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Issues (including Change of Status) for CPT, OPT Students

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Submitted by Rajiv S. Khanna on Nov 20th 2015

F-1 students undergoing Curricular Practical Training and Optional Practical training have to deal with peculiar issues, especially when they attempt to change status (for instance, COS from F-1 to H-1). One of the most commonly asked question was and is: would it be legal to work/work full time while on CPT? This discussion with a group of students reviewed CPT/OPT issues including COS. I am uploading a video that contains the entire discussion. The students had their own conference line they wanted me to call. Therefore, what you see is not our usual video format. This discussion is important for employers as well to anticipate what type of issues will be likely to arise during the H-1 process.

A Sample RFE in Students? Change of Status

RFE Request 1:

USCIS has reviewed your petition/application and supporting evidence. You did not submit sufficient evidence to establish that the beneficiary has been maintaining their current non-immigrant status. Therefore, additional evidence is needed.

The Petitioner

Documentation submitted indicates that your petition seeks to employ the beneficiary as a software developer.

Maintenance of Status

Additional documentation is required to establish that the beneficiary was maintaining a valid F-1 nonimmigrant status at the time of filing.

Full Course of Study

To demonstrate that the beneficiary was maintaining a full course of study, you submitted no evidence. It is not clear if the beneficiary is maintaining a valid F-1 student status while working on CPT employment for TowerStrides, Inc. Therefore, further evidence is required.

The types of evidence that you may submit include, but are not limited to:

- 1. Official copies of the beneficiary's **transcripts** issued by XYZ University of Science and Technology;*
- 2. Copies of **degrees and/or certificates** issued to the beneficiary showing course completions;*
- 3. **Receipts for tuition** payments made by the beneficiary to XYZ University of Science and Technology;*
- 4. **Receipts for books, parking passes, and school supplies**, for the period of time that the beneficiary was a student at XYZ University of Science and Technology;*
- 5. The beneficiary's **student ID** for XYZ University of Science and Technology;*
- 6. The beneficiary's **course syllabi or outlines** for his or her program at XYZ University of Science and Technology;*
- 7. Documentary evidence to show that the beneficiary was **physically attending** the courses in which he or she was enrolled, including **transportation receipts, confirmed transportation reservations, attendance records, etc.**;*
- 8. Evidence of the beneficiary's U.S. residence (**utility bills, rental contracts or receipts, etc.**);*
- 9. Evidence showing **the number of online or distance education class credits** the beneficiary was/is enrolled in for each session, term, semester, trimester, or quarter of study, for the duration of the time he or she was a student at XYZ University of Science and Technology;*
- 10. Evidence to show the beneficiary is or was **making progress** toward completion of a program of study;*

11. **Any other** documentary evidence to establish the beneficiary has been engaged in a full course of study and working towards program completion.

RFE Request 2:

Curricular Practical Training

Since the evidence of record indicates that the beneficiary is or was participating in Curricular Practical Training (CPT), provide the following:

1. The name of the **course and course code** in which the beneficiary is or was enrolled that requires CPT;
2. Documentary **evidence that immediate participation in CPT was required** for the beneficiary's studies;
3. Documentary evidence establishing both the beneficiary's current major and that CPT is/was a **integral** (essential) part of the beneficiary's degree program at XYZ University of Science and Technology;
4. A letter from the beneficiary's CPT employer(s), explaining the beneficiary's **job duties, pay, and period of employment**;
5. Evidence of the **cooperative agreement(s)** between the beneficiary's CPT employer and XYZ University of Science and Technology; -
6. A detailed statement explaining **how you obtained CPT employment** at Employer, Inc.; whether individually, through the school, or through an outside company or consultancy;
7. Evidence that the beneficiary's CPT is or was **directly related to his or her major** area of study.

Nonimmigrant Visas:

Change of status [2]

CPT [3]

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