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Applicants for Change of Status to F-1 Process Updates

Legal Update

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By Immigration Group

This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.

U.S. Citizenship and Immigration Services (USCIS) announced on July 20, 2021, new policy guidance that eliminates the need for individuals who have applied for a change of status to F-1 student to apply to change or extend their nonimmigrant status while their initial F-1 change of status application is pending.

Under the previous policy, applicants needed to maintain status up to 30 days before the program start date listed on their Form I-20, Certificate for Eligibility for Nonimmigrant Student Status, which required them to file extensions, or an initial change of status and subsequent extensions ensuring that they would not have a “gap” in status, USCIS explained.

To prevent a gap in status, USCIS said it will grant the change of status to F-1 effective the day the agency approves an applicant’s Form I-539, Application to Extend/Change Nonimmigrant Status. If USCIS approves an application more than 30 days before the student’s program start date, the student must not violate F-1 status during that time. An example of a violation, USCIS said, “would be engaging in employment, including on-campus employment, more than 30 days before the program start date as listed on their Form I-20.”

USCIS said it is revising the Form I-539 instructions to reflect these changes.