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Maintaining F-1 Student Visa Status

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International students, who commonly have what is known as an F-1 visa, are authorized to enter the U.S. to pursue full-time academic degrees at accredited institutions, certified by the Student and Exchange Visitor Program (SEVP). Recent F-1 student visa revocations by the Trump Administration, however, is rattling university campuses across the United States and imposing tremendous uncertainty and anxiety among international students.

This article aims to provide some clarity as to what is required of students in order to maintain status in the U.S.

Requirements to maintain F-1 Status:

- Be a bona fide student qualified to pursue a *full course** of study and enrolled at a Student and Exchange Visitor Program (SEVP) certified school.
*For an undergraduate student, a full course is an enrollment in at least 12 credit hours each semester, whereas for a graduate student, a full course is an enrollment in at least 8 credit hours each semester.
- Actively engage in making satisfactory progress toward completing your degree. This includes attending all classes, taking required exams and participating in curriculums designated by the school.
- After completing one full academic year, an F-1 student may accept off-campus employment in a field related to the area of study when authorized by the Designated School Official (DSO, person authorized to maintain the Student and Exchange Visitor Information System (SEVIS)) and U.S. Citizenship and Immigration Services (USCIS). If you choose to work without authorization, however, you will be forced to leave the U.S. because this is a serious violation of F-1 status. Working as a freelancer or running your own business, therefore, is generally NOT allowed on an F-1 visa unless authorized.
- Must speak to the DSO (the Designated School Official), if you are planning to 1) change the major, program or degree/education level, 2) transfer to a new school, 3) take a leave of absence/take a break from school, 4) travel outside of the U.S., 5) move to a new address and/or 6) request a program extension.

Reinstatement of F-1 Status: An F-1 student who is deemed “out of status” due to a failure to adhere to the terms pertaining to F-1 status listed above, may be eligible for reinstatement, if the student:

- Has not been out of status for more than 5 months,
- Has not worked without authorization,
- Does not have a record of repeated or willful violations of immigration regulations,
- Is and will pursue a full course of study in the immediate future,
- Is not deportable on any ground other than overstaying or failure to maintain status, and
- Is able to demonstrate that the status violation was caused by circumstances beyond the students’ control.



Regaining F-1 Status:

- **Reinstatement:** Submit Form I-539 to USCIS with a letter stating that the failure to maintain status was due to circumstances beyond your control. This process allows you to remain in the US and attend your perspective school while the case is pending, but the adjudication may take up to 9 months, if not longer. The recent spate of revocations; however, do not allow for reinstatement as the underlying visa has been revoked. This has left students in a terrible position where they are out of status, and as such, subject to arrest, removal and deportation at any time.
- **Travel and Reentry:** Depart and reenter with a new I-20. Students with prior status violation will face added scrutiny with no ability to appeal the decision made by the U.S. consulate officer. While ordinarily an option, several former Department of State visa officers who are not practicing lawyers in the United States have stated this would be a near impossibility. With the Department of State being the entity that revoked these visas, no employee of the Department of State is likely to reissue a visa to any student who has faced revocation.

Other Viable Options: An F-1 student who have completed the degree designated on the Form I-20 has 60 days to do one of the followings:

- Leave the U.S.
- Transfer to another school by seeking a new degree or changing the education level (e.g. bachelor's to master's)
- Apply to change status to another visa status, such as H-1B, O-1, E-2 or EB-5.

Benefits of EB-5 under Section 245(k) of the Immigration and Nationality Act:

The EB-5 visa program allows foreign investors to become permanent residents in the U.S. by investing capital in a new commercial enterprise. Per EB-5 Reform and Integrity Act enacted and signed by President Biden, foreign nationals who entered the U.S. legally with a valid U.S. visa, such as F-1, are eligible to adjust their status in the U.S. as permanent residents, when the EB-5 investment is made through a regional center in a targeted employment area, as long as the failure to maintain lawful status in the U.S. is less than 180 days since the last entry to the U.S.

Lawsuits: For students who have been informed of revocations, you would be wise to contact local attorneys or national firms that are currently actively filing group challenges against the Government's actions. Multiple attorneys across the country are filing for relief for students, including motion for Temporary Restraining Orders (TRO) to restrict the administration from arresting and removing students whose F-1 status was revoked.

If you recently received an email informing you of the SEVIS cancellation, I would strongly recommend that you speak with an experienced immigration attorney to assess all options available to you. You are more than welcome to contact me should you need assistance.



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