

F-1 Student Status and Work Authorizations



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January 27, 2025 | **IMMIGRATION**

An F-1 Visa (Academic Student) allows a person to enter the United States as a full-time student. Many F-1 students want to work since U.S. college and university programs can be expensive — particularly for foreign students. While tuition fees vary dramatically between institutions, international students can expect to pay US\$25,000 or more per year for public institutions or significantly more for private ones just for tuition. Many students need to offset the cost of tuition as well as living expenses by working. F-1 students have specific limitations on work authorization, focusing on on-campus employment and limited off-campus options. These are clearly spelled out on the U.S. Citizenship and Immigration Services (USCIS) website and should be reviewed carefully by anyone considering applying for work authorization while a student. Failing to fully understand any limitations and engaging in unauthorized work — even inadvertently — can lead to serious consequences. Delays in requesting work authorization in a timely manner, errors or incomplete documentation can also lead to application rejections or delays in obtaining work authorization — potentially scuttling work opportunities.

The good news is that working while you are in university is possible. The U.S. government's Curricular Practical Training (CPT) program is an alternative work-study, co-operative education, or any other type of required internship or practicum that is offered by sponsoring employers through co-operative agreements with the school.

No work authorization is required, but the student's CPT participation must be approved by the school's "Designated School Official" (DSO). CPT authorization is required for all paid practical training experiences, and payments can include any remuneration or compensation, such as money, meals, lodging, transportation, etc. Requirements and limitations of the CPT work program include that the student must: (1) have completed one full academic year and be lawfully enrolled on a full-time basis at an approved Immigration and Customs Enforcement (ICE) Student and Exchange Visitor Program (SEVP)-certified school; (2) be enrolled in a full course of study; (3) obtain their DSO's endorsement on their Form I-20 and not begin CPT before the CPT start date indicated on the form; (4) participate in an alternative work/study, internship, co-operative education or any other type of required internship or practicum that is offered by sponsoring employers through co-operative agreements with the students' respective schools; and (5) not be English language training students.

The most common type of work authorization for foreign nationals in and graduating from U.S. bachelor's degree programs is through the government's Optional Practical Training (OPT) program. Students can work in OPT status for up to 12 months (or up to 36 months total if working in a science, technology, engineering and mathematics (STEM) field), once they have applied for and received employment authorization directly from USCIS. OPT can be authorized either prior to completion of the student's degree program or following the completion of the degree program. Students who have completed their 12 or 36 months of initial OPT status related to a bachelor's degree can qualify for another 12 or 36 months of employment authorization under the OPT program if they pursue a higher educational level degree, such as a master's degree or Ph.D.

It is fundamentally important to realize that working in CPT or OPT status as a student or recent graduate requires that you work in a field related to your degree. Another critical point is that any time spent working in CPT or pre-completion OPT status takes away from the time the student will be able to work in the United States in OPT status after completing their degree. Many students prefer to utilize the 12 months of work authorization under these programs post-graduation in order to convince U.S. businesses to sponsor them for a more long-term work visa or authorization. Common nonimmigrant work visas/authorizations utilized by foreign students transitioning from OPT status to a longer-term work status include H-1B (specialty occupation), TN (United States-Mexico-Canada Agreement professionals), and O-1 (extraordinary ability).

Authorization to work in CPT status or OPT status must be applied for through the school, in conjunction with the school's DSO. Most of the time, it is not necessary to hire independent counsel separate from the services and support provided by the school's international student department. If you need to apply for work authorization through USCIS — such as when applying for pre- or post- completion OPT status — make sure you speak with your DSO and plan well ahead of time for this, as obtaining work authorization through an application to USCIS takes time.

For personalized legal guidance that addresses your specific circumstances, it is essential to consult with a qualified legal professional who can provide tailored advice and explore your individual options. Our Immigration Practice Team at Lippes Mathias LLP stands ready to assist. Please contact Elizabeth M. Klarin (eklarin@lippes.com) or Eileen M. Martin (emartin@lippes.com) with any questions.

This article was originally published by [Law360 Canada](#), part of LexisNexis Canada Inc.

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