

Blog Post

DHS Final Rule Ending Duration of Status for F, J, and I Nonimmigrants May Complicate Workforce Planning

July 29, 2026

By Michael N. Castiglione

Employers that rely on international F-1 students working under OPT or STEM OPT, J-1 exchange visitors, or foreign media personnel should take note of a significant U.S. Department of Homeland Security (DHS) final rule published on July 17, 2026, which would eliminate the longstanding “Duration of Status” (D/S) admission framework for F, J, and I nonimmigrants and replace it with fixed admission periods beginning September 15, 2026, although the final rule is subject to congressional review.

What Is Changing?

For decades, F-1, J-1, and I nonimmigrants have been admitted for D/S, meaning they could remain in the United States while complying with the terms of their academic, exchange, or media program. Rather than receiving a fixed Form I-94 expiration date, F-1 students and J-1 exchange visitors generally relied on the program end date listed on the Form I-20 or DS-2019, with many extensions managed through SEVIS by schools and program sponsors.

The final rule replaces that model with fixed admission periods. Beginning September 15, 2026, F and J nonimmigrants generally will be admitted for the length of the program listed on the Form I-20 or DS-2019, not to exceed four years. I nonimmigrants

Related People

Michael N. Castiglione

Related Work

Employment
Administrative Claims
Defense

Employment Training
and Compliance

Higher Education and
Collegiate Athletics

Immigration Strategic
Planning and
Compliance

Labor and Employment

Related Offices

New York

HR Defense

Akerman Perspectives
on the Latest

Developments in Labor
and Employment Law

[Visit this Akerman blog](#)

generally will be admitted for up to 240 days, with a shorter 90-day period for certain passport holders from the People's Republic of China, excluding Hong Kong SAR and Macau SAR passport holders.

Those needing additional time beyond their fixed admission period — whether to complete a program, begin a new program, transfer schools, or pursue post-completion Optional Practical Training (OPT) — must generally file an extension of stay (EOS) application with USCIS, submit biometrics, and demonstrate continued eligibility. As a result, many extension requests previously handled directly by schools or sponsors will instead require filing with, and adjudication by, USCIS.

The rule also shortens the F-1 post-completion grace period from 60 days to 30 days and imposes new restrictions on academic mobility. F-1 students generally must complete their first academic year at the school that issued their Form I-20 before transferring or changing educational objectives, unless the Student and Exchange Visitor Program (SEVP) authorizes an exception. At the graduate level or above, F-1 students may not change educational objectives during a program or transfer during the program absent an SEVP-authorized exception for extenuating circumstances.

Unlawful Presence and Transition Rules

The move to fixed admission periods also changes when unlawful presence begins to accrue. Under the current D/S framework, individuals admitted for D/S generally do not accrue unlawful presence until there has been a formal finding of a status violation. Under the final rule, unlawful presence generally will begin accruing when the fixed admission period on the Form I-94 expires. The rule is not retroactive, but individuals whose programs have already ended should carefully evaluate whether they qualify for transition relief.

Who Is Affected?

The rule affects a broad range of foreign nationals, including undergraduate, graduate, and doctoral students; J-1 research scholars, professors, trainees, specialists, and foreign medical graduates; and I nonimmigrant media representatives. The impact may be especially significant for longer academic, research, training, residency, and fellowship programs, particularly those that extend beyond four years and have historically depended on D/S flexibility.

Although the rule does not directly change employer Form I-9 obligations, employers may need to begin immigration planning earlier for F-1 employees on OPT or STEM OPT, J-1 exchange visitors, and I nonimmigrants, particularly where sponsorship, change of status, or permanent residence strategies depend on timing under the new fixed-admission framework.

Transition Provisions

The final rule includes transition provisions for certain F, J, and I nonimmigrants who were admitted for D/S and are present in valid status on September 15, 2026. F and J nonimmigrants generally may remain until the program end date on the Form I-20 or DS-2019 valid on the effective date, not to exceed four years from that date. F nonimmigrants receive a 60-day departure period after the transition end date; J nonimmigrants receive 30 days.

I nonimmigrants present in valid status on the effective date generally may remain for the time necessary to complete their activities, not to exceed 240 days from the effective date, or 90 days for certain PRC passport holders. These transition provisions do not apply to individuals outside the United States on the effective date, those who depart and seek readmission on or after September 15, 2026, or individuals not maintaining status.

OPT, STEM OPT, and Cap-Gap

The final rule does not eliminate OPT, STEM OPT, Curricular Practical Training, or H-1B cap-gap protection, but it adds timing considerations. During the first six months after the effective date, certain F-1 students admitted for D/S who are present in the United States and timely file Form I-765 for post-completion OPT or STEM OPT may avoid filing a separate EOS application for the requested employment authorization period. After that window, students seeking OPT or STEM OPT may need both Form I-765 and an EOS application if their fixed admission period will not cover the requested work authorization period.

The existing 180-day automatic extension for timely filed STEM OPT extensions remains unchanged, and H-1B cap-gap rules generally remain in place. Students, schools, and employers should nevertheless consider how fixed admission periods interact with planned employment authorization, change of status, or sponsorship strategies.

Practical Takeaways

Employers may wish to coordinate immigration planning earlier where affected workers have upcoming EAD expirations, STEM OPT timelines, H-1B cap issues, or permanent residence milestones. Foreign nationals admitted in D/S should confirm whether they are in valid status on the effective date, review the program end date on their Form I-20 or DS-2019, and assess whether an EOS filing may be needed.

Educational institutions and program sponsors should also review program end dates, identify students and scholars who may need additional time, and prepare for questions about EOS filings, transition dates, transfers, and changes in educational objectives. Clear communication will be important, particularly for programs that may extend beyond the initial admission period.

The final rule represents a major shift away from the decades-long D/S system and is likely to increase administrative burdens for students, exchange visitors, institutions, and employers. Stakeholders should begin planning for fixed admission periods, EOS requirements, and transition-rule questions before the September 15, 2026, effective date.

Akerman's Immigration Strategic Planning & Compliance Practice Team is available to assist employers, educational institutions, and foreign nationals with questions regarding the impact and practical implications of the final rule.

This information is intended to inform firm clients and friends about legal developments, including recent decisions of various courts and administrative bodies. Nothing in this Practice Update should be construed as legal advice or a legal opinion, and readers should not act upon the information contained in this Practice Update without seeking the advice of legal counsel. Prior results do not guarantee a similar outcome.