

**INS Regulations Update
December 2002
Advisory on F-1 Student Program Extension**

The December 11 Final INS Rule relating to “Retention and Reporting of Information for F,J and M Nonimmigrants; Student and Exchange Visitor Information System (SEVIS) includes some new language and restrictions relating to “extension of stay.”

Regarding extension of stay, the new law states, “An F-1 student who is currently maintaining status and making normal progress toward completing his or her educational objective, but who is unable to complete his or her course of study by the program end date on the Form I-20, must apply prior to the program end date for a program extension....” Program extensions are granted by the Designated School Officer (DSO) at the ISS. In approving a program extension, the DSO must certify that the student has continually maintained status and that the delays are caused by compelling academic or medical reasons. Some examples are change of major, change of research topic, unexpected research problems, or documented illnesses. The rules further state “academic probation or suspension are not acceptable reasons for program extensions.” Furthermore, “a DSO may not grant an extension if the student did not apply for an extension until after the program end date noted on the Form I-20.”

Note that all students have been entered into SEVIS, there will be an automatic notification process to alert all students whose I-20 will be expiring that they need to come to ISS for program extension. Schools have until August 1 to have all students entered into SEVIS, so students with I-20s expiring prior to that date may NOT receive an automatic notice and are responsible for requesting a program extension in a timely manner, prior to their I-20 expiration.

Note also that in the past, DSOs were not barred from approving and processing an extension of stay for a student who had severe academic difficulties such as probation or suspension. The new stricter requirements will make it very difficult for a student with severe academic difficulties to succeed in completing their program of study within the allotted timeframe given on the admission I-20 form. Furthermore, under the new rule requirements, DSOs are not allowed to be particularly generous in the estimate of completion date on the I-20 at the time of admission. The new rule states that program duration on the Form I-20 given at the time of admission should be based on the time an “average student” would need to complete a similar program. Prior rules allowed the school to add an extra year to the “normal” period of study on an initial I-20 form. The new rules do not allow an additional year to be included in the admission I-20 form.

The new rule further explains: “An F-1 student who is unable to complete the educational program within the time listed on Form I-20 and who is ineligible for program extension...is considered out of status. A student who is ineligible for program extension according to the new rules, is one who has not applied for the extension within the proper timeframe (i.e., his/her I-20 has already expired) or a student who has not maintained status during the entire course of study. It is generally understood that a student maintains status when he or she continuously enrolls fulltime (or has special permission in advance for reduced courseload) and who has not worked without proper authorization. Thus, a student who has been part-time without permission of the DSO, or who has participated in unauthorized employment, is ineligible for program extension.

The new rules state that a student who is ineligible for program extension may, if eligible for that benefit, apply for reinstatement to F-1 student status with the INS. A separate advisory will discuss reinstatement to student status and related issues.

<p>The information above was prepared by the ISS for international students studying at the Kapi`olani Community College. It does not constitute legal advice for an individual student. This information is preliminary and subject to revision as needed based on further expert legal analysis.</p>
--

First published December 27, 2002

-