

**INS Regulations Update  
December 2002  
Advisory on F-1 Employment Rule Changes**

There are several significant changes to employment rules in the December 11, 2002 INS Final Rule effective January 1, 2003. This advisory summarizes them.

**On-Campus Employment:** While kept fairly intact from previous rules, there are two significant changes.

1) On-campus employment may begin no sooner than 30 days prior to the start of classes for students admitted for initial entry to begin a new program. Note, however, that new international students who do not already have a social security number (SSN) are dependent on receiving the SSN to complete the hiring process.

2) Students transferring in the middle of a degree to KCC from another US school can be employed only at the school that “has jurisdiction over his/her SEVIS record. All transfers are dependent on the prior school “releasing” the student to the new school. The prior school has jurisdiction over the SEVIS record before the transfer release date, and the transfer school has jurisdiction over the SEVIS record on and after the transfer release date. (A separate advisory will discuss the school transfer process in greater detail.) However, upon initial entry to begin a new course of study, an F-1 student may not begin on-campus employment more than 30 days prior to the actual start of classes. Note: new social security procedures requiring actual enrollment in a full course of study before a SSN number can be issued may also impact (limit) the start date of a student who otherwise could under INS rule begin employment earlier.

**Internship with an International Organization:** Instructions regarding the work permit process for this category were previously confusing. The new rule clarifies that international internship employment authorization applications are to be filed with the INS Service Centers with the required fee. Note: this F-1 employment category is rarely used by KCC students. The new rule will assure that this will continue to be the case for the immediate future since INS service center processing is very slow, taking 90-140 days.

**Practical Training:**

1) The final rule changes the required period of lawful enrollment for eligibility from “9 months” to “one full academic year.” The rule also allows counting time spent in study abroad programs during the course of study toward the one-academic year requirement, as long as the student has spent at least one full academic term enrolled in a full course of study prior to studying abroad. However, the rule still limits time spent outside the US to no more than 5 months to be considered a temporary absence. (The 5 month rule will be discussed in further detail in a subsequent advisory.)

- 2) The final rule specifies that a student who has used 12 months of Optional Practical Training (OPT) is eligible for another 12 months, after changing to a higher educational level. Thus, the student who completes a bachelor's, master's and doctoral degree in the US will be eligible for up to 36 months of OPT (12 months for each degree level). In contrast, the student who completes two master's degrees in different fields of study is only eligible for 12 months of OPT because there is no change to a "higher educational level."
- 3) The final rule requires applications for OPT to be made up to 90 days prior to completion of course requirements or course of study. All OPT applications must be received by INS prior to the completion of study date. Note: the prior rule allowed students to apply up to 60 days beyond completion of study, but under the new rules, any application after completion of study will no longer be accepted. The new rule maintains the requirement that all OPT be completed within 14 months following completion of study. Because OPT applications are currently taking up to 140 days to process, students may find that even with an early application submitted 90 days prior to completion of study, they are not receiving a full 12-month employment period. The new rules remind students that they may not begin employment until the EAD card is received.
- 4) The final rule adds beginning study at another institution as a ground for "automatic termination" of practical training. It is unclear at this point in time how this will impact a student who wants to use OPT but who simultaneously would also like to begin studying for another degree. The new rule adds the requirement that a student with OPT must continue to report name and address changes to the DSO at his/her previous school, and that DSOs are responsible for maintaining the records of students on OPT. DSOs are responsible for updating SEVIS changes in NAME, ADDRESS, and DISRUPTION IN EMPLOYMENT for the duration of the authorized employment. This marks a major change in monitoring required of schools; and ISS will need the cooperation of students on OPT to carry out our duties in this respect.
- 5) The new rule retains the prior rules on Curricular Practical Training.

This advisory was prepared by ISS for use by international students at Kapi'olani Community College. It is general in nature and does not constitute legal advice for individual F-1 students. ISS gratefully acknowledges ISS Manoa and NAFSA: Association of International Educator's publishing of a compiled and annotated rule on December 23, 2002 in the preparation of this advisory.