

# International Student Entrepreneurship Workshop

November 1, 2021

1:00 PM – 2:00 PM



# LOGISTICS & TIPS

Please keep your video on, if you're able.

Please keep yourself muted unless you are posing a question during Q&A.

Comments, questions, or thoughts? Share them in the Chat!

We'll be recording this session.

You can change your View in the top right corner of your screen.

# AGENDA

**01:00 PM** | Welcome

**01:05 PM** | Stephanie Krause & Ravi Shankar, *UR International Services Office*

**01:15 PM** | Frank Novak & Glenn Schieck, *Harter, Secrest & Emery LLP*

**01:40 PM** | Annette Durnack, *UR Ain Center for Entrepreneurship*

**01:45 PM** | Q&A

# F-1 Work Permissions for Student Entrepreneurs

*Fall 2021*

**ISO** INTERNATIONAL  
SERVICES OFFICE

**[questions@iso.rochester.edu](mailto:questions@iso.rochester.edu) • 585-275-2864**



# F-1 Status & Practical Training

- *Maintain your F-1 status:*
  - Employment is incidental to primary objective for study
  - Full-time registration each term; Progress toward degree
  - Report changes in address, program; Maintain valid docs.
  - Do NOT work without valid/active US work authorization!
- *F-1 Practical Training:*
  - Curricular: CPT; Post-Completion: OPT & STEM Ext.
  - Must maintain F-1 status for 1 academic year (9 months)
  - Subject to relevant University academic policies



# Curricular Practical Training

- Related to studies & Integral to curriculum
  - Academic eligibility: \*Course Credit\*; Degree req.; Co-op
  - Authorized as Part-time (up to 20 hrs/wk) or Full-time (20+)
  - Job offer letter + Academic recommendation + Registration
- Obtain CPT authorization prior to working
  - Authorized ONLY for specific dates, employer, and location
  - Academic registration must match employment period
  - Not viable to 'backdate' CPT based on delays, errors, etc.



# CPT for Entrepreneurs

- Work permission is approved by ISO:
  - No application or fee; New I-20 lists CPT authorization
  - Work may begin once I-20 is issued & start date reached
  - Submit request to ISO; Allow 1 week for processing time
- Logistical Considerations:
  - *Employer*: Establishing the company to extend a job offer
  - *Timing*: Common transitions from class/project to venture
  - *Duration*: On-going CPT throughout degree program





# Optional Practical Training

- Immigration benefit of maintaining F-1 status
  - 12 months OPT available at each higher degree level
  - No change in category; UR remains immigration sponsor
  - Commonly used post-completion (vs. CPT, during studies)
  - Option to extend another 24 months for STEM fields
- Eligibility factors
  - Not previously authorized for OPT at the same degree level
  - Fewer than 12 months of full-time CPT authorization
  - No job offer is required to apply!





# OPT for Entrepreneurs

- Work permission is approved by USCIS:
  - Obtain a recommendation from ISO in order to apply
  - Application fee (\$410); Variable processing times ~90 days
  - Once approved, limited to total of 90 days unemployment
- Logistical Considerations:
  - *Good News*: Self Employment is a qualified training activity!
  - *Flexibility*: Related to field of study & 20+ hours per week; Allows for multiple jobs, different work relationships, etc.
  - *Transitions*: Be cautious of gaps in F-1 work permission
  - *Reporting*: Must update employment details regularly



# STEM Extension OPT

- Overview – Science, Tech, Engineering & Math
  - 24 months additional work permission for qualified degrees
  - I-983 Training Plan details eligible employment relationship
  - Work permission authorized by USCIS; UR visa sponsorship
- Logistical Considerations for Entrepreneurs:
  - *Employer*: EIN tax ID; E-Verify enrollment; Resources to meet training goals; On-site supervision & evaluations
  - *Limits*: Self-Employment is restricted (‘bona fide employee’)
  - *Proprietorship*: Business interests vs. Immigration options; (ex: partner cannot provide training if also F-1 visa holder)



# Work Permission Resources:

[www.iso.rochester.edu/employment/students/index.html](http://www.iso.rochester.edu/employment/students/index.html)

ISO Home

Immigration >>

Employment >>

Study >>

Taxes >>

Life at UR >>

Travel >>

Forms

News and Events >>

About ISO >>

Contact

## Student Work Permissions

International students are permitted to engage in US employment during and after their studies only with specific permission. It is extremely important to obtain appropriate and documented authorization **BEFORE** you begin any type of employment activity.

Unauthorized employment is a violation of your immigration status and has serious consequences. Your personal eligibility for the employment options detailed below depends on your visa category, individual permissions, and University policy.

Student Permissions

- J-1 Scholars
- Social Security Numbers
- Temporary Workers
- Work vs. Volunteer
- University Resources
- Dependent Work Permissions

Related Links

- Social Security Numbers
- U.S. Tax Information

### General Information and Related Links

- Definitions of **"work" and "volunteer activities"**
- **Employment reporting for F/J students (post-completion)**
- **Social Security Numbers for F-1 and J-1 students**
- **US tax information**

### F-1 Student Permissions:

- **On-Campus Employment**
- **Curricular Practical Training (CPT)**
- **Optional Practical Training (OPT)**
- OPT Extensions: **Cap Gap** and **STEM**
- **Other permissions for F-1 students**

<http://www.iso.rochester.edu/employment/students/index.html>

***Contact ISO for an F-1 advising appointment!***



UNIVERSITY of ROCHESTER



# Harter Secrest & Emery LLP

ATTORNEYS AND  
COUNSELORS

## International Student Entrepreneurship Workshop Immigration Law Comments

Frank A. Novak

Glenn R. Schieck

November 1, 2021



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# Harter Secrest & Emery LLP Immigration Practice Group



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# Overview

- What action can I take without specific authorization
- What does my F-1 status authorize me to do
- What other statuses should I consider after F-1



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# What actions can I take without specific authorization?

- Unauthorized employment → deportation. If it's work, it needs authorization. If it's not work, it doesn't need authorization
- If it is work, it requires authorization whether full- or part-time student
- So what is “not work”



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# What is “Not Work”

- Three part test:
  1. No compensation from U.S. source
  2. Won't perform services for which U.S. worker would otherwise have to be hired
  3. Services will not primarily benefit a U.S. entity
- Conservative Rule: Avoid any action that puts you in the stream of U.S. commerce (benefit flowing to U.S. entity), even though rule is “primarily” benefit
- Start company outside the U.S.



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# What is “Not Work”

- Commercial transactions (taking orders), negotiating contracts, consulting with business associates, litigating, incorporating U.S. company
- Performing director functions as member of U.S. corporation’s board
- Seeking U.S. investment, including for a U.S. business
- Attending conventions, conferences, seminars
- Matter of Hira: OK to gather info / specifications in the U.S. for the benefit of a foreign entity



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# Legal Distinctions

- Corporations and owners are legally distinct
  - Corporation as petitioner
- Common law employment – control
- Compensation earned by working on or approving company budgets vs. receiving stock dividends, rents
  - Employment/work vs. ownership

# What Work is Authorized by F-1 Status

- If it is work, it needs authorization. What does F-1 authorize
  - OPT: best option - very flexible, self-employment permitted, perfect for entrepreneur, 12 months
  - Other options - On-Campus, CPT, STEM OPT
    - School is school, not employment factory
    - STEM OPT employment requires supervision by experienced staff, must be employee
    - Twenty hour limit which class in session



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# Is F-1 Status right for you?

- If you want to engage primarily in employment / entrepreneurial activity, note work visas also authorize study
- Dependent Status: Spouses of H-1B, L-1, and E-2 workers can apply for unrestricted EAD, but renewal headaches
- Planning considerations will differ based on goals, timeline, company, nationality, funding, etc.



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# E-2 Visa

- Perfect for entrepreneur
- Allows 100% ownership, no need to be an employee
- Both E-2 and company must have treaty nationality. India / China don't have treaty
- P/E funding can be problem – they want to see 100% your own funds for smaller start-ups



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# H-1B Visa

- Bachelor level
- Requires employment, prohibits self-sponsorship
  - Payroll proves employment
  - Company owned by entrepreneur can sponsor owner
  - In flux, historical controversy, best to collaborate with others, hold minority ownership
- H-1B lottery
  - N/P affiliated with college exempt
  - N/P research organization exempt



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# L-1 Visa

- Specifically contemplates 100% ownership
- But, one year in last three years outside U.S. as manager / specialized knowledge employee
- Multinational company



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# O-1 Visa

- Covers those with extraordinary ability - challenging
- Must be employee of petitioning entity
  - Best to collaborate with others, minority ownership
  - Interior design company sponsors interior designer, who owns 100% of company



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# International Entrepreneur Rule

- Requires at least 10% equity, and at least \$250,000 from qualified investor (e.g. venture capital), or \$100,000 government grant
- 30 month grant with possible 30 month renewal
- Renewal requires demonstration of additional investment, job growth, or revenue growth



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# National Interest Waiver (NIW)

- Currently 10-month path to unlimited entrepreneurial activity (not India/China), but challenging to obtain
- Can carefully file while in F-1
- Show national importance of U.S. endeavor, and that you are in a good position to advance the endeavor – need accomplished record
- No job offer or employment required
- Example:
  - Entrepreneur developed bio-stimulant benefitting Florida citrus industry
  - Gas/Oil exploration

# Diversity Lottery

- Not even a dollar, and a dream
- Fall applications – Open now!
- Only countries not already sending numerous people to the U.S.
- If F-1, file carefully



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# Examples

- 12-month OPT, then NIW (non-Indian/Chinese) with EAD in 10-months to provide Financial Valuation Analyst expertise assisting small businesses to secure capital investment
- Chinese national 12-month OPT for data analytics, then 24-month STEM OPT with sufficient resources and supervisor, then H-1B in lottery, with NIW where data analytics supports public interest objectives
- Ownership raises labor cert issues
- Indian national without E option organizes multinational doorknob company with at least one year abroad



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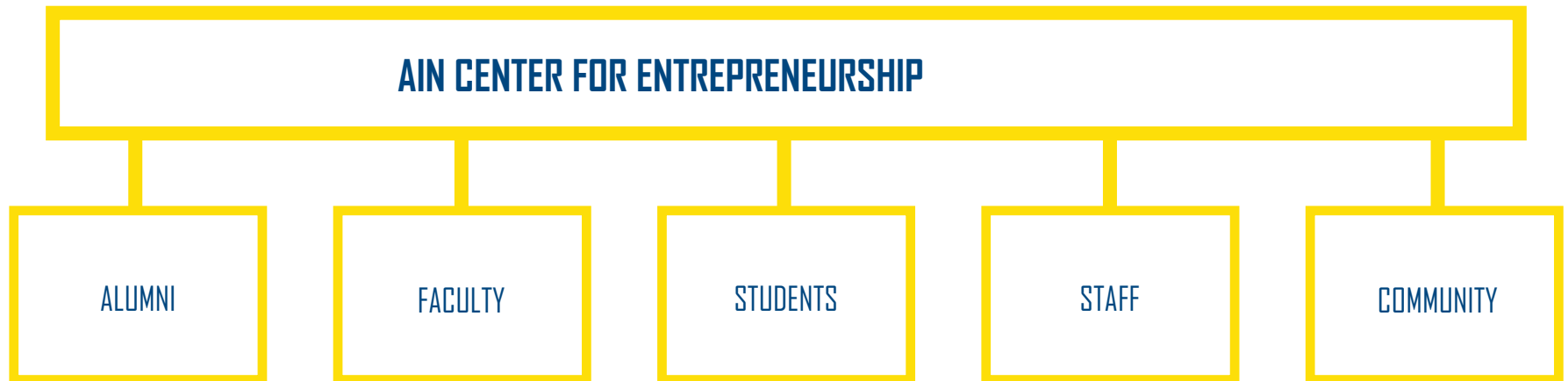
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# UR AIN CENTER FOR ENTREPRENEURSHIP

Interdisciplinary center that empowers UR/Rochester communities to generate and transform ideas into enterprises that create value

[develop and apply an entrepreneurial mindset]





# ENTREPRENEUR FRAMEWORK



**ENVISION**



**EXPLORE**



**BUILD**



**LAUNCH**



**SUSTAIN**

Opportunities, resources, connections, and more to support entrepreneurs and innovators at any stage in their journey

# OPPORTUNITIES FOR UR INTERNATIONAL STUDENTS

**ALL** Ain Center programs are open to international students, including:

- Advising and mentorship meetings
- Competitions
- Entrepreneurial Project & Travel funding up to \$500
- Student Incubator @ NextCorps
- Workshops and training programs

**[focus on experiential learning and education]**

# GET INVOLVED



Make an appointment with Ain staff:

- Run through program recommendations
- Learn more about what innovation can look like in your role



Sign up for the Ain Center eNewsletter



Attend an upcoming Ain Center event

# QUESTIONS?

Raise your hand using the **Reactions** button along the bottom of your screen.

OR

Send it in the **Chat** and we'll call on you when you can unmute and ask it aloud (*please mention if you'd like to remain anonymous*).