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HOW TO USE THIS SELF-HELP PACKET

It is important to read each section carefully and completely before taking any action in regard to any legal problem.

You will also need to refer back to the following sections while reading this packet to understand terms with which you are not familiar:

- **Books and Websites**—this section contains a list of publications which discuss foreign student employment issues

- **Definitions of Legal Terms**—this section defines commonly used legal terms that you will need to understand in order to use the rest of this student employment packet

- **Summary of the Law**—this section contains a summary of the important aspects of the law relating to the employment of foreign students
BOOKS AND INTERNET SOURCES

Books

- Student and Tourist Visas: How to Come to the US (2001), by Ilona Bray and Richard Boswell
  Includes a summary for gaining admission into the US and helps readers deal with issues such as meeting with USCIS officers, transferring to a different school, and dealing with emergencies while in the US.

- U. S. Immigration Made Easy (2006), by Laurence Canter
  Includes visa procedures for students and definitions of basic immigration terms.

Internet Sources

- United States Citizenship and Immigration Services website [http://www.uscis.gov/portal/site/uscis](http://www.uscis.gov/portal/site/uscis)
  Includes immigration forms, laws, and regulations.

  Includes resources for students and universities regarding employment, travel, and maintaining status.

  Includes information for students on when and how to obtain a social security number.

- Social Security Administration Fact Sheet *Employer Responsibilities When Hiring Foreign Workers* [http://www.socialsecurity.gov/employer/hiring.htm](http://www.socialsecurity.gov/employer/hiring.htm)
  Includes information for employers on how to report wages for a nonimmigrant employee who has not yet received a social security number.

  Includes information for filing US income taxes for nonimmigrant students.
Disclaimer — Please read

This packet of information was prepared to answer general questions and give general advice about the law in Illinois. This packet may or may not also include forms that you can use. When reading this packet or using the forms, keep in mind that the advice, information, and forms were created to assist readers with general issues, not specific situations, and as such does not replace the advice or representation of an attorney licensed to practice in the State of Illinois. Because of this and because of unanticipated changes in the law, the School of Law at Southern Illinois University and the person, institution, or agency who gave you this packet make no claim as to whether the use of this packet will achieve the result you desire and disclaim any responsibility for the consequences of any form prepared or action taken in reliance upon the information in this packet. If you are concerned or do not understand whether this packet will be of assistance to you or will apply to your specific situation, you should talk to an attorney who is licensed to practice in the State of Illinois. If you have any questions about this disclaimer, please call the Self Help Legal Center.
DEFINITIONS OF LEGAL TERMS

**Designated School Official (DSO):** A regular employee of the university who is responsible for assisting foreign students with F-1 visas.

**Immigrant:** A person who is not a US citizen who comes to the US for the purpose of living permanently in this country.

**Nonimmigrant:** A person who is not a US citizen who comes to the US for temporary reasons, including tourism, education, or employment.

**Visa:** An endorsement on a person’s passport stating the person may enter the US. A visa is required for admission of foreign students into the US.

**J-visa:** A temporary visa for students, teachers, or research assistants who come to the US for the purpose of studying, teaching, or researching.

**F-visa:** A temporary visa for students who intend to pursue a full course of study at a US college, university, or other academic institution.

**M-visa:** A temporary visa for students who intend to pursue a full course of study at an established vocational or nonacademic institution in the US.

**United States Citizenship and Immigration Services (USCIS):** Formerly the Immigration and Naturalization Service (INS), the federal government agency that is responsible for the admission, control, and status of all aliens in the United States.
SUMMARY OF THE LAW

Employment for F-1 visa students is governed by 8 Code of Federal Regulations Part 214.2 Subpart (f)(9). Students may obtain employment in the United States if they are currently enrolled in an approved academic institution, are in good academic standing, obtain permission from the Designated School Official (DSO), and maintain their current visa status. Students can only be employed at an on-campus site unless a student can show severe economic hardship. A student cannot work more than 20 hours a week while school is in session unless a student shows the DSO that employment is necessary due to an emergency. During school vacations, a student can work up to 40 hours per week.

Employment for J-1 visa students is governed by 22 CFR Part 62 Subpart (b) 62.23(g). Generally, college students who have a J-1 visa follow the same employment requirements for F-1 visa students as long as the employment follows the terms of any scholarship, fellowship, or assistantship. Some J-1 visa holders can benefit from more liberal work rules. For example, under 22 CFR Part 62 Subpart (b) 62.31(j), an au pair that is not an EduCare participant may work 10 hours per day and 45 hours per week. Also, high school exchange students with a J-1 visa are not allowed to work on a full-time or part-time basis, but may accept occasional jobs such as babysitting or yard work.

Employment for M-1 visa students is governed by 8 CFR Part 214.2 Subparts (m)(13) and (14). Students with an M-1 visa are not allowed to work except for practical training programs after completing their program of study. An M-1 student visa holder must apply to the USCIS for permission to accept employment for practical training. In addition, the DSO must certify that the proposed employment relates to the student’s course of study and the same type of training is not available in the student’s foreign residence.
ON-CAMPUS EMPLOYMENT

Students can work for any on-campus job as long as that employment will not displace a United States citizen or a lawful permanent resident. Students may work at any job that is located on the school’s premises. Students may also work at on-campus commercial firms that provide services for students while on campus. For example, students are allowed to work at a school bookstore or cafeteria. Students are not allowed to work for on-campus commercial firms that do not provide direct services to students. For example, students are not allowed to work for a construction company that is building a new school facility on campus.

Students are not allowed to work for an on-campus job after finishing a course of study except if an F-1 visa student needs practical training. F-1 students may be authorized to work in training programs which allows them to apply knowledge gained in the classroom to a practical work experience. The two types of practical training programs are Curricular Practical Training (CPT) and Optional Practical Training (OPT). CPT includes any type of internship or practicum that is offered by sponsoring employers through agreements with the school, while OPT permits a student to work temporarily in a training program directly related to the student’s major area of study. An F-1 visa holder is entitled to 12 months of OPT and may work as a full-time employee after graduation if OPT is authorized.

Students may also work at off-campus locations as long as the employer is educationally affiliated with the school. For example, a student may work for an employer who is associated with an established curriculum program or a post-graduate research project at the school.

OFF-CAMPUS EMPLOYMENT
If on-campus jobs are not available or are insufficient, students may request off-campus employment based on severe economic hardship caused by unforeseen circumstances beyond the student’s control. Examples of severe economic hardship are the loss of financial aid or on-campus employment not caused by the student, increases in tuition/living costs, substantial decrease in the value of currency the student depends on to pay expenses, unexpected changes in a student’s source of support, medical bills, or other substantial and unexpected expenses.

Students may be eligible for off-campus employment after making good-faith efforts to locate employment on-campus. If on-campus employment is unavailable, students need to obtain the DSO’s certification for off-campus employment. The USCIS will only approve part-time, off-campus employment for one year if a student has maintained the same visa status for one full academic year prior to the date of application and currently maintains good academic standing at the university. Students can renew the off-campus authorization if the student maintains status and good academic standing. Authorization for off-campus employment is automatically terminated when a student fails to maintain status or good academic standing.

**OBTAINING A SOCIAL SECURITY NUMBER**

Students need to obtain a Social Security number prior to employment. Students should present letters from the DSO and the employer to the local Social Security Administration (SSA) Office at least 10 days after arriving in the United States. Students must complete Form SS-5 and must provide two documents to prove age, identity, and current lawful, work-authorized immigration status. Generally accepted documents are birth certificates, state driver’s licenses, state-issued identity cards, and school identification cards. Nonimmigrant students must provide current documents that show immigration status and a foreign passport with biographical information or photograph. The SSA will not process the request for a social security number until the job’s start date. It usually takes 4 to 8 weeks for a social security number to be processed.
HOW DO I APPLY FOR STUDENT EMPLOYMENT?

Students with F-1 and J-1 visas who want to work on-campus:

- Students may apply for employment 30 days before classes begin. Students need certifying letters from the DSO and the employer.

- The letter from the DSO should certify the student is enrolled and include the name of the on-campus employer and the nature of the employment.

- The letter from the employer should state the job title or description, the employment start date, the number of work hours, and the supervisor’s name and telephone number.

- The letters should be typed or handwritten on letterhead and contain an original signature.

Students with F-1 and J-1 visas who want to work off-campus due to a severe hardship:

- Students must request a Form I-20 endorsement from the DSO certifying that the student has been in F-1 status for one full academic year, is in good academic standing, is carrying a full academic course of study, the employment will not interfere with the student’s schoolwork, and employment is necessary to avoid severe economic hardship due to unforeseen circumstances.

- Students must file a severe hardship application by completing Form I-765. This application must be filed together with the student’s original Form I-20.

- A fee payable to the Department of Homeland Security (DHS) must accompany the hardship application. Students may request a fee waiver by filing either an affidavit or an unsworn declaration explaining the reasons for the inability to pay the fee.

- The hardship application can take up to 3 months to process. If employment is authorized by the USCIS, then an Employment Authorization Document (EAD) card will be issued to the student. A student shall be informed of the reasons for any denial of an application, but a student cannot appeal the denial.
Students with F-1 visas who want to work in practical training programs:

- Students who want authorization for a paid CPT program must apply to the DSO after completing one year of academic study. Students may begin work only after receiving a DSO endorsement on Form I-20. Students may work up to one year in a CPT program.

- Students who want authorization for a paid OPT program must submit Form I-765 to the USCIS. Students who want to use OPT after graduation may apply 90 days prior to completion of the degree. Students should submit their completed Form I-765 as well as Form I-538 to the DSO as well as a letter from an advisor or registrar stating the student’s academic status and expected date of graduation. A fee payable to the DHS must accompany the application. Students may request a fee waiver by filing either an affidavit or an unsworn declaration explaining the reasons for the inability to pay the fee. If the application is approved, a student is granted an EAD card and may work up to 12 months in the program. If the application is denied, a student will be informed of the reasons for denial but cannot appeal.

Students with M-1 visas who want to work in OPT programs after completing a course of study:

- The OPT must be in a related field to the student’s completed course of study and must not exceed a total of six months.

- Students must submit Form I-765 to the USCIS at least 60 days before and no later than 30 days after graduation. The DSO must endorse Form I-20 and certify that similar employment is unavailable in the student’s home country.

- A fee payable to the DHS must accompany the application. Students may request a fee waiver by filing either an affidavit or an unsworn declaration explaining the reasons for the inability to pay the fee.
If the training is approved then an EAD card is issued, but if the application is denied, a student will be informed of the reasons for denial but cannot appeal the decision.