

Broadcast Message: Accrual of Unlawful Presence by F and M Nonimmigrants

To: All SEVIS Users

Date: August 10, 2018

Re: Accrual of Unlawful Presence by F and M Nonimmigrants

Number: 1808-02

General Information

On May 10, 2018, U.S. Citizenship and Immigration Services (USCIS) posted a policy memorandum, “Accrual of Unlawful Presence and F, J, and M Nonimmigrants,” changing how the agency will calculate unlawful presence for students and exchange visitors in F, J, and M nonimmigrant status, including F-2, J-2, or M-2 dependents, who fail to maintain their status in the United States, effective Aug. 9, 2018. USCIS accepted public comments through June 11, 2018, and on Aug. 9, 2018, they updated and reissued the [policy memorandum](#).

Individuals in F, J, and M status who failed to maintain their status before Aug. 9, 2018, will start accruing unlawful presence on that date based on that failure, unless they already started accruing unlawful presence on the earliest of any of the following:

- The day after the U.S. Department of Homeland Security (DHS) denied the request for an immigration benefit, if DHS made a formal finding that the individual violated their nonimmigrant status while adjudicating a request for another immigration benefit;
- The day after their Form I-94, “Arrival/Departure Record,” expired; or
- The day after an immigration judge ordered them excluded, deported or removed (whether or not the decision is appealed).

Individuals in F, J, or M status who fail to maintain their status on or after Aug. 9, 2018, will start accruing unlawful presence on the earliest of any of the following:

- 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;
- The day after completing the course of study or program, including any authorized practical training, plus any authorized grace period;
- The day after the Form I-94 expires; or
- The day after an immigration judge orders them excluded, deported or removed (whether or not the decision is appealed).

Note that the change in policy by USCIS means that, beginning Aug. 9, 2018, certain actions by an F, M, or J nonimmigrant may cause them to accrue unlawful presence, where previously such actions did not. Accrual of unlawful presence can, under certain circumstances, render the nonimmigrant ineligible for certain immigration benefits and may make them inadmissible to the United States.

Please see the memorandum referenced above for more detail.

Comments

To comment on this Broadcast Message, please email SEVP@ice.dhs.gov with “Broadcast Message 1808-02 Comment” entered in the subject line.

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