



# OISS 101

*An overview of immigration regulations and guide for UD departments*

**Revised June 2019**

**Office for International Students and Scholars**

**[www.udel.edu/oiss](http://www.udel.edu/oiss)**

# OISS 101

## International Student 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 and help you to guide students toward relevant sources and options. Please remember to 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, 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.*

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## I. The Visa Process

### A. Admission

1. Once OISS is notified 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 Affidavit of Support form, **an I-20/DS-2019 cannot be issued**. The biggest delay is often 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 typically 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, typically the **funding** must come primarily from a source that **is not personal**. Generally, funds from the government qualify the individual for this visa type.
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.

### C. Fees

1. **SEVIS Fee:** Levied by the US government. This fee is not paid to OISS or UD. The student must pay this fee at <https://www.fmjfee.com/>. 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.
2. **Visa application fee/appointment fee** (sometimes both): Levied by the US consulate in the individual's country of origin. This fee pays for visa processing and the interview.
3. **International Student Service Fee:** Levied by UD. 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.

### III. The Visa interview

*F1/J-1 visa applicants and others hoping to obtain non-immigrant visas, must prove that they have the goal of returning to their country. Typically, the US Consulate is looking for proof of ties to their home country and information on the program they will be participating in while in the US. If students have any questions regarding the visa interview process, please refer them to our office for additional tips and advice.*

#### A. Approvals

1. Student receives a visa (sticker) in their passport that allows entry, along with other required documentation, into the US.

#### B. Denials

1. Individuals can usually interview again and again. Fees depend on the consulate. As long as the student continues to *defer* his or her attendance, he/she will be issued new eligibility documents (I-20/DS-2019) from our office and will not have to repay the SEVIS fee.
2. If the student does not contact our office, the I-20/DS-2019 is *canceled* within 30 days of 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.

#### C. Visa interviews in a third country

Applying for a visa in another country than the student's country of citizenship is typically not recommended for the following reasons:

1. More scrutiny
2. Longer processing times
3. Higher chance of denial

#### D. Renewing the visa

1. Visas can only be renewed outside of the US
2. The visa (sticker in their passport) can expire while the student is in the US. The 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 must plan time to renew the visa before he or she re-enters.

## IV. Full-time enrollment requirements

All registrar changes to student enrollment for undergraduate students, including dropping a course, and changing grading criteria, require OISS approval via WebReg (webform). If the change is appropriate:

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 authorized from an immigration standpoint.
3. If approved by OISS, the registrar will make the change

The following chart should help explain what is allowed. 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 during the regular semester (fall and spring) to maintain status in the US. This regulation applies even to students who are on probation and not permitted to enroll more than part-time at UD.

	<b>ELI</b>	<b>Grad non-funded</b>	<b>Grad with assistantship (funded)</b>	<b>Undergrad</b>
<b>Full-Time Requirement</b>	28 clock hrs/week	9 credits	6 credits	12 credits
<b>Pass/Fail</b>	Not permitted	Permitted with department approval		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
<b>Audit</b>	Not permitted	Permitted when the student is otherwise taking a full course load		
<b>Online Courses</b>	Not permitted	F-1 visa: One class permitted per semester to count towards full-time J-1 visa: Are NOT permitted to take online courses towards full-time		
<b>Dropping a course</b>	Not permitted. Medical reduced course load is permitted as long as the form is completed and approved by OISS before the drop.	Permitted if the drop does not result in dropping below full-time  OR If the drop results in less-than full time, and the <b>department or grad office has approved the drop</b> , student should fill out the electronic form <a href="#">Request for Reduced Course load</a> and submit to OISS		

## V. Drop below full course

Dropping below full-time is occasionally permitted in exceptional circumstances. Students may only request a reduced course load in their fall or spring semester once per academic level. This excludes the Medical reduced course load, and the last semester provision. From an immigration standpoint, we can only authorize a reduced course load for the following reasons\*:

- i. *The student is having difficulty with English language.*
- ii. *The student is having difficulty with reading requirements.*
- iii. *The student is unfamiliar with American teaching methods.*
- iv. *The student has a medical condition preventing him or her from studying full-time*
- v. *Improper course level placement.*
- vi. *The student needs less than a full course load to finish the degree program this term*

**\*These are the only options permitted by federal regulations CFR214.2(f)(6)(iii) in SEVIS.**

Applying for drop authorization will involve the student and the academic advisor completing the Reduced Enrollment through the student's online OISS portal in Terra Dotta. Academic Advisors will be sent an electronic recommendation request to complete through email from the Terra Dotta Software.

*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://www1.udel.edu/oiss/forms/Medical\\_RCL\\_Form.pdf](http://www1.udel.edu/oiss/forms/Medical_RCL_Form.pdf)

## VI. Dual Enrollment

*Typically, we allow dual enrollment if 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 more information.*

## VII. Dismissals

*When a grad or undergrad student is academically dismissed, the SEVIS record is terminated by OISS. The student should make plans to leave the US immediately.*

## VIII. Vacations and Leaves of Absence

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. If a student contacts you and asks **what they should do to return**, please have the student contact OISS for more information as they will need a new I-20.

### Travel Signatures

- i. To travel domestically during a vacation, the student does not require approval.*
- ii. To travel abroad during an annual vacation time, the student's I-20 should be signed by OISS for travel authorization. The student should submit a travel form and obtain a new signature (if necessary) from OISS prior to leaving the US.*

**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.

- i. If the leave is approved by the University, the student will be terminated for **Authorized Early Withdraw**.*
- ii. 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 may or may not be granted a new visa.*

## IX. 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, please contact OISS for clarification on these cases.
3. After getting the job (but before accepting it)
  - *Student should come to OISS to obtain the "authorization for On-Campus Employment"*
  - *OISS will also give guidance on applying for a Social Security Card*
4. **J-1 Students:** All on-campus employment **must be approved in advance and in writing by OISS**. In order to request on-campus employment, J-1 students must submit an "On-Campus Employment (J) Application" through the OISS Terra Dotta Student Portal **before** the start of employment to OISS. On-campus employment may be granted for up to 12 months at a time. If the on-campus employment will last more than 12 months, the student is required to submit an updated offer letter every year.

## X. CPT (Curricular Practical Training)

- i. Training must be required for degree conferral or course completion (such as an internship course).



1. *For example: a teaching practicum, a position doing research for a paper, collecting data etc.*
- ii. Limited to 20 hours while school is in session
- iii. Must be approved by OISS and the student's advisor (see OISS website)
  1. *CPT Online Form*
  2. *Offer letter with pay rate, start and end dates, and job description*
  3. *Explanation of how the training is curricular*
- iv. Time sensitive; deadline to apply every semester
- v. Must re-apply every semester
- vi. Student must have been studying full time for one academic year before being eligible.
- vii. 12 months of full-time CPT precludes student from engaging in OPT

## **XI. OPT (Optional Practical Training)**

- i. Training is optional and is typically done after the completion of their degree program.
- ii. If on "pre-completion" OPT (before the degree is granted) it is limited to 20 hours while school is in session
- iii. Student must have been studying full time for one academic year before they are eligible.
- iv. Students must submit a request to OISS to receive an I-20 with OPT endorsed on it. The OPT I-20 is then used to apply for work authorization through by USCIS.
- v. Application to USCIS is a lengthy process, takes up to 90 days or more to be approved. Costs \$410 to apply. Students receive an EAD card (Employment Authorization Document) if the application is approved. Student may only work once it is approved and for the validity dates on the EAD card.
- vi. OPT is limited to 12 months per academic level; STEM majors may be eligible for 24-month extension if employer is E-verified and they are currently employed.

## **XII. Determining the need for work authorization**

*Use this diagnostic as a guide for advising a student as to which opportunity may suit them best. Students should be directed to meet with us, but this will give you an idea of the student's options.*

- i. *Is the work opportunity on campus?*  
 If yes: Have the student apply for on-campus employment. If no: Go to question 2.
- ii. *Is this a requirement of a specific course (e.g. internship credits) or a degree program that requires internship hours to graduate?*
  - a. If yes: The student should discuss applying for CPT with an OISS advisor
  - b. If no: The student should discuss applying for Pre or Post Completion OPT with an OISS advisor.

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

### **XIII. Travel**

#### **I. Travel in the US**

- i. No approval needed
- ii. 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 get lost or stolen. These documents are difficult and costly to replace.
- iii. Airline travelers should bring original documents and copies

#### **II. Travel to US, Canada, Mexico and Adjacent Islands**

- i. Expired visas can be automatically revalidated at the border upon re-entry if the student has a valid I-20 or DS-2019, the trip is less than 30 days and has not applied for a new visa.
- ii. Must have an I-20/DS-2019 endorsed for travel by an OISS advisor.

#### **III. Travel Abroad**

- i. Must be in possession of:
  - 1. *Valid visa*
  - 2. *Valid passport*
  - 3. *Signed, current I-20 or DS-2019*

### **Students should be aware of the visa requirements of their destination country!**

- ii. **Embassy** – Generally a location for citizens of a certain country who are traveling 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.
- iii. **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.*
- iv. **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, typically allow citizens of other countries to apply.

## IV. Study Abroad

*Issues arise most often when students travel abroad and are in possession of an expired visa. It is more difficult to get a visa in a third country (a country other than their country of citizenship), 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.*

*If an international student would like to study abroad during their time in the UD, please refer them to OISS to discuss their visa implications and how it may affect their status in the US.*

## XIV. Visa Types

*OISS issues various eligibility documents for students and scholars to obtain visas to visit the US on a temporary basis. The following is a basic guide of the different types issued by UD:*

### 1. F-1 Student:

- **Immigration 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).
- **Restrictions:** Must always study full-time, except during annual breaks. There are no restrictions on duration of stay, if the I-20 is valid and student is maintaining status.

### 2. J-1 Visiting Scholar (Research Scholar)

- **Immigration 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:** Study must be incidental to their stay, not a full-time degree seeking student. Can be extended up to 5 years. May be subject to the 2-year home residency requirement and the 24-month bar.

### 3. J-1 Visiting Scholar (Short-term Scholar)

- **Immigration 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:** Study must be incidental to their stay, not a full-time degree seeking student. 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

- **Immigration 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; 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
- (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.

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

(4) 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. H-1B Employee

- **Immigration document:** I-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:**
  - Study should be incidental to their stay.
  - 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://www1.udel.edu/oiss/departments/hosting\\_H1B.html](http://www1.udel.edu/oiss/departments/hosting_H1B.html)

## **XV. 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.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.

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