

Auburn University, Office of International Education

Change of Non-Immigrant Status Information

Revised: October 2006

A nonimmigrant *temporarily* enters the United States for a ***specific*** purpose such as business, study, temporary employment or pleasure. When you are admitted into the United States, a U.S. official will assign you a nonimmigrant category according to the purpose of your visit. If you want **to change the purpose of your visit while you are in the United States**, then you (or your employer or school/university) must ask the U.S. Citizenship and Immigration Services to change your nonimmigrant status to reflect the NEW purpose of your stay.

For instance, if you arrived here as an F-2 dependent, but want to become a student (F-1), you must submit an application to change your status with the USCIS. If you do not apply to change your nonimmigrant status, you will be breaking U.S. immigration laws. Proof that you are willing to obey U.S. laws may be important if you want to travel to the United States as an immigrant or nonimmigrant in the future. You may also become subject to removal (deportation) if you break U.S. immigration laws and may be restricted from entering the United States in the future.

ELIGIBILITY INFORMATION

Who May Apply to Change to a New Nonimmigrant Status?

In general, you may apply to change your nonimmigrant status if you were lawfully admitted into the United States with a appropriate nonimmigrant visa, your nonimmigrant status remains valid (you must be in a valid status for the purpose you previously entered the United States), and you have not committed any crimes that would make you ineligible.

If your current status has expired and the United States Citizenship and Immigration Services (USCIS) has not already received your change of status application, then you will be considered out of status and not eligible to change your status within the United States. (See "Application Timeframe" section for more information.)

You may *NOT* apply to change your nonimmigrant status within the United States if you were admitted to the U.S. in the following visa categories or under the following circumstances:

B-2: Alien tourists (if you were admitted as a PROSPECTIVE STUDENT - written on your I-94 and visa you may be able to do so, however, individuals on B visas are not routinely allowed to change status within the United States.)

C: Aliens in transit or in transit without a visa

D: Alien crewman

K: As a fiancé(e) or spouse of a U.S. citizen or dependent of a fiancé(e) or spouse

S: Alien witnesses and informants

J-1, J-2 subj. to 212(e): J exchange visitors subject to the INA & 212(e) two-year home residence requirement, unless they first obtain a waiver of 212(e) from one's home country government and the U.S. Department of State.

J FMG: A foreign medical graduate (FMG) who obtained J exchange visitor status through the ECFMG, to receive graduate medical education or training.

212.1(e) visitors: Visitors for business or pleasure entering Guam under the visa waiver provisions of the Omnibus Territories Act.

WT, WB: Aliens admitted under the Visa Waiver Program, as visitors for business or pleasure without a visa.

Change from M-1 to F-1: An alien may not change status in the U.S. from M-1 student to F-1 student.

M-1 and H connections: 1) An alien's application to change to M-1 status will be denied if USIS determines that the alien intends to pursue the course of study solely in order to qualify for a subsequent change of status to an H temporary worker; 2) An application for change from M-1 student to H temporary worker will be denied if the education or training received as an M-1 enables the alien to meet the requirements for H classification.

APPLYING FOR A CHANGE OF STATUS (COS)

Depending upon your circumstances, you can change your status in one of two ways:

A) Change of status through travel

You may change your status by departing the United States and re-entering in the new visa status. In order to re-enter the United States in a different status, you must have a valid visa for re-entry into the U.S. in the status you wish to use. If you do not have a valid entry visa, you must apply for one at a U.S. consulate in your home country or country of residence.

If you will be changing your status via TRAVEL to F-1/F-1 or J-1/J-2, please contact the Office of International Education for an initial attendance I-20 or DS-2019. Note that if you are planning to change your status to an F-1 or J-1 student status, you must first apply and be accepted to Auburn University before an I-20 or DS-2019 can be processed for you.

Once you have obtained your I-20/DS-2019, you will also need to pay the USDHS SEVIS fee. You will need **proof of SEVIS fee payment** for the required amount of \$100 prior to your visa appointment. This fee can be paid on-line by completing Form I-901 at <http://www.ice.gov/graphics/sevis/i901/index.htm>.

Once you have obtained a valid entry visa, you would then enter the United States with your visa and the following:

- Your I-20 or DS-2019 from Auburn University
- Supporting documents such as copies of your admission letter and your financial documentation
- SEVIS fee receipt

Upon your entry to the US, you would request F-1/J-1 status depending on your visa. The immigration inspector at the port of entry will inspect your visa, your I-20/DS-2019 or other documents, and your supporting documents, and admit you in the appropriate status by issuing you an I-94 card. For F-1 students the card should read "F-1/DS", for J-1 students or scholars "J-1/DS", for dependents "F-2/DS" or J-2/DS" etc..

B) Change by application to USCIS

You may also attempt to change your status by submitting a change of status application to the U.S. Citizenship and Immigration Services (USCIS). To qualify for this type of change of status, you must be maintaining your current status at the time of your application and be eligible for the status to which you wish to change.

If you are applying for a change of status to F-1 or J-1 student status, you must first apply and be accepted to Auburn University before any change of status paperwork can be processed. Once you have been accepted, you should contact OIE to set up an appointment to see an advisor regarding your change of status. Please specify the new status for which you are applying. Also, be sure to review the application components outlined below and bring all required documents for your status change with you to your appointment.

Once you have met with an advisor and the application materials have been assembled, the advisor will submit your application to the USCIS Texas Service Center for adjudication.

Application for a change of status to F-1

The components of that application are as follows:

1. **A completed Form I-539 USCIS Form I-539** (Application to Extend/Change Nonimmigrant Status) (<http://www.uscis.gov/graphics/formsfee/index.htm>).
2. **The applicant's current I-94 card** (original, not a copy) and the I-94 cards of any dependents who are changing with him/her.
3. **A new original Form I-20 from AU OIE**, signed on the bottom of page 1 (This is provided by an OIE advisor once the student has been officially admitted to the University and the appropriate paperwork has been received from Admissions.)
4. **Copies of financial support documents in the amount of \$31,407** (bank statements with accompanying affidavits of financial support, if applicable; and/or a Graduate Assistantship Award Statement produced by the Graduate School)
5. **Copies of the primary status holder's passport, I-94, visa page, proof that he/she is currently maintaining his/her status, and I-20** (if applicable). If the primary visa holder is an F-1 student at another school, he/she must submit a good standing letter from the university where he/she attends. If the primary visa holder is an H1-B, he must provide a letter from his/her employer stating that he/she is currently employed and the position which he/she holds.
6. **Photocopy of the applicant's passport identification page, visa page, and dependent I-20** (if applicable). The applicant's *passport* must be valid at the time of application.
7. **A personal check or money order payable to the Department of Homeland Security** for the required fee. This fee includes any dependents who are changing status with you. Check USCIS for current fees at: <http://uscis.gov/graphics/formsfee/forms/index.htm>

8. **Proof of SEVIS fee payment.** This fee can be paid on-line by completing Form I-901 at <http://www.ice.gov/graphics/sevis/i901/index.htm>. (This cannot be done until OIE has produced an I-20 for the applicant. An advisor will contact the applicant with the necessary information to pay the fee online when the I-20 is ready.)

9. **A letter explaining why the applicant is requesting the change of status.** This is extremely important: your letter should clearly explain your current status, plans, and longer-term plans as well. Keep in mind that F-1/J-1 or F-2/J-2 statuses are NON-IMMIGRANT classifications. This means that you must indicate, and in certain cases may be required to document, that you continue to maintain ties to your home country--whether in the form of a residence, an expected job offer, or continuing family ties.

10. If other family members are changing status with the applicants (like your dependents), you will need to provide copies of all their immigration documents too.

Application for change of status from F-1 to F-2:

The components of the change of status application from F-1 to F-2 are the same as that of the F-1 change of status application (above), with the following exceptions:

- Payment of the SEVIS fee is not required.
- Proof of funding in the amount of \$31,407 is not required. Rather the principal visa holder must demonstrate that he/she has the required funding to support a dependent. The cost for a spouse, including required medical insurance is \$7,848 for 12 months or \$654 per month (2006-2007 figures).

Applying for a change of status to H1-B:

To acquire initial H1-B status, a U.S. employer must file an H-1B petition with the Department of Homeland Security, supported by a Labor Certification Application (LCA) certified by the Department of Labor.

For general questions about a change of status to H1-B, please contact the Office of International Education to set up an appointment with an advisor. However, if you are currently a student at AU and your department has expressed interest in hiring you as an H1-B, **the department chair** should contact OIE for additional information about the process.

Also note that if you already have a job offer and plan to work at another institution/organization aside from Auburn and your employer has already applied for an H1-B for you, you should consult with the attorney or individual who has filed the petition for you regarding any questions you may have.

APPLICATION TIMEFRAME

We recommend that you apply as soon as you determine that you need to change to a different nonimmigrant category, this process can take upwards of three to six months. WHEN FILING WITHIN THE UNITED STATES THERE IS NO EXPEDITING THIS PROCESS. Please note, you must apply to change your nonimmigrant category **before** you current nonimmigrant status expires. Also, **do not start new employment without first being approved for your change of status**. The date

your status expires can be found in the lower right-hand corner of your Form I-94 (Arrival-Departure Record). You should have received a Form I-94 when you legally entered the United States. If your I-94 card indicates that you have been admitted for duration of your status (D/S), then your status will end when you are no longer maintaining your current non-immigrant status. If you have questions about when your status expires, please consult with an OIE advisor.

What If I Am Late Filing for a Change of Nonimmigrant Status?

If you are late filing for a change of nonimmigrant status and your current status has already expired, you must prove that:

- The delay was due to extraordinary circumstances beyond your control;
- The length of the delay was reasonable;
- Provide evidence that you entered the US legally in the status you were in;
- You have not done anything else to violate your nonimmigrant status (such as work without USCIS approval);
- You are still a nonimmigrant (This means that you are not trying to become a permanent resident of the United States.); and
- You are not in formal proceedings to remove (deport) you from the country.

Although USCIS tries to process change of status applications within two months, USCIS can take up to 6 months to process a change of status application. If you have applied for a change of status to begin studies in a particular semester and you are not approved by the time classes begin, OIE will defer your attendance in SEVIS until the following semester.

SPECIAL CONSIDERATIONS

If you are in lawful status and decide to change to F-1/F-2 or J-1/J2, you remain in lawful status UNTIL you receive your reply from the USCIS. However, you **do not** have the privileges (working on campus, applying for practical training, etc.) of the status you applied for until the change is APPROVED and you have written original verification from USCIS.

If you apply for a change of status while in the United States, when USCIS has made a decision, they will send you a Form I-797 Notice of Action. If your application is approved, the I-797 will include a new I-94 card(s). Within a few days you should also receive the stamped I-20/DS-2019 that you submitted with your application stating that you have been approved for a change of status.

Dependents changing to independent visa statuses (i.e. F-2 to F-1)

Be aware that once the COS is approved, the dependent is no longer considered affiliated with the previous F-1 or J-1 for immigration purposes. In other words, a spouse (wife or husband or child) who is an F-2 and becomes an F-1 will be individually responsible for their own immigration status and must comply with all rules and regulations. An F-1/J-1 who falls out of status, is terminated, or otherwise fails to maintain their immigration status, is not eligible for change of status back to the F-2/J-2. They can only do so by returning to their home country and applying for the appropriate status there.

Other

The AU Office of International Education does not process change of status applications electronically. Rather, a hard copy of all applications is submitted through the mail to the USCIS Texas Service Center. To minimize the loss of documents and in order to provide timely follow up required by USCIS, all responses from USCIS are directed to OIE's post office box on the applicant's behalf.

For more information or to schedule an appointment to see an advisor, contact the Office of International Education at 334-844-5001 or via email at intledu@auburn.edu.