

Hiring International Students

a Guide for Employers*

Many U.S. employers are concerned about the process and implications of hiring international students to work in their organizations. This document aims to educate and reassure employers about these concerns, as well as answer questions about laws and processes. The good news is – it's not as difficult as many employers think!

Most international students hired either during their studies (for internships), or upon graduation from Bentley, are in the U.S. on non-immigrant F-1 student visas. F-1 visa holders are eligible to accept employment as long as their position satisfies certain criteria, discussed in the following sections.

Benefits of Hiring International Students from Bentley - *Obtaining permission for them to work in the U.S. is not as difficult as many employers may think. Therefore, we urge you to seriously consider hiring an international student for the cultural and practical benefits that s/he can bring to your organization.*

- Their outstanding Bentley University education in addition to their multiple language and cross-cultural skills makes them a special asset to U.S. employers
- International students bring an understanding of the American culture and English language ability
- Demonstrated initiative, flexibility, and perseverance
- Proven ability to adapt to new situations. They have experienced and successfully acclimated to a different way of life in the U.S., filled with traditions and customs different from their own
- Global experiences provides knowledge of business practices in other countries
- They can also be of special benefit to employers for short-term (1-2 year and sometimes longer) work assignments
- Hiring international students will help diversify your workforce and increase retention rates

CPT, OPT and STEM OPT (explanations and definitions)

- **Curricular Practical Training (CPT):** CPT is a work benefit that allows F-1 students to complete off-campus employment in conjunction with class credit. CPT can be part-time (20 hours a week or less) or full-time (more than 20 hours a week). CPT is designed to provide work experience directly related to the internship course in which the student is enrolled.
- **Optional Practical Training (OPT):** Optional practical training (OPT) is defined in the regulations as "temporary employment for practical training directly related to the student's major area of study." Typically Opt is utilized after graduation for a maximum period of 12 months.

- **STEM extension of OPT:** The STEM OPT extension is a 24-month period of temporary training that directly relates to an F-1 student's program of study in an approved STEM field. When the 24-month extension is approved after the original 12-month OPT period, it results in 36 months (3 years) total work authorization for the student.

'Volunteering' vs. Employment

Traditional volunteer work (e.g. at a soup-kitchen, homeless shelter) does not require CPT authorization.

Bentley students on F-1 visas may participate in volunteer experiences that meet the following criteria:

1. The volunteer arrangement cannot be directly related to the student's field of study
2. The volunteer position must be unpaid
3. The volunteer position must be in either a public sector or non-profit charitable organization
4. The volunteer arrangement should not be similar enough to an internship that it could be interpreted as such by any definition of employment; volunteers cannot perform tasks that would otherwise be defined as "internship" or "employment". Any volunteer situation that could be interpreted as employment (if it is able to be listed on a resume as "professional experience") could jeopardize future US visa petitions and employment permission for students if the student does not officially use CPT for that employment experience.

Generally, unpaid volunteer positions at organizations specified above where the student volunteers without expectation of compensation are permissible. However, unpaid internships must be authorized as CPT, and the distinction is important.

For more information, please reference the standards outlined by the US Department of Labor. <https://www.dol.gov/whd/flsa/>

Proof of Work Authorization (Form I-9)

As you already know, IRCA (the Immigration Reform and Control Act) requires that anyone hired by a U.S. employer complete an I-9 form and present proof of U.S. citizenship, permanent residence status, or a valid passport along with a USCIS document showing that employment has been authorized. Students in F-1 status who have been authorized to engage in Curricular Practical Training (CPT) will present USCIS form I-20 (page 3) with a notation indicating the dates during which Practical Training has been authorized. Those students in F-1 status who have been authorized for Optional Practical Training (OPT) will have an Employment Authorization Document (EAD) card issued by USCIS. This laminated card will include the individual's photograph and fingerprint and will provide additional proof of work authorization.

Continuing Employment after the authorized work period

Federal regulations require that employment terminate at the conclusion of the authorized practical training. However, students on an F-1 visa may continue to be employed, if they receive approval for a change in visa category - usually to H-1B. Students must have a minimum of a bachelor's degree in order to qualify for H-1B status. Individuals may work in the U.S. for a

maximum of six years under an H-1B visa. This visa is valid only for employment with the company that petitioned for them. They must re-apply to the USCIS if they wish to change employers. As soon as the initial job offer is made, they should petition for an H-1B visa if employment is likely to extend beyond the practical training period.

Taxes

Unless exempted by a tax treaty, F-1 students earning income under practical training are subject to applicable federal, state, and local income taxes. Information on tax treaties may be found in Internal Revenue Services Publication 519, U.S. Tax Guide for Aliens, and 901, U.S. Tax Treaties. Generally, F-1 students are exempted from social security and Medicare tax requirements. However, if F-1 students are considered "resident aliens" for income tax purpose, social security and Medicare taxes should be withheld. Chapter 1 of Internal Revenue Services Publication 519, U.S. Tax Guide for Aliens explains how to determine the residency status of international students.

FAQs

- 1. Isn't it illegal to hire international students because they do not have a green card?**
No. Federal regulations permit the employment of international students on F-1 visas within certain limits. These visas allow students to work in jobs related to their major field of study. F-1 students can work on "practical training."
- 2. Even if it's legal to hire international students, won't it cost a lot of money and involve a lot of paperwork?**
No. The only cost to the employer hiring international students is the time and effort to interview and select the best candidate for the job. The international student office handles the paperwork involved in securing the work authorization for F-1 students. In fact, a company may save money by hiring international students because the majority of them are exempt from Social Security (FICA) and Medicare tax requirements.
- 3. How long can international students work in the United States with their student visa?**
F-1 students are eligible for curricular practical training before completing their studies, as well as an additional 12 months of optional practical training, either before or following graduation, or a combination of the two. However, if they work full-time for one year or more of curricular practical training, they are not eligible for Optional Practical Training.
- 4. Don't international students need work authorization before I can hire them?**
No. International students must have the work authorization before they begin actual employment, but not before they are offered employment. Many F-1 students will be in the process of obtaining work authorization while they are interviewing for employment. Students can give employers a reasonable estimate of when they expect to receive work authorization.

5. **What does the work authorization look like?**
For Optional Practical Training, F-1 students receive from USCIS an Employment Authorization Document (EAD), a small photo identity card that indicates the dates for which they are permitted to work. For Curricular Practical Training, F-1 students receive authorization from the school (NOT from USCIS) on the back of the student's I-20.
6. **What if I want to continue to employ international students after their work authorization expires?**
With a bit of planning ahead, an employer can hire international students to continue to work for them in the H-1B visa category for a total of six years (authorization is granted in two three-year periods). The H-1B is a temporary working visa for workers in a "specialty occupation." The application procedure to the USCIS is straightforward. The job must meet two basic requirements: 1) The salary must meet the prevailing wage as defined by the Department of Labor 2) A bachelor's degree is a minimum normal requirement for the position; graduate degrees are also eligible. There is an annual lottery for H1-B visa applications that takes place on April 1 each year.
7. **Doesn't an employer have to prove that international students are not taking jobs from a qualified American?**
No. American employers are not required to document that a citizen of another country did not take a job from a qualified American if that person is working under an F-1 or H-1B visa. Employers must document that they did not turn down a qualified American applicant for the position only when they wish to hire foreign citizens on a permanent basis and sponsor them for a permanent resident status ("green card").

Resources

CISS contact information:

- Bentley University's Center for International Students and Scholars (CISS)
Phone: 781.891.2829
Email: GA_CISS@bentley.edu
Website: bentley.edu/ciss

CFR citation numbers for further investigation:

- The Code of Federal Regulations (CFR) Title 8 and Title 22 citation numbers for regulations governing practical training are as follows: • F-1 students: 8CFR 214.2 (f) (9) &(10) • CFR Title 8 citations governing IRCA requirements are: • F-1 students: 8CFR 274a.12(b)(6)(iii) and 8CFR 274a.12(c)(3)(i) •
Copies of Code of Federal Regulations are available from the Superintendent of Documents in Washington D.C. or from the web site:
<http://www.access.gpo.gov/nara/cfr/index.html>

**adapted from San Francisco State University's Career Services office*