
PIPS - Partners Office for International Professionals and Students

Memorandum

To: Hospital Staff
From: Claire Ayer, Director
Date: 08/09/2018

Avoiding Unlawful Presence and Maintaining Status

USCIS Unlawful Presence Memorandum:

On May 11, 2018, U.S. Citizenship and Immigration Services (USCIS) proposed a fundamental change to the way it would determine how an immigration status violation might lead to a finding that an F, M, or J nonimmigrant should be subject to the 3- or 10-year reentry bar provisions of INA 212(a)(9)(B). The new USCIS policy, scheduled to go into effect on August 9, 2018, would start counting days of unlawful presence the day after an F, M, or J status violation occurs. Current policy does not count unlawful presence until a USCIS official or immigration judge makes a formal finding of a status violation. **The new policy is a major shift and the slightest visa irregularity could be viewed as a failure to maintain status.**

It is more important than ever to follow good practices to maintain and protect your status. Here are some **basic best practices**:

- Always print your I-94 and those of your dependents after each and every entry into the U.S. and review them for accuracy. If you see errors (name, dates, visa types etc.), contact PIPS and we will provide you with a U.S. Customs and Border Protection (CBP) e-mail address for corrections.
- F-1 students and J-1 Exchange Visitors must alert their Designated School Official or Responsible Officer (J-1 sponsor) to report an address change within 10 days of their move. Other visa holders and permanent residents must file [Form AR-11](#).
- You must continue to pursue the activities for which your visa was requested to maintain status.

-
- If you plan to transfer, **do not** leave your present J-1 sponsor until/unless your J-1 Transfer has taken place.
 - When in doubt, contact [PIPS](#). Do not guess about whether or not an action is permitted in your current status.

H-1B Maintenance of Status:

Recently, PIPS has fielded multiple inquiries about H-1B grace periods and filing change of employer requests for H-1B visa holders who have already left their current employer. H-1B visa holders should not leave their current employer and rely on being able to maintain status in the U.S. based on the 60 day rule. The application of the H-1B grace period is complicated.

- The grace periods are not automatic.
- They are granted on a discretionary, case-by-case basis by The Department of Homeland Security.
- The beneficiary may not work during either a 10-day or a 60-day grace period.

Please watch for further updates from PIPS about additional policy memos and best practices for maintaining status in the U.S.