An overview of immigration regulations, and guidance for UD departments and units

Revised July 2013
Office for International Students and Scholars

www.udel.edu/oiss

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International Student and Scholar Advising

International students face unique challenges in maintaining their immigration and academic status during their stay in the United States. This simplified guide provides helpful tips on basic immigration regulations pertaining to international students at the University of Delaware. Remember, all cases are unique and every situation likely requires a bit more research. The purpose of this guide is to assist you in learning the basic concepts so you can identify "red flags" and help you to guide students toward relevant sources and options. Always contact OISS or refer international students to our office for immigration-related advice and assistance.

This guide has been developed to be a reference for everyone at the University, so the guidance is general and applies to all students. When necessary, specific guidance has been defined for ELI, undergraduate and graduate students if policies differ.

In this guide:

- The Visa Process......................... 4
- Issuing the Eligibility Document...... 4
- Fees............................................. 4
- The Visa Interview....................... 5
- Full time enrollment requirements...... 6
- Work.............................................10
- Travel..........................................12
- Study Abroad............................... 13
- Visa Types....................................13
- Helpful Links...............................16

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I. The Visa Process

A. Admission

1. Once OISS is aware of the student’s admission, and we have the proper amount of funding, the student will be issued a certificate of eligibility (I-20 or DS-2019).

2. If OISS does not have sufficient funding from the student, or does not have a complete CFI form, an I-20/DS-2019 will not be issued. The biggest “hold up” is generally during this step.

II. Issuing the Eligibility Document (I-20/DS-2019)

A. I-20 is for acquiring an F-1 Student visa

1. Most of our students come as F-1 students. To be an F-1, funding can come from anywhere but the individual’s government. There are some exceptions to this rule, most notably our partnerships in the Middle East like SACM, KAUST, and the Embassy of Oman.

B. DS-2019 is for acquiring a J-1 Student visa

1. For a J-1 student visa, the funding must come primarily from a source that is not personal. Generally, funds from the government qualify the individual for this visa type. See appendix for more information on this distinction.

2. One of the biggest differences between the two is that we can issue a J-1 visa for a non-degree program. F-1 students must be matriculated into an Undergraduate, Masters, Doctoral or ELI program.

III. Fees

A. The SEVIS fee is levied by the government. This fee is not paid to OISS or UD. The student must pay this fee at Pay.gov. The student must pay this fee before he/she makes a visa appointment, and will receive information regarding how to pay along with the I-20 or DS-2019 from OISS.

B. The Visa application fee/appointment fee (sometimes both) are levied by the US consulate in the individual’s country of origin. This fee pays for visa processing and the interview.

C. The International Student Service Fee is levied by UD and comes to our office. This fee pays for services that our office provides once the student arrives. It does not pay for the visa, the interview, or any governmental fees.
IV. The Visa interview

The visa interview is a sometimes daunting, difficult process, but we are working to help individuals be more successful in obtaining visas.

A. What do they look for?

The Consular officer assumes that everyone coming into the interview is attempting to immigrate to the US. F-1 hopefuls, and others hoping to obtain non-immigrant visas, must prove that they have the goal of returning to their country. We recommend the following:

1. Show ties to your home country. This can be land you own, or that your family owns and you will inherit. Even a family business could help prove your case.

2. Show that you have the funds available in your home country such that you can pay for your studies and your living expenses, and that you do not need to work in the US.

3. Practice English! The visa interview is generally conducted in English, and you should be proficient enough to convey your goals with confidence.

4. If your English is poor, practice explaining your goals in English. This is the most important information.

5. Set goals that pertain to your coming back to your country. For example, if you are studying Engineering, show that you have a job back home, or that your country needs Engineers.

B. Approvals

1. Student can come to the US. The visa must be used within 5 months, generally.

C. Denials

1. Individuals can usually interview again and again. Fees depend on the consulate. This process can get expensive! As long as the student continues to defer his or her attendance, he/she will be issued new eligibility documents from our office and will not have to repay the SEVIS fee.

2. If the student does not contact our office, the I-20 is automatically completed after 60 days past the program start date. After this date, the student will need to request a new SEVIS ID from our office and will need to repay the SEVIS fee.

D. Visa interviews in a third country

1. More scrutiny

2. Longer processing times

3. Higher chance of denial

E. Renewing the visa

1. Visas are only renewed outside of the US
2. The visa can expire in the US. The Eligibility document (I-20 or DS-2019) maintains the student’s status inside the US.

3. If the student leaves the country, the visa must be valid for him or her to reenter. This may mean that a student on a break must plan time to renew the visa before he or she re-enters.

V. Full-Time enrollment requirements

All registrar changes to student enrollment, including dropping a course, and changing grading criteria, require OISS approval via WebReg (webform). If the change seems appropriate, and you judge that the change is academically sound this is what you should do:

1. Direct the student to the Course Permit (Drop/Add) webform to request the change (Instructions are available here: http://www.udel.edu/registrar/helpdocs/coursepermit.html)
2. This form will be routed to OISS, where advisors will determine if the schedule change is okay from an immigration standpoint.
3. If approved by OISS, the registrar will make the change

The following chart should help explain what is allowed and what is not. Here are some things to keep in mind:

1. Pass/Fail and Audit courses do not count toward the minimum requirement at any level
2. Dropping below a full course is permitted on occasion, but not before proper approval (see below)
3. All international students must be enrolled full-time. This regulation applies even to students who are on probation and not permitted to enroll more than part-time at UD.
<table>
<thead>
<tr>
<th></th>
<th>Undergrad</th>
<th>Grad with assistantship (funded)</th>
<th>Grad non-funded</th>
<th>ELI</th>
<th>Full-Time Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dropped course</td>
<td>Permitted if the drop does not result in dropping below full-time OR If the drop results in less-than full time, and the department or grad office has approved the drop, student should fill out this form and submit to OISS along with the usual webform:</td>
<td>6 credits</td>
<td>9 credits</td>
<td>28 hrs/week</td>
<td></td>
</tr>
<tr>
<td>Online Courses</td>
<td>Not permitted</td>
<td>Permitted when the student is otherwise taking a full course load</td>
<td>Not permitted</td>
<td>Not permitted</td>
<td>Full-Time Requirement 28 hrs/week</td>
</tr>
<tr>
<td>Audit</td>
<td>Not permitted</td>
<td>Permitted when the student is otherwise taking a full course load</td>
<td>Not permitted</td>
<td>Not permitted</td>
<td>Full-Time Requirement 28 hrs/week</td>
</tr>
<tr>
<td>Pass/Fail</td>
<td>Not permitted</td>
<td>Permitted with department approval</td>
<td>Permitted when the student is already taking full-time coursework OR Permitted if the class is considered a “free-elective” AND the department allows “free-electives” AND the student has free electives left</td>
<td>Not permitted</td>
<td>Full-Time Requirement 28 hrs/week</td>
</tr>
<tr>
<td></td>
<td>Undergrad</td>
<td>Grad with assistantship (funded)</td>
<td>Grad non-funded</td>
<td>ELI</td>
<td>Full-Time Requirement</td>
</tr>
<tr>
<td></td>
<td>12 credits</td>
<td>6 credits</td>
<td>9 credits</td>
<td>28 hrs/week</td>
<td></td>
</tr>
</tbody>
</table>
A. Drop Below full course

1. Dropping below full-time is occasionally permitted in exceptional circumstances.

2. Students may only use one drop below full course per academic level. This excludes the Medical reduced course load, and the last semester provision.

3. From an immigration standpoint, we can authorize drops for the following reasons and only the following reasons:

*Please be advised that these reasons are not arbitrary, nor are they governed by OISS. These are the options we have in SEVIS. Please do not add your own reasons, no matter how justified they may be. Select the most appropriate reason, and add support if necessary.

a) The student is having difficulty with English language.

b) The student is having difficulty with reading requirements.

c) The student is unfamiliar with American teaching methods.

d) The student has a medical condition preventing him or her from studying full-time.

e) Improper course level placement.

f) The student needs less than a full course load to finish the degree program this term.

4. Applying for drop authorization will involve OISS

a) Procedures for dropping below full-time include completing the Reduced Enrollment request form from OISS.  
http://www.udel.edu/oiss/forms/Request%20for%20Reduced%20Enrollment.pdf

b) If the leave is for medical reasons, the student must also include a medical reduced course load form, which is completed and signed by a certified physician. It should explain how the medical condition precludes the student from studying full-time.  
http://www.udel.edu/oiss/forms/Medical%20Reduced%20Course%20Load%20Physician%20Form.pdf

B. Dual Enrollment

Dual enrollment is somewhat common, generally among undergraduate students. We allow dual enrollment as long as the courses taken between the two universities equal the full-time load requirement for UD (12 credits for undergrads). In these situations, the student does not need to transfer to the new school. The student should contact OISS for approval.

C. Dismissals

When a grad or undergrad student is dismissed, the SEVIS record is terminated by OISS. The student has 15 days to leave the country. Generally, when OISS has notice that a student will be dismissed, they are given the option to transfer before the dismissal is final. Transfers after termination are not possible.
D. Vacations and Leaves of Absence

1. A vacation is considered a break during a time in which school is not regularly in session. The annual vacation is generally during summer break and winter break.
   
   a) To travel domestically during a vacation the student does not require approval.
   
   b) To travel abroad during an annual vacation time the student’s I-20 should be signed by OISS on the third page. The student should submit a travel form to and obtain a new signature (if necessary) from OISS prior to leaving the US.

2. A Leave of Absence results from a student withdrawing earlier than anticipated from a program. He or she may take a semester off, or may leave mid-semester for an emergency reason.
   
   a) If the leave is approved by the University, the student will be terminated for Authorized Early Withdraw. If the student plans to return in less than 5 months, his/her record will be corrected by OISS and the government to reflect the same SEVIS ID. The benefit is that the student can retain the same SEVIS record and visa, and the termination is not severe.
   
   b) If the leave is not approved by the University, the student will be terminated for Unauthorized Early Withdraw. This termination ‘reason’ is more severe, and the student will require a new SEVIS ID and a new visa. The student may or may not be granted a new visa.

3. If a student contacts you and asks what they should do to return, use the following diagnostic:

   1. Was the student approved for a leave of absence by the University?
      If yes: Go to question 2.
      If no: Go to 3.

   2. Has the student been out of the country for more than 5 months?
      If yes: Go to 3.
      If no: The student should contact OISS to correct the SEVIS record before he or she attempts to return to the US.

   3. The student will need to contact OISS for a new initial status I-20 which will have a new SEVIS ID. The student will then need to obtain a new visa in his or her country before returning to the US. If the student has been dismissed or was not authorized to leave, OISS may need approval prior to issuing the new I-20.
VI. Work

A. On-Campus Employment

1. Student can work up to 20 hours per week while school is in session; over 20 when school is not in session.

2. On-Campus includes work at the library, dining halls, and even the bookstore (an affiliated establishment). On-Campus work can also mean work at a location off-campus officially affiliated with the University, but these cases are sometimes grey.

3. After getting the job (but before accepting it)
   a) Student should come to OISS to obtain the “authorization for On-Campus Employment”
   b) OISS will also give guidance on applying for a Social Security Card

B. CPT (Curricular Practical Training)

1. Training must be required for degree conferral or course completion
   a) For example: a teaching practicum, a position doing research for a paper, collecting data etc.

2. Limited to 20 hours while school is in session

3. Must be approved by OISS and the student’s advisor (see website for form)
   a) CPT Form
   b) Offer letter with pay rate, start and end dates, and job description
   c) Explanation of how the training is curricular

4. Time sensitive; we do have a deadline every semester

5. Must re-apply every semester

6. Student must have been studying full time for one academic year

7. 12 months of full-time CPT precludes student from engaging in OPT

C. OPT (Optional Practical Training)

1. Training is optional.

2. Limited to 20 hours while school is in session

3. Student must have been studying full time for one academic year

4. Must be approved by OISS and USCIS (the government)
   a) Lengthy process, takes up to 90 days to be approved by USCIS
b) Costs $380 to apply for EAD card (Employment authorization)

5. Limited to 12 months per level; STEM majors eligible for 17-month extension if employer is E-verified and they are currently employed.

D. On campus support

1. Career Services has job postings as well as workshops

2. OISS and Career Services hosts a series in the Fall for students who are looking for work and honing their professional development skills.

E. Determining the need for work authorization

Use this diagnostic as a guide for advising a student as to which opportunity may suit them best. OISS will be the final advisors, and the student should be directed to meet with us, but this will give you an idea about what the student’s options are so you can present realistic opportunities.

1. Is the work opportunity on campus?
   If yes: Have the student apply for on-campus employment.
   If no: Go to question 2.

2. Could the student still complete a specific course or degree without this opportunity?
   If yes: The student should apply for OPT.
   If no: Explain how it is required. If you can, student should apply for CPT.

   Please remember that students interested in OPT and CPT must have completed a full academic year before they are eligible for these benefits.
VII. Travel

A. Travel in the US

1. Easy, no approval needed

2. Travel locally with copies of important documents (local is considered driving distance in a day, ex. Washington DC, NYC, etc.). We do not recommend that students travel with all original documents because they have a tendency to leave a backpack or purse on the Metro, or on a bench. These documents are difficult and costly to replace.

3. Airline travelers should bring original documents and copies

B. Travel to US, Canada, Mexico and Adjacent Islands

1. Expired visas can be automatically revalidated at the border upon re-entry as long as the student has a valid I-20 or DS-2019 and has not applied for a new visa.

2. Must have an eligibility document endorsed for travel

C. Travel Abroad

1. Must be in possession of
   a) Valid visa
   b) Valid passport
   c) Signed, current eligibility document

D. Students should be aware of the visa requirements of their destination country!

1. Embassy – Generally a location for citizens of a certain country who are travelling in a foreign country. The US Embassy in China is for Americans in China. The Saudi Embassy in the US is for Saudis in the US to find services or seek refuge. Sometimes, Embassies will house the visa issuance department as well, but this is a good rule of thumb.

2. Consulate – A location for citizens of other countries to be granted admission documents for a destination country whose consulate is serving them. The US consulate in China is for anyone in the area who wants to come to the US. The Chinese consulate in the US is for anyone seeking admission to China.

3. Individuals can go to other consulates to obtain visas. A Chinese student may need to go to the Canadian Consulate in the US to get admission documents for Canada, for example. Consulates generally serve the population where they are located, but are open to all hopefuls. This is why an Iranian may need to go to Bahrain to get a US visa (there are no US consulates in Iran).
VIII. Study Abroad

Issues arise most often when students travel abroad and are in possession of an expired visa. Visas for Chinese nationals, for example, are only valid for one year. It is more difficult to get a visa in a third country, and generally the study trip does not visit the location of the visa consulate. If it does, students are generally not there long enough to have an interview, receive a result, and re-apply if necessary.

A. Tips for International Students studying abroad

1. Get a new US visa before you travel. US visas can only be obtained outside of the US, so plan on getting one the next time you go home.

2. Check the consular website of the country you wish to visit while you are here in the US. Find out what visa you need to visit that location, and if you are able to obtain it. For example, if you are a Chinese student living in Pennsylvania visiting Finland, you will contact the Consulate of Finland in New York to find out what is required of you. This step takes some research, but is worth it. For example, it has been determined that international students from China are unable to participate in the BUAD Australia summer internship program due to their inability to obtain a working holiday visa. They can participate in the BUAD and FASH Hong Kong summer internship programs.

3. Visa renewals are generally faster than receiving a brand new visa; however, visa renewals are usually only permitted if the visaholder returns to the same consulate, or is a citizen of the country in which they are applying, and has had a full set of biometrics completed and on file. This means that students studying abroad in a third country will need to go through the entire visa process.

4. If you student is not convinced that getting a new US visa before travelling is optimal, read through the visa requirements for obtaining a visa in the country they are visiting. Here is an example of the Italian consulate website: http://italy.usembassy.gov/visa/procedures.html

IX. Visa Types

OISS issues various eligibility documents for students and scholars to obtain visas to visit the US on a temporary basis. Use this guide to determine which may be the option for your student, scholar, or special group.

1. F-1 Student:
   - Eligibility document: I-20
   - Activity: Must be an admitted Undergraduate or Graduate student, or admitted for English Language Training. English Language ability must be evaluated and student must meet all academic requirements for admission into the educational level. University of Delaware is not authorized by the government to bring F-1 students as non-degree seeking.
   - Funding: We must receive proof of funding from personal funds, family funds, or other sponsorship. Generally government sponsorships are not allowed (see OISS for exceptions).
1. **Restrictions:** Must study full-time at all times, except during annual breaks. There are no restrictions on duration of stay, as long as the I-20 is valid and student is maintaining status.

2. **J-1 Visiting Scholar (Research Scholar)**
   - **Eligibility document:** DS-2019
   - **Activity:** An individual primarily conducting research, observing, or consulting in connection with a research project at the University. The research scholar may also teach or lecture.
   - **Funding:** We must receive proof of funding from personal funds, family funds, or other sponsorship.
   - **Restrictions:** May not study at any time. Can be extended up to 5 years. May be subject to the 2 year home residency requirement.

3. **J-1 Visiting Scholar (Short-term Scholar)**
   - **Eligibility document:** DS-2019
   - **Activity:** A professor, research scholar, specialist, or a person with similar education or accomplishments coming to the United States on a short-term visit for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at the University.
   - **Funding:** We must receive proof of funding from personal funds, family funds, or other sponsorship.
   - **Restrictions:** May not study at any time. Short term scholars may not be “extended” for more than 6 months. May be subject to the 2 year home residency requirement.

4. **J-1 Student**
   - **Eligibility document:** DS-2019
   - **Activity:** The sponsor must ensure that students are academically eligible for admission, that they are in fact admitted, and that they will be pursuing a full course of study. A full course of study is defined as a **prescribed course of study in an academic** program with a specific educational objective. Non-degree students are permitted in this category and their full course may include intensive English language training, classroom instruction, and research projects amounting to at least full-time. The prescribed course of study must be approved by OISS, so it should be detailed and included with the application.
   - **Funding:** An individual is eligible to participate in the J-1 college and university student category only if he or she meets at least one of the following five criteria. With the application, you should provide proof of funding:

   (1) The student or his or her program is financed directly or indirectly by:
      - (i) The United States Government;
      - (ii) The government of the student's home country; or
      - (iii) An international organization of which the United States is a member by treaty or statute;

   (2) The program is carried out pursuant to an agreement between the United States Government and a foreign government;

   (3) The program is carried out pursuant to written agreement between:
      - (i) American and foreign academic institutions;
      - (ii) An American academic institution and a foreign government; or
(iii) A state or local government in the United States and a foreign government;
*This would mean an official University exchange program. Exchanges of these types must be authorized by Global Studies as official exchange programs; you should contact them for that process. Once the exchange is in place, we would need to verify the details of the exchange.

(4) The student is supported substantially by funding from any source other than personal or family funds; or

(5) The student is participating in a student internship program

- **Restrictions**: Non-degree students may only study for up to 24 months, and cannot matriculate in the country.

5. **H1B Employee**

- **Eligibility document**: 1-797A Approval Notice, petition filed by OISS on behalf of a department sponsor
- **Activity**: An individual offered temporary employment in the United States to render services in “specialty occupations.”
- **Funding**: Employee of the University; the individual must be paid by the university within Department of Labor prevailing wage guidelines or University Collective Bargaining Agreement.
- **Restrictions**:
  - May not study at any time.
  - Granted for 3 years, extendable up to a maximum of 6 years (some exceptions).
  - Individuals must be sponsored by a department; may not self-sponsor.
  - H-1B visas are employer specific. Employment is **limited to the sponsoring H-1B employer and for employment specified in the H-1B petition**. H-1B visas can be for full-time or part-time employment.
  - J visa holders who are subject to 212 (e) 2-year foreign residency requirements are **not eligible for H-1B visa** unless the individual is able to obtain a waiver of or fulfill the 2-year requirement.

More comprehensive information regarding filing for an H1B visa can be found here: [http://www.udel.edu/oiss/VS/H/info.html](http://www.udel.edu/oiss/VS/H/info.html)
X. Helpful Links

http://www.usembassy.gov/ - A comprehensive list of all embassies and consulates currently issuing visas. This is extremely helpful if you are considering advising a student about visa wait times, requirements for renewal, or a potential study abroad participant.

http://www.cic.gc.ca/english/visit/ - The website for the Canadian Embassy. Many students do not realize that they need a visa to travel to Canada, even for the weekend. They can find everything they need here.

http://studyinthestates.dhs.gov/ - An excellent website for advisors and students. The site has a blog feature which hosts questions from students, answered by DSOs around the nation. Designated School Officials are generally the folks who work in offices like OISS. The blog portion is geared towards questions about policy and new procedures and is helpful for everyone.

http://www.ice.gov/sevis/students/ - A live tool to help students navigate their way to the US. The tool answers questions about obtaining a visa, paying the SEVIS fee, coming to the US, maintaining status, and options after program completion.

http://www.udel.edu/oiss/ - Our website has a plethora of information about every aspect of the student and scholar experience from an immigration perspective. We also have tools for advisors and departments to feel more comfortable advising students and hosting scholars.

http://www.nafsa.org/ - NAFSA is a great organization for international educators, and hosts great information on their website about working with international students, sending students abroad, and navigating a multicultural climate.