

8 C.F.R. § 214.2(f)(5) – Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs

(5) Duration of status--

(i) General. Except for border commuter students covered by the provisions of paragraph (f)(18) of this section, an F-1 student is admitted for duration of status. Duration of status is defined as the time during which an F-1 student is pursuing a full course of study at an educational institution approved by the Service for attendance by foreign students, or engaging in authorized practical training following completion of studies, except that an F-1 student who is admitted to attend a public high school is restricted to an aggregate of 12 months of study at any public high school(s). An F-1 student may be admitted for a period up to 30 days before the indicated report date or program start date listed on Form I-20. The student is considered to be maintaining status if he or she is making normal progress toward completing a course of study. (Revised effective 1/1/03; 67 FR 76256) (Amended 8/27/02; 67 FR 54941) (Revised 6/15/99; 64 FR 32146)

(ii) Change in educational levels. An F-1 student who continues from one educational level to another is considered to be maintaining status, provided that the transition to the new educational level is accomplished according to transfer procedures outlined in paragraph (f)(8) of this section.

(iii) Annual vacation. An F-1 student at an academic institution is considered to be in status during the annual (or summer) vacation if the student is eligible and intends to register for the next term. A student attending a school on a quarter or trimester calendar who takes only one vacation a year during any one of the quarters or trimesters instead of during the summer is considered to be in status during that vacation, if the student has completed the equivalent of an academic year prior to taking the vacation.

(iv) Preparation for departure. An F-1 student who has completed a course of study and any authorized practical training following completion of studies will be allowed an additional 60-day period to prepare for departure from the United States or to transfer in accordance with paragraph (f)(8) of this section. An F-1 student authorized by the DSO to withdraw from classes will be allowed a 15-day period for departure from the United States. However, an F-1 student who fails to maintain a full course of study without the approval of the DSO or otherwise fails to maintain status is not eligible for an additional period for departure. (Revised effective 1/1/03; 67 FR 76256)

(v) Emergent circumstances as determined by the Commissioner. Where the Commissioner has suspended the applicability of any or all of the requirements for on-campus or off-campus employment authorization for specified students pursuant to paragraphs (f)(9)(i) or (f)(9)(ii) of this section by notice in the **Federal Register**, an affected student who needs to reduce his or her full course of study as a result of accepting employment authorized by such notice in the **Federal Register** will be considered to be in status during the authorized employment, subject to any other conditions specified in the notice, provided that, for the duration of the authorized employment, the student is registered for the number of semester or quarter hours of instruction per academic term specified in the notice, which in no event shall be less than 6 semester or

quarter hours of instruction per academic term if the student is at the undergraduate level or less than 3 semester or quarter hours of instruction per academic term if the student is at the graduate level, and is continuing to make progress toward completing the course of study. (Added 6/10/98; 63 FR 31872)

(vi) Extension of duration of status. Added 6/15/99; 64 FR 32146)(Revised 4/8/08; 73 FR 18944)

(A) The duration of status, and any employment authorization granted under 8 CFR 274a.12(c)(3)(i) (B) and (C), of an F-1 student who is the beneficiary of an H-1B petition and request for change of status shall be automatically extended until October 1 of the fiscal year for which such H-1B visa is being requested where such petition:

(1) Has been timely filed; and

(2) States that the employment start date for the F-1 student is October 1 of the following fiscal year.

(B) The automatic extension of an F-1 student's duration of status and employment authorization under paragraph (f)(5)(vi)(A) of this section shall immediately terminate upon the rejection, denial, or revocation of the H-1B petition filed on such F-1 student's behalf.

(C) In order to obtain the automatic extension of stay and employment authorization under paragraph (f)(5)(vi)(A) of this section, the F-1 student, according to 8 CFR part 248, must not have violated the terms or conditions of his or her nonimmigrant status.

(D) An automatic extension of an F-1 student's duration of status under paragraph (f)(5)(vi)(A) of this section also applies to the duration of status of any F-2 dependent aliens.

<http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-11261/0-0-0-17197/0-0-0-17636.html> (Accessed 10/12/2012)