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Higher Education Alert

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DHS finalizes rule replacing “Duration of Status” for F-1, J-1, and I visa holders

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Key implications for colleges and universities, independent schools, and employers.



What's the impact?

- **For students and scholars:** F-1 students, J-1 exchange visitors, and I visa holders will no longer be admitted for “Duration of Status.” Instead, they will receive a fixed admission period (up to 4 years for F and J), after which they must file an extension of stay with USCIS or depart and seek readmission.
- **For colleges, universities, and independent schools:** Schools will need to consider building new compliance workflows to track I-94 expiration dates, advise students on timely EOS filing (which prevents unlawful presence), navigate new restrictions on graduate program changes and first-year transfers, and account for the immigration consequences of academic probation or suspension.
- **For employers:** H-1B cap-gap protections are preserved, but fixed admission periods create new pressure to coordinate OPT/STEM OPT timing, EOS filing, and H-1B sponsorship earlier in the employment lifecycle.

The U.S. Department of Homeland Security (DHS) [published](#) on July 17 a final rule replacing the longstanding “Duration of Status” (D/S) framework for F-1 students, J-1 exchange visitors, and I visa holders with fixed periods of authorized stay. Effective **September 15, 2026** (60 days after publication in the Federal Register), this rule represents a significant restructuring of the student and exchange visitor visa system and will create substantial compliance, operational, and immigration planning challenges for colleges, universities, private independent schools, employers, and foreign nationals.

For decades, F-1 and J-1 students and scholars were generally admitted for “Duration of Status,” allowing them to remain in the United States for as long as they maintained compliance with the terms of their visa classification and valid Student and Exchange Visitor Information System (SEVIS) records. Under the new framework, affected individuals whose academic programs, training periods, or authorized activities extend beyond the initial admission period will now be required to file affirmative extension of stay (EOS) applications directly with USCIS, including filing fees and biometrics appointments.

Key Changes under the final rule

Key changes to the final rule are outlined here and, in more detail, below.

ADMISSION AND PERIOD OF STAY

- / **Fixed admission periods** F and J students will be admitted for a fixed period of authorized stay based on their program length, not to exceed four years. This includes college and university students and students at private elementary, middle, and high schools.
- / **Reduced departure period** The F-1 departure preparation period is reduced from 60 days to 30 days following program completion or the end of authorized practical training. The J-1 departure period remains at 30 days. Students who fail to maintain status receive no departure period and must leave immediately.
- / **Unlawful presence** Unlawful presence now begins accruing after the expiration of the authorized period of admission on Form I-94. This is a significant change from the D/S framework, under which unlawful presence generally did not accrue absent a formal finding by USCIS or an immigration judge. Individuals who timely file an EOS application, however, are considered to be in a “period of authorized stay” and do not accrue unlawful presence while the application is pending.

EXTENSIONS OF STAY

- / **Extension of stay requirements** F and J students whose programs exceed their admission period must file an extension of stay (EOS) application (Form I-539 or successor form) directly

with USCIS, with the required filing fee and biometrics. This replaces the prior system in which Designated School Officials (DSOs) could extend programs without USCIS involvement.

- / **Academic standing and extensions** Delays in program completion caused by academic probation, suspension, or a student's repeated inability or unwillingness to complete coursework are explicitly listed as unacceptable reasons for an EOS program extension.
- / **Automatic employment authorization during pending EOS** For F-1 students who timely file EOS applications, certain employment authorization may be automatically extended for up to 240 days while the EOS remains pending.

ACADEMIC PROGRAM RESTRICTIONS

- / **Restrictions on school transfers and changes in educational objectives.** The final rule imposes new limitations on school transfers and program changes, including:
 - o **First-year restrictions:** Students at every level below the graduate level may not transfer schools or change their major or educational level during their first academic year, unless the Student and Exchange Visitor Program (SEVP) authorizes an exception for extenuating circumstances.
 - o **Graduate-level prohibitions:** Graduate students may not change educational objectives (major or level) at any point during their program. Graduate students are also prohibited from transferring, unless SEVP authorizes an exception for extenuating circumstances.
 - o **Academic standing:** Students on academic probation or suspension or who have shown an inability or unwillingness to complete coursework (e.g. failing multiple classes) are ineligible to transfer or change programs.
 - o **Upward progression only:** Students who have completed a program at one educational level may only begin a new program at a higher educational level as an F-1 student. Programs at the same or a lower level are prohibited. However, any programs completed prior to the effective date of the rule will not be counted towards this limit.
 - o **Language training cap:** F-1 students in language training programs are limited to an aggregate 24-month period of study, including breaks and annual vacations.

EMPLOYMENT AUTHORIZATION AND H-1B

- / **OPT/STEM OPT transition window.** The final rule allows for a transition window for F-1 students who timely file Form I-765 for post-completion Optional Practical Training (OPT) or STEM OPT on or before the 244th day after publication of the final rule (March 18, 2027).

Those students do not need to file a separate EOS application for that OPT/STEM OPT period. After that window closes, F-1 students seeking post-completion OPT or STEM OPT generally must file both the Form I-765 and an EOS application if their fixed admission period will not cover the requested employment authorization period. The existing 180-day STEM OPT EAD extension remains in place.

- / **H-1B Cap-Gap Preserved.** The final rule does not change the H-1B cap-gap framework. Eligible F-1 students who are beneficiaries of timely filed, nonfrivolous, cap-subject H-1B change-of-status petitions will continue to receive automatic extension of F-1 status and qualifying OPT employment authorization consistent with existing cap-gap regulations.

INSTITUTIONAL COMPLIANCE

- / **Increased Compliance Obligations.** The rule imposes increased documentation, biometrics collection, tracking, and reporting obligations for students, schools, and employers, including a requirement that DSOs report academic status changes (probation, suspension, dismissal, withdrawal) within existing SEVIS reporting timelines.

Impact: Current and entering students

CURRENT STUDENTS IN THE UNITED STATES ON SEPTEMBER 15, 2026

F and J students and scholars previously admitted for D/S who are properly maintaining status on the effective date (September 15, 2026) generally will not need their Forms I-94 corrected to a date certain, but their D/S admission will be subject to a transition end date. They may remain in the United States in F or J status until the **later** of:

- / the expiration date on an Employment Authorization Document (Form I-766), if applicable, **or**
- / the program end date noted on the Form I-20 or Form DS-2019 that is valid on the effective date; **and**
- / in any event, not to exceed four years from the effective date (i.e., September 15, 2030), plus an additional departure period of 60 days for F students and 30 days for J scholars, resulting in an outside transition date of November 14, 2030, for F students and October 15, 2030, for J scholars.

Travel abroad after the effective date will trigger conversion to the fixed-date regime. Upon re-admission, the individual will receive a new Form I-94 with a date certain.

CURRENT STUDENTS OUTSIDE OF THE UNITED STATES ON SEPTEMBER 15, 2026

A current F or J student previously admitted for D/S who departs the United States and seeks admission after September 15, 2026, becomes subject to the fixed-date framework. They may be admitted for a maximum period of four years or the length of program as specified on Form I-20 or DS-2019, whichever is shorter, plus applicable arrival and departure time.

ENTERING STUDENTS

Entering students who are outside the United States but enter **before** September 15, 2026, should generally be admitted under the existing D/S framework. If they are already in the United States and properly maintaining F or J status on the effective date, they should then fall within the transition provisions applicable to current D/S holders. This may be particularly relevant for students entering the fall semester before the rule becomes effective.

By contrast, students and exchange visitors who are outside the United States when the final rule takes effect and who apply for admission on or after the effective date are not eligible for the D/S transition provisions. They will be admitted under the new fixed-date framework.

OPT AND STEM-OPT TRANSITION

F-1 students admitted for D/S and covered by the transition provisions who timely file Form I-765 for post-completion OPT or a STEM OPT extension on or before the 244th day after publication of the final rule (**March 18, 2027**) will not be required to file a separate EOS application for the requested OPT/STEM OPT period.

- / **If USCIS approves the OPT or STEM OPT:** the F-1 student is authorized to remain in the United States in F-1 status until the expiration date of the EAD, plus 60 days as provided in their previous D/S admission.
- / **If USCIS denies the OPT:** If the student's program end date has not yet passed, the student may remain in the United States until the program end date listed on Form I-20, plus 60 days, provided the student continues to pursue a full course of study and otherwise maintains F-1 status. If the program end date and departure period have passed by the time USCIS denies the I-765, the student must immediately depart the United States. Note: DHS reserves discretion to extend the OPT/STEM OPT filing exemption period beyond the dates specified.

Key implications and considerations

EXTENSION OF STAY AND RE-ADMISSION OPTIONS

F and J students and scholars whose programs exceed their fixed admission period generally have two pathways to obtain additional time:

- / they may file an EOS application (Form I-539 or successor form) directly with USCIS; or
- / they may depart the United States and seek readmission through CBP with an updated Form I-20 or Form DS-2019 reflecting the new program end date.

If a student returns and is re-admitted for the balance of their prior unexpired admission period, USCIS generally will not consider the pending EOS abandoned. However, if the student seeks admission with an updated Form I-20 or DS-2019 for a period beyond the previously authorized admission, the pending EOS may be deemed abandoned as no longer necessary.

For schools and sponsors, this means that a DSO recommendation, SEVIS update, or updated Form I-20/DS-2019 will be necessary but not sufficient to extend the individual's stay in the United States beyond the fixed admission period. If the student or exchange visitor remains in the United States, USCIS will adjudicate the EOS request. If the individual travels, CBP will determine admissibility and the new Form I-94 Admit Until Date at the port of entry, and CBP retains discretion over both admission and the period of admission.

The choice between EOS and travel/re-admission will have operational consequences. EOS avoids international travel but requires USCIS filing, fees, possible biometrics, and adjudication time. Travel may result in a new Form I-94 more quickly, but carries CBP admission risk, requires proper travel documentation, and may affect a pending EOS if the individual seeks admission based on an updated Form I-20 or Form DS-2019 for a period beyond the previously authorized admission period. Schools should advise students and exchange visitors not to treat travel as a purely administrative shortcut without individualized review.

GRACE PERIOD AND UNLAWFUL PRESENCE IMPLICATIONS

The final rule significantly alters the unlawful presence framework applicable to F, J, and I nonimmigrants. Under the fixed admission system, unlawful presence begins accruing after the expiration of the authorized period of admission on Form I-94, potentially triggering 3-year and 10-year bars on reentry under INA 212(a)(9)(B) and (C).

Historically, unlawful presence for F and J students and scholars admitted for duration of status did not begin accruing until the day after USCIS formally found a status violation while adjudicating a request for another immigration benefit, or on the day after an immigration judge ordered the alien excluded, deported, or removed. Under the new fixed-date framework, unlawful presence accrues the day after the I-94 expiration date if the student has not timely filed for an EOS, departed, or otherwise maintained lawful status. Critically, timely filing of an EOS application places the student in a "period of authorized stay" and does NOT result in unlawful presence accrual during the pendency of the application.

Under the final rule, the F-1 departure preparation period is reduced from 60 days to 30 days following completion of studies or authorized practical training. Additionally, students who fail to

maintain status, fail to timely file an EOS or other status-preserving application, or receive an EOS denial after their admission period has expired may be required to depart the United States immediately.

STUDENT CONDUCT PROCEEDINGS AND ACADEMIC STANDING

The final rule creates a direct connection between institutional academic processes and immigration consequences and may also have implications for disciplinary processes where a conduct sanction affects enrollment, suspension, withdrawal, or the student's ability to maintain a full course of study.

Notably, academic probation or suspension is explicitly listed as *not* an acceptable reason for an EOS program extension. Students placed on academic probation or suspension who need additional time to complete their program may be unable to obtain an extension. In addition, students on academic probation or who have been suspended are ineligible to transfer schools or change educational objectives. A "pattern of behavior demonstrating a repeated inability or unwillingness to complete his or her course of study" (including repeated class failures) bars both EOS eligibility and transfer eligibility.

DSOs must report academic status changes, including the effective date or period of suspension, dismissal, probation, or withdrawal, based on their institution's own definitions. Importantly, DHS declined to codify definitions of these terms, recognizing that they vary across institutions.

Schools should carefully consider how their internal academic policies, including those governing academic progress standards, dismissal procedures, and re-admission, intersect with these new immigration consequences. Academic actions, and potentially conduct-related sanctions that affect enrollment, suspension, withdrawal, or ability to maintain a full course of study, may now have significant immigration implications for international students.

K-12 STUDENTS

Private elementary, middle, and high school F-1 students are generally subject to the same fixed-admission framework as other F-1 students, including the four-year maximum admission period, and may need either EOS or travel and readmission with an updated Form I-20 if additional time is needed. The rule does specifically recognize that a student needing to change schools to complete elementary or secondary education may qualify as an "extenuating circumstance" for SEVP-authorized exceptions to the transfer/change restrictions.

Public high school F-1 students remain subject to the statutory aggregate 12-month limit, and the final rule clarifies that "public high school" includes charter schools or similar taxpayer-funded schools.

AUTOMATIC EMPLOYMENT AUTHORIZATION DURING PENDING EOS

For F-1 students who timely file EOS applications, employment authorization for on-campus employment, Curricular Practical Training (CPT), and severe economic hardship employment authorization may be automatically extended for up to 240 days while the EOS remains pending. **However**, if USCIS has not adjudicated the EOS by day 240, the student must stop working, even though the timely filed EOS may allow the student to remain in the United States in a period of authorized stay and continue studying.

For any F-1 student who files an EOS application during the 30-day grace period for departure, the F-1 student will not receive an automatic extension of authorized employment, including on-campus employment, CPT, and severe economic hardship, and must wait for approval of the EOS application (and employment authorization application, if required) before beginning work.

For J-1 exchange visitors, authorized employment may continue during the pendency of a timely filed EOS for up to 240 days, but not thereafter

H-1B IMPLICATIONS

Because many employers rely on OPT and STEM OPT as part of long-term workforce planning, these changes may create pressure for earlier immigration strategy discussions and sponsorship planning. Most notably, the final rule does not change the H-1B cap-gap framework. Eligible F-1 students who are beneficiaries of timely filed, nonfrivolous, cap-subject H-1B petitions requesting a change of status will continue to receive an automatic extension of F-1 status and any qualifying OPT employment authorization consistent with existing cap-gap regulations. Importantly, preserving this bridge will also allow employers to avoid the \$100,000 H-1B fee that may otherwise apply if the foreign national student had to leave the US between F-1 and H-1B statuses.

The grant of employment authorization also requires separate attention. A timely EOS filed after March 18, 2027 (the OPT/STEM OPT transition period) may place the student in a period of authorized stay and may permit continued study, but it does not itself authorize post-completion OPT employment. Operationally, employers and schools must coordinate on H-1B transition planning to ensure maintenance of F-1 status and a successful transition to H-1B status.

INCREASED USCIS FILINGS AND PROCESSING CONCERNS

One of the most immediate consequences of the new framework will be a substantial increase in USCIS extension-of-stay filings. Students and exchange visitors enrolled in programs which by program length alone will exceed their initial admission period (including many doctoral students, research scholars, and J-1 physicians) will now need to submit affirmative EOS applications during the course of their academic programs or training periods.

This shift may create significant administrative burdens for schools and foreign nationals alike, particularly given existing USCIS processing timelines. Schools should anticipate increased advising demands, additional compliance tracking obligations, and greater scrutiny of student timelines and program progression.

AMBIGUOUS PROVISIONS AND COMPLIANCE CHALLENGES

Several provisions in the final rule are ambiguous or likely to generate implementation challenges. Schools should monitor agency guidance on the following issues:

- / **"Compelling Academic Reasons" Standard** "Compelling academic reasons" for EOS extensions is undefined. DHS states each case will be adjudicated individually on a case-by-case basis, creating uncertainty for students and advisors attempting to evaluate eligibility in advance.
- / **"Pattern of Behavior" Bar** "Pattern of behavior demonstrating repeated inability or unwillingness" to complete coursework, which bars EOS eligibility, has no defined threshold (e.g., number of failed courses, number of extensions). This may lead to inconsistent adjudications.
- / **Non-Academic Conduct Proceedings** The final rule repeatedly refers to "academic probation," "suspension," "dismissal," and "withdrawal," but it does not clearly explain how non-academic disciplinary outcomes should be treated for EOS, transfer eligibility, or SEVIS reporting purposes.
- / **USCIS Processing Capacity** USCIS processing capacity for the anticipated volume of EOS applications is uncertain. The 240-day automatic extension of certain employment authorizations may prove insufficient if processing times are lengthy, potentially leaving students unable to work after day 240 while still awaiting adjudication.
- / **Delay of Program-Change Restrictions** Pursuant to the final rule, DHS may delay or suspend the new restrictions on school transfers, changes in educational objectives, and same- or lower-level study for up to two years after the rule's effective date. Because DHS has not yet said whether it will use this authority, schools should prepare for implementation while monitoring for Federal Register notices and SEVP guidance.
- / **Automatic Visa Revalidation and CBP Discretion** The rule preserves automatic visa revalidation (AVR) for eligible short trips to contiguous territory or adjacent islands but changes the admission language from "shall" to "may," confirming CBP's discretion to determine admissibility and the period of admission. DHS indicates that AVR remains available and that a brief qualifying trip does not itself require an EOS filing, but schools should monitor guidance on whether and how students may use AVR travel with an updated Form I-20 or DS-2019 to obtain a new fixed I-94 period, particularly where an EOS is pending or the student's prior admission period is expiring.

- / **SEVIS System Readiness.** SEVIS system modifications necessary to implement the rule are still under development. DHS has indicated it will provide training and broadcast messages, but specific timelines for system readiness have not been confirmed.

Recommended next steps for schools and employers

Pending additional agency guidance, schools and employers should consider:

IMMEDIATE STUDENT COMMUNICATIONS

- / Identifying all current F-1 and J-1 students and scholars whose programs extend beyond four years from the effective date, or whose program end dates exceed the four-year cap and notifying them of the EOS requirement
- / Counseling students present in the United States on the effective date regarding the transition timeline and their program end dates as the new de facto expiration of their authorized stay
- / Advising students currently abroad or planning travel that re-entry after the effective date will trigger conversion to the fixed-date regime with a new I-94 reflecting a date certain
- / Advising entering students that as of September 15, 2026, they will no longer be able to switch programs during their first year of study
- / Advising entering and current graduate students on program-change and transfer restrictions

OPERATIONAL AND COMPLIANCE PREPARATIONS

- / Implementing systems for tracking Form I-94 expiration dates and establishing internal deadlines for timely EOS filing (given that timely filing prevents unlawful presence accrual)
- / Evaluating DSO and international student office staffing and compliance resources to manage increased EOS advising, SEVIS reporting, and student outreach
- / Reassessing H-1B sponsorship timing strategies in light of fixed admission periods and the reduced 30-day departure window

LEGAL AND POLICY REVIEW

- / Coordinating with counsel regarding institutional risk assessments, advising protocols for graduate students affected by transfer/program-change prohibitions, and development of training materials for DSOs and academic advisors
- / Reviewing and updating institutional academic policies on probation, suspension, and dismissal in light of their new immigration consequences for international students

The final rule represents a fundamental shift in the administration of student and exchange visitor immigration programs. DHS has committed to providing implementation guidance and training to DSOs and schools, but schools, employers, and foreign nationals should begin evaluating the compliance and operational implications of the new framework immediately and should monitor developments closely as the 60-day implementation period begins.

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