

Hiring International Students at NC State

This brochure is written for NC State University employees (staff and faculty) who are responsible for hiring and appointing international students for on-campus positions. This brochure is intended to be a general introduction and should not be construed as legal advice, detailed appointment procedures, or official policy. International students are primarily those students who are not US citizens or lawful permanent residents (Green Card holders or resident aliens), but are in the US on a temporary, nonimmigrant visa primarily engaged in a course of study. International scholars, on the other hand, are generally not admitted to an academic program, but may be engaged in research, teaching, or temporary employment. Federal immigration and labor regulations regarding employment for nonresident aliens vary widely depending on visa type. Please consult the appropriate administrative unit on campus whenever you have a question or concern regarding the employment eligibility of an international student or scholar (see contact list at the end of this brochure).

Employment

International students may be eligible to work on or off campus - depending on their visa type and subject to certain eligibility requirements and restrictions. Not all "international" students have employment eligibility and some are required to apply for and obtain specific employment authorization from OIS or the United States Citizenship and Immigration Services (USCIS) of the Department of Homeland Security **BEFORE** engaging in any employment. Some international students do not have employment eligibility and must not be permitted to engage in work or receive any compensation for services. Employment regulations differ for different visa types and each hiring unit is responsible to verify an individual international student's employment

eligibility before promising employment to a particular student and especially before allowing the student to begin work. While it is not lawful to ask questions about national origin or nonimmigrant status prior to making an offer of employment, the fact that there may be immigration issues is usually volunteered by the potential employee or is indicated on the Employment Eligibility Form (I-9) when the third box under residency status is checked. Additional information for employers on completing the I-9 may be found in the Handbook for Employers (M-274) on the USCIS website (see below) or from Human Resources. You are also encouraged to contact your College Business Officer or the Office of Equal Opportunity for more information.

What is Employment?

Employment is defined by the USCIS as any activity or service performed by an individual where some type of benefit or payment is awarded. This can be monetary compensation or other non-cash benefits (tuition, meals or room and board, a grade or course credit, or promises of future employment, etc). If the position were one for which an individual would normally be paid, it is considered to be employment whether wages are earned or not.

What about Volunteering?

Volunteering for an activity should be restricted to doing something for the sheer personal satisfaction of it, should not displace US workers, can result in no other benefits, and cannot delay an international student's academic program. Individuals cannot work "as a volunteer" for a period and then be paid later (when, for example, they obtain employment eligibility or authorization or when funding "comes through.") Liability issues also arise when individuals "volunteer" in laboratories or on campus and supervisors should ensure that insurance and liability issues are adequately addressed.

F-1 Students (On-campus):

F-1 students in lawful nonimmigrant status who have been issued a Form I-20 may generally work up to twenty hours per week on their campus while school is in session. They do not need specific written employment authorization from OIS or USCIS. Full-time enrollment is required during the Fall and Spring semesters. F-1 students are considered to be working 20 hours a week on campus if they hold a half-time teaching/research assistantship. Additional appointments, supplemental pay, or additional pay for hours worked on and/or off campus beyond the 20 hour per week maximum will violate the student's nonimmigrant status; the employment will have to be terminated immediately (with a possible loss of tuition remission and health insurance if the student is a TA or RA) and the student may have to leave the US. On-campus employment may be full-time during holidays and annual summer vacations if the student is otherwise in status and intends to enroll at NC State for the following semester. On-campus employment is limited to NC State hiring units (e.g., they get a paycheck through NC State University Payroll), but may also include employers who are located on campus and which primarily exist to provide direct services to students (e.g., dining establishments, copy center, etc.)

USCIS defines some types of off-campus employment as "extended on-campus employment." In the case of off-campus locations, the educational affiliation must be associated with the school's established curriculum and/or related to contractually funded projects at the post graduate level (documentation required). The employment must be an integral part of the student's educational program (for example, working at a facility in RTP in order to collect the data necessary for a thesis). For this type of employment, the F-1 student must obtain written employment authorization from OIS before engaging in employment. A special form

regarding extended on-campus employment is available at OIS for academic advisers and off campus employers to complete.

J-1 Students (On-campus):

J-1 students must obtain written employment authorization from their J-1 Program Sponsor **before** beginning any type of employment. On-campus employment for J-1 students is also limited to twenty hours per week while school is in session and may be full-time during holidays and vacations if the student subsequently enrolls the following term. J-1 students may engage in part-time on-campus employment when it is pursuant to the terms of an assistantship, fellowship, scholarship, or other on-campus employment. Full-time enrollment in the Fall and Spring semesters is required. J-1 students are considered to be working 20 hours a week on campus if they hold a half-time teaching or research assistantship. Employment is limited to employers (hiring units) who are located on campus and pay employees through NC State University Payroll. J-1 students whose Program Sponsor is North Carolina State University must obtain written approval in advance and in writing from an OIS adviser. OIS cannot authorize employment for J-1 students whose J-1 Program Sponsor is not NC State University (e.g., Fulbright).

Off-Campus Employment (CO-OP/CPT):

Students in either F-1 or J-1 status must have explicit written work authorization from either OIS or USCIS before engaging in any off-campus employment (or employment exceeding 20 hours per week). Students who wish to work for off-campus employers in their field of study to gather research data may be eligible to do a CO-OP ("Curricular Practical Training" for F-1 students and "Academic Training" for J-1 students) on either a part-time (20 hours per week) or full-time basis. Students will first attend an Information session hosted by both OIS and the Co-op office, then complete the forms they are given. Students need both a

specific job offer in their field of study and the academic advisor's recommendation that documents how the proposed employment is an integral part of the student's plan of work or thesis. The student must register for the special Co-op registration in TRACS and are required to register for courses or research (full-time) if the Co-op is only part-time. CPT and AT is authorized by OIS in SEVIS and is granted on a semester-by-semester basis.

Other Off-Campus Employment:

It may be possible in certain severe circumstances that an international student in F-1 or J-1 status apply for and receive off-campus employment authorization based on unforeseen economic necessity. International students who experience unforeseen economic need should consult with an OIS advisor for further information.

Post-Completion Employment:

International students may be eligible for Post Completion F-1 Optional Practical Training ("OPT" - 12 month maximum for the F-1 student's particular academic level) or J-1 Student Academic Training ("AT" - 18 month maximum, with a possible 18 month extension for "Post-Docs") after completing their studies (i.e., graduating or submitting their thesis or dissertation to the Graduate School, if submitted inter-session). If you wish to hire an international student in F-1 or J-1 status who has recently graduated or will be graduating, F-1 Optional Practical Training or J-1 Academic Training are very common and convenient employment types.

F-1 OPT is not employer-specific, but is limited only to a temporary position in the student's major field of study (as reflected on his/her current Form I-20). The student must apply directly to USCIS with the recommendation of his/her academic advisor and SEVIS entry by the Designated School Official (OIS in the case of NC State University students) before the completion of the program. The student must

provide you with a Form I-688B Employment Authorization Document (EAD) before being allowed to work on OPT. It may take USCIS 1-4 months to issue the EAD so graduating F-1 students should apply early. If you employ an F-1 student authorized for OPT and wish to further the employment beyond the student's 12 month maximum (check the end date on the EAD), you should contact Human Resources (International Employment Services) as soon as possible to discuss the possibility of a change of status to H-1B, eligibility requirements, forms and procedures, as well as current processing times.

A J-1 student with AT is not currently required to apply for and obtain an EAD, but may be authorized by his/her J-1 Program Sponsor to engage in post-completion employment directly related to the field of study. If you wish to employ a graduating J-1 student, you will need to issue an offer letter to the student (with a copy to the J-1 student's Program Sponsor) that describes the position (title, duties, salary, beginning and ending dates, etc.) The student will need to present (along with a valid DS-2019 form and passport) an AT letter from his/her J-1 Program Sponsor before employment can begin.

Maintaining Lawful F-1 or J-1 Status

International students who fail to maintain lawful nonimmigrant status are ineligible for any immigration benefits such as employment or change of status. Students who violate the terms of their nonimmigrant status are not allowed to work - including assistantships. It may be possible to enroll for less than a fulltime under certain circumstances (e.g., a medical illness that prevents fulltime studying or a student's final semester when all other course requirements have been met). Students and/or their advisers should consult with an OIS adviser to discuss any variation of fulltime enrollment, employment over 20 hours per week, violation of nonimmigrant status, etc., including possible consequences and plans of action.

Note: An international student's visa (that is, the actual visa stamp in the passport) may expire while the student is in the US with no adverse effect on the student's status or employment eligibility - the F or J visa itself does not determine employment eligibility or permitted length of stay and it's expiration date should not be entered into the HR system.

Out of Status Violations:

International students in F-1 or J-1 status who violate their nonimmigrant status somehow (e.g., remain here beyond their authorized period of stay, withdraw, become suspended, work more than permitted, etc.), change their nonimmigrant status, complete their program, or otherwise lose their employment eligibility should be terminated from all active appointments and not re-hired unless and until they can provide documented employment eligibility. Please contact OIS for questions regarding illegal employment by students. Students must be paid for any and all work undertaken, but if it is determined that an employment infraction occurred, OIS is required to terminate the student's Sevis record right away. OIS will meet with the student and provide immigration counsel regarding the consequences and options the student may have.

Determining Employment Eligibility

Human Resources at NC State University is responsible for monitoring employment at NC State University through the I-9 process. HR also manages employment-based immigration petitions (H-1B, TN, and permanent residency). The Graduate School can assist graduate secretaries and directors of graduate programs with questions regarding graduate appointments and GSSP issues. OIS can help answer questions regarding general employment eligibility for F-1 and J-1 students enrolled at NC State University. Please contact your HR customer service representative for assistance for questions, or problems with the appointment process in the HR information system.

Other Visa Types:

Most international students at NC State University are in F-1 or J-1 status, but other international students include those in "dependent" status, such as F-2, J-2, TD, H-4, L-2, etc. Only when a dependent is eligible for, has applied for, and has received (!) written employment authorization from USCIS, may someone in dependent visa status (e.g., a J-2 spouse with a Form I-688B, or an H-4 who has been approved for permanent residency and has employment authorization, etc) work. Other international students may have another independent visa status, such as H-1B, TN, etc. Such individuals may wish to maintain their independent visa status (which normally requires fulltime employment elsewhere) and study part-time or fulltime at NC State University, but these individuals MAY NOT work at NC State University unless NC State was the petitioning employer. Please consult Human Resources if you are contemplating hiring a nonimmigrant employee who is currently in H-1B status elsewhere and OIS if the employee is in J-1 status.

Please contact one of the offices below for further information:

OIS (F-1 and J-1 student employment issues)
(919) 515-2961
<http://www.ncsu.edu/OIS>

Human Resources (Int'l Employment Services)
(919) 515- 4518
www2.acs.ncsu.edu/hr/intemployment/iemission.html

Graduate School (Assistantship Information)
Manager of Graduate Appointments
(919) 515-4517
http://www.fis.ncsu.edu/grad_publicns/handbook/

Co-operative Education
(919) 515-2300
http://www.ncsu.edu/co-op_ed/

USCIS Employer's Handbook
(<http://uscis.gov/graphics/services/employerinfo/index.htm>).