

# Immigration resource news magazine for United states of america

Immigration Magazine

## Immigration News: USCIS New Policy on Unlawful Presence for F, J and M Nonimmigrants

Tiyalaw · Saturday, May 12th, 2018



## Immigration News: USCIS New Policy on Unlawful Presence for F, J and M Nonimmigrants

**Effective August 9, 2018**, U.S. Citizenship and Immigration Services (USCIS) implements a **new** and more restrictive **immigration policy** on the accrual of **unlawful presence for F, J and M nonimmigrants and their dependents, admitted/authorized to stay for duration of status (D/S) or until a specific date** . This USCIS new policy is to update [Chapter 40.9.2](#) of the USCIS Adjudicator's Field Manual.

**F and M are student visas.** An F visa is for an academic student to study in the U.S. at an accredited college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program. An M visa (vocational student) is participating in vocational or other nonacademic programs, other than language training. **J is an exchange visitor visa** for participating in an approved program for teaching, instructing or lecturing,

studying, observing, conducting research, consulting, demonstrating special skills, receiving training, or to receive graduate medical education or training.

**For nonimmigrants above who failed to maintain immigration status before August 9, 2018**, their unlawful presence **starts from August 9, 2018, unless** they have previously started accruing unlawful presence on the **earliest day of the following**:

1. The day after DHS denied the request for an immigration benefit, if DHS made a formal finding that the individual violated his or her nonimmigrant status while adjudicating a request for another immigration benefit;
2. The day after their I-94 expired; or
3. The day after an immigration judge or in certain cases, the Board of Immigration Appeals (BIA), ordered them excluded, deported, or removed (whether or not the decision is appealed).

**For nonimmigrants above who failed to maintain nonimmigrant status on or after August 9, 2018**, their unlawful presence **starts on the earliest day** of any of the **following**:

1. The day after they no longer pursue the course of study or the authorized activity, or the day after they engage in an unauthorized activity;
2. The day after completing the course of study or program, including any authorized practical training plus any authorized grace period;
3. The day after the I-94 expires; or
4. The day after an immigration judge, or in certain cases, the BIA, orders them excluded, deported, or removed (whether or not the decision is appealed).

**A dependent's status (F-2, J-2 and M-2) ends when the nonimmigrant status of the F-1, J-1 or M-1 ends. Alternatively**, a dependent's status in F-2, J-2 or M-2 **may end due to his/her own's activities or situations.**

The accrual of unlawful presence for individuals present in the United States who are not in F, J, or M nonimmigrant status remains unchanged.

Unlawful presence affects an individual's immigration benefits. **Generally, individuals subject to a time bar are ineligible for a visa, admission, or Green**

**Card unless they have an approved waiver or another form of relief.** For examples, an individual with over 180 days of unlawful presence in a single stay may, upon departing the US, trigger a **3-year or 10-year bar** from entering the U.S. Individuals who have over a year of unlawful presence who either reentered or attempted to reenter the US may trigger a **permanent bar** to inadmissibility.

For additional information on USCIS new policy on unlawful presence for J, F and M nonimmigrant status, please see

[https://www.uscis.gov/sites/default/files/USCIS/Outreach/Draft%20Memorandum%20for%20Comment/AccrualofUnlawfulPresenceFJMNonimmigrantsMEMO\\_v2.pdf](https://www.uscis.gov/sites/default/files/USCIS/Outreach/Draft%20Memorandum%20for%20Comment/AccrualofUnlawfulPresenceFJMNonimmigrantsMEMO_v2.pdf)

May 11, 2018

This article is intended for informational purposes only, and should not be relied on as legal advice or attorney-client relationship. By Aik Wan Kok, Lawyer USA Immigration Services, at Tiya; Tel: 703-772-8224 & info at tiyaimmigration dot com; Direct dial from abroad: 001-703-7728224; <http://www.tiyaimmigration.com> ; <http://tiyalaw.blogspot.com> ; <http://immigrationresource.net>

Aik Wan Kok Fillali at Tiya represents companies, employers, individuals and families, located nationwide and internationally, in U.S. Immigration & Nationality Law. We focus on diverse immigration cases such as extraordinary ability; national interest waiver; PERM; green card; N-400 Naturalization; various waivers; H cases; L executive, manager and specialized knowledge professional; E treaty investor/trader; cases with USCIS, U.S. Department of Labor, U.S. Consulates and National Visa Center.



This entry was posted on Saturday, May 12th, 2018 at 12:38 pm and is filed under Immigration News, Other Visas, USCIS Case Status, USCIS Processing Time, Visas, Waivers

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. Responses

are currently closed, but you can [trackback](#) from your own site.