



Impact of Labor Strikes on F-1 Nonimmigrant Students

Introduction

This interpretive guidance addresses the impact of a Department of Labor (DOL)-certified strike (as certified by the Secretary of Labor or the Secretary’s designee to the Secretary of Homeland Security or the Secretary’s designee) on various F-1 nonimmigrant students, including those enrolled in school and those who have graduated and are engaged in optional practical training (OPT) employment. In the event of a labor strike affecting their academic program or their employment, F-1 visa holders have options. F-1 nonimmigrant status does not require visa holders to cross the picket line.

Student and Exchange Visitor Program (SEVP) regulations for F-1 academic students at *8 CFR 214.2(f)(14)*, entitled “Effect of strike or other labor dispute,” state:

Any employment authorization, whether or not part of an academic program, is automatically suspended upon certification by the Secretary of Labor or the Secretary’s designee to the Secretary of Homeland Security or the Secretary’s designee, that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. As used in this paragraph, “place of employment” means the facility or facilities where a labor dispute exists. The employer is prohibited from transferring F-1 students working at other facilities to the facility where the work stoppage is occurring.

This guidance on the regulations at *8 CFR 214.2(f)(14)* is limited to those engaged in optional practical training as defined in the regulations at *8 CFR 214.2(f)(10)(ii)*. Therefore, a strike would not affect most graduate or postgraduate F-1 students who have teaching or research duties relating to their academic programs because these students are not generally required to obtain Employment Authorization Documents (EADs) to perform such work on campus. Although F-1 students who have graduated from their course of study and hold EADs to engage in employment through OPT may encounter a strike situation in which *8 CFR 214.2(f)(14)* applies, such students would not be required to leave the United States due to a work stoppage unless and until they reach the regulatory limit for unemployment under OPT. In addition, because F-1 students are permitted to change employers or enroll in a new program of study to continue their education, those students who encounter a strike situation and are nearing their unemployment limit due to a work stoppage have alternatives to maintain their F-1 status.

It is rare for strikes to be certified by DOL. SEVP believes that this guidance will not be frequently required, but is providing it so that SEVP-certified schools and F-1 students have a clear



understanding of their responsibilities and options should a DOL-certified strike occur on campus or at a workplace where students are engaged in OPT.

Specific Questions

What happens to an F-1 nonimmigrant student if a labor strike at their school affects their ability to attend classes and meet their full course of study requirement?

Schools certified by SEVP should ensure that F-1 students maintain their status and meet regulatory requirements. Designated school officials (DSOs) should notify SEVP of any strike activity that may affect their nonimmigrant student population. This applies to all schools enrolling F-1 students, including those at the Kindergarten through Grade 12 level and English language training programs.

If a student's ability to take a full course of study will be affected by the strike, the school may submit an alternative operational plan to SEVP that details their modified operations for the duration of the strike. The plan should include how alternative instruction will be provided (for example, online or at an alternative site) and the projected length of time for alternative instruction.

Students may also transfer to another SEVP-certified school to continue their education and maintain F-1 status or request an authorized early withdrawal until the strike ends and their school resumes normal operations.

What happens if a strike at an SEVP-certified school affects an F-1 student's teaching assistantship, fellowship or other requirements of their program of study or academic scholarship?

If the teaching assistantship is required as part of the student's program of study, fellowship or scholarship, the student is not required to cross a picket line, and their refusal to do so will not affect their F-1 status. Students and SEVP-certified schools may have other options to ensure that students complete their teaching assistantships, fellowships or other requirements of their programs of study or academic scholarships.

During the duration of such a strike, students may serve as a teaching assistant or fellow or fulfill other requirements of their programs of study in other academic departments not affected by the strike if such an opportunity is available and otherwise meets the program of study requirements.

If there is no other opportunity available, students should verify with their school how specific conditions of their teaching assistantship, fellowship, scholarship or other requirements of their program of study will be addressed for the duration of the strike. If the lack of a teaching



assistantship will affect a student's full course of study requirement, the student should consult with their DSO about alternative opportunities.

Students may also transfer to another SEVP-certified school to continue their education and maintain F-1 status or request an authorized early withdrawal until the strike ends and their school resumes normal operations.

What happens if a strike at an SEVP-certified school prevents an F-1 student from continuing to engage in a teaching assistantship that is tied to funding for their academic studies but is not required for their degree?

If the teaching assistantship is not required as part of the student's program of study, the student's inability to work on campus will not affect their F-1 nonimmigrant status if they are otherwise maintaining their status. Given that the strike is a temporary and unforeseen circumstance, the student may consider applying to U.S. Citizenship and Immigration Services (USCIS) for off-campus employment authorization for reasons of severe economic hardship. The student must meet all other eligibility requirements for severe economic hardship.

What happens if a strike affects an F-1 student's ability to continue engaging in curricular practical training (CPT) that is integral to their thesis, dissertation or other degree requirements? If they cannot continue their CPT, how does this affect their ability to maintain status?

The student should consult with their DSO and academic advisers to identify any alternatives that would allow them to continue the necessary training or research for their thesis, dissertation or other degree requirements. The student may need to identify a different employer for their CPT or reduce their CPT hours to part-time if they were previously employed full-time.

If the student reduces their hours, the DSO must update their Student and Exchange Visitor Information System (SEVIS) record to indicate part-time work. If the student finds another employer, the DSO must update their SEVIS record with a new CPT authorization prior to the student engaging in CPT, as well as make any other SEVIS updates required by regulation. If the student is unable to complete their CPT or find another employer, the DSO must update the student's SEVIS record to indicate the end of their current practical training.

What happens if a strike that occurs at an F-1 student's job site while they are participating in optional practical training (OPT) or the science, technology, engineering and mathematics (STEM) OPT extension affects their ability to maintain status? Would the student accrue unemployment days for any time they are unable to work?



An F-1 student participating in OPT or STEM OPT is temporarily not authorized to work at a location affected by a certified strike or work stoppage and must cease working at that location until the situation has been resolved.

Any period of approved OPT or STEM OPT that the F-1 student does not work counts toward the regulatory limit for unemployment. The student may avoid accruing excess unemployment by finding other qualifying employment to continue their training. The student should be advised to consult an attorney with any further questions.

Can an employer require F-1 students to continue to work when other employees at the job site are on strike?

No. According to *8 CFR 214.2(f)(14)*, any employment authorization, whether or not part of an academic program, is automatically suspended upon certification by the Secretary of Labor or the Secretary's designee to the Secretary of Homeland Security or the Secretary's designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. Additionally, the employer is prohibited from transferring F-1 students working at other facilities to the facility where the work stoppage is occurring.

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