

Reinstatement or Travel? When You Have Violated your Visa Status . . .

If you have violated the immigration regulations that govern your student status, from the moment of that violation you have become “out of status”. The phrase “Out of Status” means that you no longer have a legal status that permits you to be present or study in the United States and that the IA & SS has terminated your immigration status in the SEVIS database. Should such a violation occur, you need to report to the IA & SS immediately. This status violation also becomes a permanent part of your U.S. immigration file. It may affect any future applications for visas, work authorization, or permanent residency.

MOST COMMON STATUS VIOLATIONS

- Enrolling in less than a full course of study without prior approval from IA & SS
- Attending a school other than the one the student was authorized to attend
- Unauthorized employment, including working on campus more than 20 hours a week while school is in session (during the Spring and Fall semesters)
- Staying beyond the date listed for completion of studies on your I-20 without applying for an extension of your study
- Failure to report a change of address within 10 days to the IA & SS

WHAT TO DO WHEN YOU HAVE VIOLATED AND LOST YOUR STATUS

When a status violation has occurred you must take steps to try and regain your status. There are two options and you will need to discuss them with the IA & SS in order to determine which options might work best for you.

OPTION #1: APPLY FOR REINSTATEMENT

1. Apply for a reinstatement of status with USCIS District Office. To be reinstated the student has to prove the following:
 - that the violation of status resulted from circumstances beyond the student’s control or that failure to be reinstated would result in extreme hardship to the student
 - that the student is currently pursuing a full course of study
 - that he/she has not engaged in any unauthorized employment
2. What the student must do to apply for reinstatement:
 - ☑ Discuss your situation in detail with your International Student Advisor to see if application for reinstatement is recommended
 - ☑ Provide the IA & SS with all the documents necessary to issue a new Form I-20, including updated financial documents
 - ☑ Write a letter of explanation addressed to the USCIS giving the following information:
 - *Why you are out of status; specify the violation
 - *The reason for the violation
 - *The effect on you if you do not receive reinstatement
 - *A statement that you are currently pursuing a full course of study
 - ☑ Complete and sign Form I-539 (Application to Extend Status/Change Nonimmigrant Status) writing in Part 2, item 1 the phrase “reinstatement to F-1 status” whichever applies
 - ☑ Pay \$290 SEVIS fee on-line and print out receipt to send with application
 - ☑ Enclose the application fee in the form of a check made to the order of USCIS
 - ☑ Forms and current fees are available at the USCIS website: <http://www.uscis.gov/i-539>

Pros and Cons of Filing for Reinstatement:

- Pro: Most applications for reinstatement to USCIS are taking 45-150 days for adjudication
- Con: USCIS denies most applications for reinstatement
- Con: If you are denied, you will be required to leave the U.S. immediately, even if you are in the middle of a semester.
- Con: You cannot work on campus, or travel outside the U.S. while you are waiting for an answer

Option #2: Travel Outside of the U.S. in Order to Clear Status

1. You may clear your status by obtaining a new "Initial entry I-20" and leave the U.S., seeking to make a new entry and begin your F-1 status over again
2. What the student must do:
 - Submit to IA & SS Form: "Request for a New I-20" completed by student
 - Submit to IA & SS proof of financial support (bank letter, letter of support from department, etc.) financial documentation
 - Pay the \$200 SEVIS fee and print out receipt
 - Leave the United States and upon re-entry have immigration process the new I-20 and get a new I-94 card

PROS AND CONS OF TRAVEL

- Pro: If it is not a violation of full-time enrollment you may not lose the semester
- Pro: It is normally quicker than filing an application for reinstatement
- Pro: It is cheaper as far as fees involved
- Con: Any time that you leave the U.S. you may not be permitted re-entry
- Con: Chances of denial are even greater now that you have a visa violation on your SEVIS record; especially if you are a non-Mexican national traveling to Mexico
- Con: By doing a new I-20, you have lost any accrued time in your F-1 visa status; you are basically starting over
- Con: F-1 students will not be able to participate in Curricular Practical Training for 9 months
- Con: F-1 students in their last year of study will lose Optional Practical Training