



Let's Talk About Immigration

*Presented by Immigration Lawyer
Pauline Schwartz, Washington, DC*

Presented to the Washington International Education Conference
on March 25, 2022

Introduction – Immigration Lawyer Pauline Schwartz

- My Post-COVID Public Speaking Debut (last time was at the Feb. 2020 WIEC)!
- Over 25 Years of Immigration Law Experience
- Based in Washington, DC with Clients Worldwide
- Many International Student Clients
- Also Familiar with University Administration and DSO Perspectives
- A Former International Student in the USSR

Important Advice for Serving International Students

- Short Term and Long Term Goals
- Some will return to home country, some will wish to remain in the U.S.
- My perspective is influenced by my clients and their problems
- Many international students are AFRAID to contact administration/int'l student advisors/DSOs
- Safe and non-judgmental communication is key
- Attend int'l student organization events

Students are Enrolled – Now What?

- **How to Maintain F-1 Status:**
- Follow Rules of the School and DSO/International Student Advisor
- Enroll in minimum number of credits
- 12 credits is full time for undergrad and 9 for graduate students
- If student needs to drop a class, get permission first.
- If student has medical issues affecting enrollment, contact the instructor and DSO ASAP. Get medical documentation.
- Pay attention to I-20 expiration date and extension requirements of International Students' Office.

Students are Enrolled – Now What?

• What will place F-1 status at risk?

- Enrolling in less than a full-time course load, without prior DSO approval
- Students who do not timely extend an expiring Form I-20
- Students who voluntarily withdraw or who are withdrawn by the school for misconduct
- Engaging in unauthorized employment, including violations of CPT or OPT employment rules
- Students who graduate or complete OPT but do not timely depart, transfer, or file a timely change of status application
- Arrest and detention for criminal or immigration violation

Students are Enrolled – Now What?

• What happens if a student's F-1 status is terminated?

- **Option One:** Travel overseas and apply for new F-1 Visa
- **Option Two:** F-1 Reinstatement Application Possible in the United States
- Need support of school and reinstatement I-20
- Best if filed within 5 months of termination date, but still possible if more than 5 months (more complex)
- Do NOT attempt this alone – Hire an experienced Immigration Lawyer
- Beware of ICE placing student in removal proceedings

Students are Enrolled – Now What?

• Different Employment Options for F-1 Students

- On Campus Employment: Permitted up to 20 hours per week during the semester; should inform DSO before beginning work and to maintain proper employment records; limited to locations on campus with several exceptions; can begin up to 30 days before program start date; no EAD needed.
- Off Campus Employment: Permitted for students who have been enrolled for at least one year; MUST apply to USCIS for EAD (Form I-765) and have I-20 issued by DSO; Will only be approved in cases of “severe economic hardship”; EAD is granted for one year at a time.

Students are Enrolled – Now What?

- Employment on CPT/OPT/STEM OPT
 - CPT – often this is an internship with course credit. One year or more of CPT will eliminate eligibility for OPT at that academic level
 - Pre-Completion OPT (employment time subtracted from Post-Completion OPT)
 - Post-Completion OPT (must apply for EAD with I-20; will be valid for 12 months)
 - OPT STEM Extensions – up to 24 additional months available for STEM graduates

COVID-19 and International Students

- **COVID-19 Rules Affecting International Students:**
- General COVID-19 **Testing Requirements** for ALL international air travelers to the U.S. – including U.S. citizens, LPRs, and visa holders (effective December 6, 2021)
- **Must present proof of negative viral (molecular NAAT or antigen) test taken no more than one day before departure, OR present proof of recovery from virus within 90 days of travel.**
- Rule applies to travelers ages 2 years and older. Airlines must confirm test results.

COVID-19 and International Students

- **COVID-19 Rules Affecting International Students: Vaccine Requirements**
- **Presidential Proclamation and CDC Order on October 25, 2021: Requires proof of COVID-19 complete vaccination for all non-U.S. citizen and non-green card holders before U.S. entry. Includes F/J/M visa holders.**
- **Boosters not required.**
- **Limited exceptions: Under 18 y.o.; medical contraindications to vaccine; diplomatic/official foreign gov't travel**
- **Vax proof NOT required for USCs or LPRs**

COVID-19 and International Students

- **COVID-19 Rules Affecting International Students:**
- SEVP Guidance issued in March 2020 re: online classes is still in effect. Students who began studies before Spring 2020 can still do all virtual/online classes. Students who began in Spring 2020 or later must now have at least one in person class, but can do the others online. Fall 2022 is TBD - the old rules may apply – meaning most classes must be in person with only one class allowed online.

President Biden's Immigration Law Updates

- Important New DHS Policy Updates – January 2022
- Link to Official Announcement:
<https://www.dhs.gov/news/2022/01/21/dhs-expands-opportunities-us-stem-professionals>
- DHS announced 22 new STEM degrees eligible for STEM OPT extension: including Bioenergy, Forestry, Climate Science, Cloud Computing, Economics & Computer Science, Data Analytics/Business Analytics/Financial Analytics, Industrial & Organizational Psychology, and Anthrozoology.

President Biden's Immigration Law Updates

- More DHS Policy Updates – January 2022
- Benefits for STEM graduates: New updates to USCIS Policy Manual for “easier” pathway to green cards in the EB-2 advanced degree/NIW category; which allows self-employment - STEM Ph.Ds presumed to meet several criteria
- Also updates to Policy Manual for O-1A temporary visas for persons of extraordinary ability in the arts, sciences, education, business: allowing expanded consideration of types of evidence & giving examples helpful to STEM grads

President Biden's Immigration Law Updates

- Pending bills related to STEM graduates:
“America Competes Act of 2022” passed by Congress on February 7, 2022;
- Increases opportunities and funding for STEM education and graduates;
- Would remove green card cap for STEM grads;
- Is NOT the law yet, will first need to pass the Senate and be signed into law by President Biden
- <https://www.acenet.edu/News-Room/Pages/House-Passes-America-COMPETES-Act.aspx>

President Biden's Immigration Law Updates

- “U.S. Citizenship Act of 2021” Bill introduced in the House of Representatives on Feb. 18, 2021
- “Pathway to Citizenship” for undocumented – temp status for 5 years, then apply for LPR if in US on 01/01/2021 or earlier
- Employment-based Green Card changes
- Family-based Green Card protections
- Eliminating 3 and 10 year ULP bars
- Eliminate asylum one-year filing deadline
- Protects Foreign Workers from abuse

President Biden's Immigration Law Updates

- U.S. Citizenship Act of 2021” – Student Visa-related provisions
- Will allow for “Dual Intent” for F-1 Visa Applicants if enrolled in a full-time course of study
- Will allow for F-1s and others in temporary visa status to extend status and get work authorization if they have a pending PERM labor certification under certain circumstances – this may result in fewer former students needing H-1B visas
- KEEP IN MIND: This bill has NOT passed Congress and it may NOT – STILL pending as of March 2022

Other Immigration Options for Students

- Asylum Applicants (long delays waiting for Asylum Office interviews)/and Recipients
- Temporary Protected Status : Includes these countries currently in TPS NEW registration period: Burma, Haiti, Somalia, South Sudan, Syria, Venezuela, Yemen (and coming soon...Ukraine)
- Family-based Green Cards
- Removal Proceedings with Relief Applications Pending

Immigration Questions and Answers

- Share your Questions and Comments!
- Disclaimer: Answers are NOT a Substitute for Independent Legal Advice
- Short Private Consults Available in Breakout Room



Keep in touch! Want more information?

- Contact the Pauline Schwartz Law Firm regarding:
- Webinars/trainings tailored to your university administrators and international student advisors
- Developing webinars and content for international students
- Confidential individual student immigration consultations and representation



Email: pauline@paulineschwartzlaw.com

Website: www.paulineschwartzlaw.com

FB: www.facebook.com/immlawpauline

Instagram: @immlawpauline

Clubhouse: @immlawpauline