greater paperwork and oversight responsibilities on the part of the employer, but these should not be excessive. The university international student office helps the student handle 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



What employers should know

About hiring international students

students because the majority of them are exempt from Social Security (FICA) and Medicare tax requirements.

How long can a student work in the United States with their student visa?

F-1 students may be eligible for Curricular Practical Training (CPT) before completing their studies, as well as an additional 12 months of Optional Practical Training (OPT), either before or following graduation, or a combination of the two. Students who complete bachelor's, master's, and doctoral degrees in STEM fields may work for 24 additional months of optional practical training at an E-Verify employer, subject to certain conditions and available twice in the student's lifetime. However, if they work full-time for one year or more of full-time curricular practical training, they are not eligible for Optional Practical Training.

Students with a J-1 visa are usually eligible to work up to 18 months following graduation. They may also be eligible to work part-time during their program of study. The Responsible Officer (RO) or an Alternate Responsible Officer (ARO) in the IA office at UCCS will evaluate each student's situation to determine the length of time for which they are eligible to work.

Don't international students need work authorization before I can hire them?

Not always. International students must have proper work authorization before they begin the actual employment, but not necessarily before they are offered employment. In fact, J-1 students must have a written job offer in order to apply for the work authorization. Many F-1 students 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, but note that this information is not final until the student receives their EAD card. Note that STEM OPT students can only apply for a STEM extension of their OPT with proper and approved employment, and with the assistance of and additional documentation from the employer.

What does the work authorization look like?

For Optional Practical Training, F-1 students receive from USCIS an Employment Authorization Document (EAD), a small photo identity card that indicates the dates for which they are permitted to work. For Curricular Practical Training, F-1 students receive authorization from the school (NOT from USCIS) on the back of the student's I-20. "No Service endorsement is necessary" –per 8CFR 274a.12(b)(6)(iii). J-1 students receive work authorization in the form of a letter issued by the RO or ARO of their institution.

What if I want to continue to employ international students after their work authorization expires?

With a bit of planning ahead, an employer may be able to hire international students to continue to work for them in the H-1B visa category for a total of six years (authorization is granted in two three-year periods). The H-1B is a temporary working visa for workers in a "specialty occupation." The application procedure to the USCIS is straightforward. The job must meet two basic requirements:

1. The salary must meet the prevailing wage as defined by the Department of Labor
2. A bachelor's degree is a minimum normal requirement for the position.

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

No. American employers are not required to document that a citizen of another country did not take a job from a qualified American if that person is working under an F-1, J-1, or H-1B visa. Employers must document that they did not turn down a qualified American applicant for the position only when

What employers should know

About hiring international students

they wish to hire foreign citizens on a permanent basis and sponsor them for a permanent resident status (“green card”).

Can I hire international students as volunteer interns?

Even if an internship involves no form of compensation and is truly voluntary, the students must apply for permission to accept it per the CPT, OPT, and AT regulations. More information about unpaid internships can be found at the DOL website at <http://www.dol.gov/whd/regs/compliance/whdfs71.pdf>

What is the cost of the E-Verify program and how can I enroll in the E-Verify program?

There is no cost to register in the E-Verify program. Information on E-Verify and the enrollment procedure can be found at the USCIS website at www.uscid.gov/everify. E-Verify registration is a requirement for any employer wishing to extend a student’s OPT by the STEM OPT regulations.

Who should I contact with questions about this topic?

Feel free to contact the International Affairs Office at UCCS if you are considering hiring a UCCS student in F-1 or J-1 immigration status. Contact information is below.

International Affairs
University of Colorado Colorado Springs
719-255-5018
international@uccs.edu

This resource document was created by members of the International Career Opportunities Network (ICON), a volunteer resource-sharing group that creates tomorrow/s global leadership through international career development opportunities and shared best practices for international student and study abroad advisors, career counselors, experiential educators, and employers seeking to build a global workforce.

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