U.S. Employer’s Guide to Hiring International Students

The purpose of this brochure is to illustrate options available for hiring international students for internships and full-time career opportunities after graduation. International students are allowed to obtain work authorization under specific circumstances, whether during their studies or after graduation.

The precedent for international students to obtain temporary U.S. work authorization is longstanding and well-established, and the application process is straightforward. This document will provide an overview on the employer’s responsibility in hiring an international student for internships and full-time opportunities.

Note: This handout is intended to provide general information only and is not intended to serve as legal advice. It should not be relied upon as a substitution for immigration advice from qualified immigration practitioners.
Overview

All international students who are neither U.S. Citizens nor Permanent Residents enroll in academic programs under one of two non-immigrant student visa types, an F-1 or J-1. Since the majority of international students are F-1 student visa holders, the focus of this guide will be on how to hire an F-1 student.

Please note that a Social Security Number alone is not sufficient proof of work authorization for international students. It is critical that employers confirm an international student's work authorization prior to employment start date to prevent any liability for the student and the employer in the future.
Internship

Hiring an F-1 International Student for a Internship

**Curricular Practical Training (CPT)** is work authorization that allows F-1 student visa holders to accept employment in their academic field after one year of full-time study. Internship programs are some of the most common types of employment for international students. Students can choose to work full or part-time during their internships.

**Duration:** There is no limit, but 12 months of full-time CPT eliminates eligibility for OPT. Part-time CPT employment does not affect eligibility for OPT. **Note:** Graduate students can accept CPT on Day 1 of their full-time study.

**Employer Role:** Applying for CPT is solely the responsibility of the student and therefore requires no action on the part of the hiring organization.

**Student Role:** After the student has been offered a summer internship, he or she submits an online application providing the internship start and end dates as well as the organization’s name and complete physical address. This process is facilitated by the student’s International student services office. In accordance with U.S. immigration regulations, students who engage in part-time or full-time CPT must still be full-time students.

**Cost and Processing Time:** There is no cost to the employer. The processing and approval time for CPT is within 5-10 working days.
Full Time

Hiring an F-1 International Graduate for a Full-Time Internship — Initial 12 month OPT

Optional Practical Training (OPT) is work authorization that allows F-1 student visa holders who have graduated to gain practical work experience related to their major field of study.

Duration: 12 months for F-1 students (Please note, any time spent in Pre-OPT status prior to graduation will be deducted from the 12 months OPT period.)

Employer Role: Applying for OPT is solely the responsibility of the student and therefore requires no action on the part of the hiring organization. OPT can be granted to the student with or without an offer of employment.

Student Role: Obtaining OPT work authorization is a two-step process. First, the F-1 student submits an online application which is processed and approved by an international advisor at the student’s international services office. Second, the F-1 student mails in her/his completed documentation and required fee to the USCIS to secure OPT work authorization. Once approved, the USCIS issues an Employment Authorization Document (EAD) card as proof of work authorization for the 12-month period. The fee is $410, which is paid by the student.

Cost and Processing Time: There is no cost to the employer. The international student office processes the student’s OPT documentation. The USCIS processing time for OPT takes an average of 60 days but can take up to 3-4 months; therefore, students are encouraged to apply as early as 90 days prior to graduation. The new employee must have the EAD card in hand to start work.

Employer Role:

- Be E-Verified and in good-standing.
- Prepare and implement a formal training program to support the student’s academic learning through practical experience. The training program is signed by both the employer and student, and submitted to the international student office for approval. A report of the student’s progress is submitted to the student’s international student office mid-way and at the end of the 24-month program.
- Report termination of employment to the student’s international student office within 5 business days.
- Provide an employment opportunity similar to U.S. workers in duties, hours, and compensation. Attest that:
  - The company has enough resources and trained personnel available to appropriately train the student;
  - The student will not replace a full- or part-time, temporary or permanent U.S. worker; and
  - Help the student attain his or her training objectives.
- Be prepared for a government agent worksite visit to verify STEM OPT program requirements are being met.

Student Role: The F-1 student signs off on the training program and then submits an online application which is processed and approved by an international advisor at the international student services office. The F-1 student mails in her/his completed documentation and required fee to the USCIS to secure STEM OPT work authorization. Once approved, the USCIS issues an Employment Authorization Document (EAD) card as proof of work authorization for the 24-month period. The fee is $410, which is paid by the student.

Cost and Processing Time: There is no cost to the employer. The international student services office processes the student’s STEM OPT documentation within a few working days. The USCIS processing time for STEM OPT takes an average of up to 3-4 months. The STEM OPT Extension must be filed prior to the expiration of the OPT period. If students file their STEM OPT extension applications on time and their OPT period expires while their extension application is pending, USCIS will extend their employment authorization for 180 days.

Hiring an F-1 STEM Graduate for Practical Training—24 Month STEM OPT

An additional 24 months of OPT work authorization (for a total of 36 months) allows F-1 student visa holders who have graduated with an approved degree in Science, Technology, Engineering or Math (STEM) to gain extra practical work experience related to their STEM field.

Duration: 24 months for F-1 graduates
Long Term

Hiring and Retaining Long-Term Global Talent

**H-1B Visa:** Applications for H-1B visas are submitted to the USCIS by the sponsoring company on behalf of the international employee. Only 65,000 H-1B visas are given out for candidates who have completed undergraduate degrees, and an additional 20,000 are available for those who have completed graduate degrees in the U.S.

**Duration:** H-1B visas are initially granted for three years, but can be renewed for a total of six years.

**Employer Role:** The employer is responsible for filing the H-1B application on behalf of the international employee. Many companies find that retaining an experienced immigration attorney is helpful to facilitate the process.

**Cost and Processing Time:** Inclusive of attorney and USCIS application fees, the total cost to apply for an H-1B visa is between $5,000 - 7,000. The earliest date to apply for an H-1B is April 1. Historically, there has been a high demand for H-1B visas so it is strongly recommended that applications arrive at USCIS within five business days after April 1. Approved H-1B visas become effective October 1.

Recommended Timeline: April 1st is when employers can file H1B for next fiscal year quota. Employers are recommended to file the H-1B application after a student has graduated. If the application is filed prior to the student receiving his/her degree, the application will not have the higher probability of getting into the lottery as it will be based on a lower degree or a prior foreign degree.

**Special Cases:** Some non-profit, research and educational institutions are able to secure additional H-1B visas not subject to the yearly quota of 85,000. Citizens of Chile and Singapore, through a treaty with the U.S., are provided with a special allocation of 6,800 H-1B visas; as a result, these citizens have an easier time securing U.S. work authorization through the H-1B visa. Their special visa is referred to as H-1B1 and is given in one year increments, eligible for renewal indefinitely.

In April 2008, a new law was established to enable those with an approved H-1B application to remain employed during the transition period between the end of OPT and the start of H-1B. The new law eliminates any gaps in employment previously experienced in the transition from OPT to H-1B.
More Information

For employers wishing to hire a J-1 visa holder, there is no fee involved or action to be taken. The J-1 student simply obtains authorization from his/her visa sponsor (e.g. The Fulbright Program) to work for up to a total of 18 months. Ph.D students can work for up to 36 months. It is the sole responsibility of the student to complete the online application process and approval is generally granted within 5-10 working days.

Other Visa Options and Fees

**TN-1 Visa:** Canadian or Mexican citizens who will be working in, but not limited to, the areas of accounting, finance, market research, economics or management consulting may be eligible for the TN-1 visa. The current processing fee is $56 at the Border, or $400 filing with USCIS. The visa is valid for up to 3 years after which the employee must request an extension of stay through his/her employer.

**L-1 Visa:** The L-1 visa is an intra-company transfer visa. Employees must work at the same or an affiliated company outside of the U.S. for a minimum of one year in a management level role before being transferred to the U.S. The current processing fee is $960. The visa is valid for three years and may be extended for an additional two years, until the employee has reached the maximum limit of seven years for managers (L-1A), and five years for workers with specialized knowledge (L-1B).

**O-1 Visa:** The O-1 visa is a temporary work visa available to those foreign nationals who have “extraordinary ability in the sciences, arts, education, business or athletics” which “have been demonstrated by sustained national or international acclaim.” US Immigration interprets the statute very broadly to encompass most fields of creative endeavor. For example, chefs, carpenters and lecturers can all obtain O-1 visas. Some recent students may qualify for the O-1 visa based on their experience, education and contributions to their field of expertise.

**E-3 Visa:** Australians working in professional positions in the U.S. may be eligible for the E-3 visa. The current processing fee is $209. The visa is valid for 24 months but may be renewed.

**E Visa:** The E-1 and E-2 visa status for Treaty Traders and Treaty Investors allows temporary admission to Foreign Nationals of countries that have a commerce or investment treaty with the United States. The visas allow Foreign Nationals to conduct substantial trade in the U.S. or to make investments by either purchasing a controlling interest in an existing U.S. business or establishing a new business venture. Major foreign companies that establish a presence in the United States generally qualify for E-2 status. This status provides an excellent vehicle for easily hiring international graduates who have the same nationality as the foreign base company. Also, unlike the L-1 status which requires at least year prior employment with the foreign entity, E beneficiaries can be new hires. The current processing fee is $205.00. For most countries, the visa is valid for five years, and may be extended indefinitely.

**Possible Additional Fees:** In some cases, there is a required visa issuance reciprocity fee, if applicable. Please consult the United States Department of State, Visa Reciprocity Tables to find out if you must pay a visa issuance reciprocity fee and what the fee amount is.