



WHAT A DEAN NEEDS TO KNOW ABOUT... *IMMIGRATION*

BASIC CONCEPTS

1. MSU is authorized by the U.S. Department of Homeland Security to enroll F-1 students.
2. MSU is authorized by the U.S. Department of State to host J-1 students, faculty, etc.
3. MSU is audited by both departments on a biennial basis. Out-of-cycle reviews also occur.
4. MSU must report changes to a non-immigrant's record via the Student and Exchange Visitor Information System (SEVIS), which is Homeland Security's web-based tracking system.
5. Student information must be accessible to DSOs. 8 CFR 214.3(g)(1)
6. US laws only apply to the US. Immigration laws differ for students and faculty abroad.
7. Generally speaking, an international student is defined as one who is NOT a US citizen, legal permanent resident, refugee, asylee, Jay Treaty beneficiary or resident of a US trust territory.
8. The most common nonimmigrant visa types at MSU:

B-1/B-2: Tourist or business travelers	F-1: Most common status for international students. Dependents receive an F-2 visa
H-1B: Employment-based visa for MSU employees. Dependents receive an H-4 visa	J-1: Includes exchange students, scholars, professors and researchers. Dependents receive a J-2 visa

BEFORE ARRIVAL: CONSULAR PROCESSING

Applying for a Visa: Consular officers follow standard operating procedures. These include interviews, review of supporting documentation, data checks against consular and law enforcement databases, etc. An applicant should normally apply at a post having jurisdiction over the alien's place of residence. 22 CFR 41.10(a)(1) Unless exempted, applicants must appear in person for the consular interview. INA 222(h)

Presumption of Immigrant Intent: A nonimmigrant visa shall not be issued to an alien who has failed to overcome the presumption of immigrant status established by INA 214(b).

SEVIS I-901 fee: SEVIS is funded by a fee imposed on students and exchange visitors. IIRIRA 641(e)

Visa Reciprocity: Visa cost, validity, and the number of entries allowed on a particular visa are determined by a policy of reciprocity. 22 CFR 41.112(b)

Visa Exemptions: Certain individuals (e.g., Canadians) are exempt from having to obtain a visa in the F, J and M nonimmigrant categories. 8 CFR 212.1; 22 CFR 41.2(a); 22 CFR 41.2(c) 22 CFR 41.2(d)

Visa Refusal: Consular officials retain full authority for granting or refusing visas. Congressional representatives do not have influence over individual consular officers. Visas may only be refused on legal grounds. 22 CFR 41.121(a) If a visa is refused, contact OIP before reapplying.

Bars on Repeat Participation: Certain J-1 professors & researchers are barred from repeat participation for 12 months while others are barred for 24 months. 22 CFR 62.20(i)(2) Contact OIP for details.

Certain Fields Attract Additional Scrutiny: Conventional Munitions; Nuclear Technology; Rocket Systems; Rocket System and Unmanned Air Vehicle (UAV) Subsystems; Navigation, Avionics and Flight Control Usable in Rocket Systems and Unmanned Air Vehicles (UAV); Chemical, Biotechnology and Biomedical Engineering; Remote Sensing, Imaging and Reconnaissance; Advanced Computer/Microelectronic Technology; Materials Technology; Information Security; Laser and Directed Energy Systems Technology; Sensors and Sensor Technology; Marine Technology; Robotics; Urban Planning (9 FAM 40.31 N5.1-4(3)-(5); DOS cable 2002 State 147566)

Two-year Home County Residence Requirement: Certain J-1 exchange visitors are ineligible to apply for an immigrant visa, permanent residence, or certain nonimmigrant visas (e.g., H) until s/he has resided and been physically present in the country of his/her nationality or last residence for an aggregate of at least two years following departure from the US. INA 212(e)

ARRIVAL: U.S. PORT OF ENTRY

Inspection: Individuals seeking admission to the United States in a nonimmigrant category must be inspected in person by an immigration officer at an official U.S. port of entry (POE). The inspector may place the individual in a higher level of inspection called secondary inspection. INA 235

Duration of Status: F, J & M nonimmigrants are admitted for duration of status, which reflects how long it would take the average international student to complete a similar program, not duration of visa. Aliens who overstay their status may have their visa canceled and be barred from reentry. INA 222(g)

WHILE AT MONTANA STATE UNIVERSITY

Subject/Field: Program activities must be reported in SEVIS using the U.S. Department of Education's Classification of Instructional Programs (CIP) codes. 8 CFR 214.2(f)(7)(ii)

Grace Periods: Most students/scholars may arrive to the US 30 days prior to their immigration program start date. J-1 students/scholars have 30 days following their program end date to depart. F-1 students have 60 days following their program end date to depart. 8 CFR 214.2(f)(5)(iv); 8 CFR 214.2(j)(1)(ii)

FERPA and SEVIS: The provisions of FERPA are waived with regard to information the school is required to report in SEVIS. IIRIRA § 641(c)(2); 8 USC 1372(c)(2); 8 CFR 214.1(h)

Full Course of Study Requirement: 12 credits/semester for undergrad; 9 credits/semester for grad. A reduced course load must be preapproved by OIP based on certain academic or medical reasons.

- Restrictions on Distance Education for F-1 Students: Only one class or three credits may count toward the full course of study requirement if the class does not require the student's physical attendance for classes, examination or other purposes. 8 CFR 214.2(f)(6)(i)(G)
- Restrictions on Distance Education for J-1 Students: Classes delivered through online and distance education modalities cannot be used to satisfy the full course of study or full-time prescribed course of study requirements for J-1 students. 22 CFR 62.23(e)
- Summer Vacation: A student is in status during the summer vacation if s/he is eligible and intends to register for the next term. A new student starting a program with the summer session must enroll full-time for that summer session. 8 CFR 214.2(f)(5)(iii); 22 CFR 62.23(e)(1)

Employment: All on-campus and off-campus employment, internship, practicum, cooperative education or alternate work/study must be preapproved by OIP. Students are generally limited to working a maximum of 20 hours per week while school is in session. 8 CFR 214.2(f)(9)(i); 22 CFR 62.23(g)

MSU Reporting Requirements: MSU is required to report within 21 days of the occurrence of specific events (e.g., change of major, early graduation and reduced course load) 8 CFR 214.3(g)(2)(ii)(A)-(F)

WHO TO CONTACT SHOULD AN ISSUE ARISE:

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RESOURCES:

Locate a US Consulate or Embassy: <http://www.usembassy.gov/>

USCIS Processing Time Information: <https://egov.uscis.gov/cris/processTimesDisplayInit.do>

Visa Interview/Processing Times: <https://travel.state.gov/content/visas/en/general/wait-times.html/>

OIP Staff Directory: <http://www.montana.edu/international/staffdirectory.html>