

At each installation where RCI housing is located, the Army conveys ownership of existing housing and leases land to the RCI partnership. The RCI partnership then operates and manages the conveyed housing and leased lands for military housing purposes.

Properties of particular importance means Army Vietnam War Era housing that retains a high degree of integrity, represents particularly important historical aspects of the Army Vietnam War Era housing program, and that represent particularly important building types or methods of construction. To be considered properties of particular importance Army Vietnam War Era housing must retain original location, scale, mass, proportion, materials, and ornamentation from the period of construction.

Public educational materials mean Vietnam War Era housing historic contexts, reports, and other documentation containing public information on the history of Vietnam War Era housing.

Quality of life means the general wellbeing and material living conditions of individuals and military families living in historic housing.

Rehabilitation means repairs, additions, and other alterations and modifications to a building that preserve, to the greatest extent possible, historic building materials, historic building design, and other historic building features in accordance with Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR 68).

Renovation means improvements to housing using current industry standard building materials and methods and including any interior and exterior alterations and modifications; exterior additions that increase square footage of housing; interior floor plan changes; actions to improve energy efficiency and climate resiliency; removal and replacement of out of date, obsolete, damaged, deteriorated, or defective interior and exterior building materials and elements including windows and doors; removal and replacement of interior walls, ceilings, and flooring; removal and replacement of mechanical systems or elements thereof; and other alterations and modifications that modernize housing to improve the quality of life of residents.

To the maximum extent practicable means to implement to the extent feasible or capable of being considered or carried out with reasonable effort taking into account considerations regarding the financial implications for housing improvements and new

construction and the benefits those and other management actions have in terms of improving the quality of life, health, safety of military families.

Undisturbed area(s) means a definable area within an Army Vietnam War Era neighborhood that has not been altered from its natural condition by human activities. Undisturbed areas must retain the natural topography and natural soil horizons existing before any human-caused influences or changes. Undisturbed areas must have not been affected to any degree by grading, filling, removal of trees or vegetation, prior excavation or construction, or any other human-caused influences or activities.

Vacant means housing that has been unoccupied for six months or longer and is expected to remain unoccupied into the foreseeable future.

Viewshed includes all the area visible from a particular location, viewing point, or series of viewing points. It includes all visual elements and surrounding points that are in the line of sight from any location, viewing point, or series of viewing points and excludes all points and locations that are not visible and/or are obstructed by terrain, other natural features, man-made features, and points beyond the horizon.

(End of Document)

Authority: 36 CFR 800.14(e).

Dated: April 28, 2023.

Javier Marqués,
General Counsel.

[FR Doc. 2023-09418 Filed 5-3-23; 8:45 am]

BILLING CODE 4310-K6-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[Docket No. ICEB-2023-0001]

RIN 1653-ZA37

Employment Authorization for Hong Kong F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the Current Crisis in Hong Kong

AGENCY: U.S. Immigration and Customs Enforcement; Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security (Secretary) is suspending certain regulatory requirements for F-1 nonimmigrant students who are Hong

Kong residents, regardless of country of birth, and who are experiencing severe economic hardship as a direct result of the current crisis in Hong Kong. The Secretary is taking action to provide relief to those Hong Kong residents who were in lawful F-1 nonimmigrant student status as of January 26, 2023, so the students may request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F-1 nonimmigrant student status. DHS will deem an F-1 nonimmigrant student who receives employment authorization by means of this notice to be engaged in a "full course of study" for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice.

DATES: This action is effective from January 26, 2023, through February 5, 2025.

FOR FURTHER INFORMATION CONTACT: Sharon Snyder, Unit Chief, Policy and Response Unit, Student and Exchange Visitor Program, MS 5600, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536-5600; email: sevp@ice.dhs.gov, telephone: (703) 603-3400. This is not a toll-free number. Program information can be found at <https://www.ice.gov/sevis/>.

SUPPLEMENTARY INFORMATION:

What action is DHS taking under this notice?

The Secretary is exercising the authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment for F-1 nonimmigrant students who are residents of Hong Kong,¹ regardless of country of birth, who were lawfully present in the United States in F-1 nonimmigrant student status as of January 26, 2023, and who are experiencing severe economic hardship as a direct result of the current crisis in Hong Kong. The original notice, which applied to F-1 nonimmigrant students who met certain criteria, including having been lawfully present in the United States in F-1 nonimmigrant status on November 26, 2021, became effective from November 26, 2021,

¹ For purposes of this Notice, a Hong Kong resident is defined as an individual of any nationality, or without nationality, who has met the requirements for, and been granted, a Hong Kong Special Administrative Region Passport, a British National Overseas Passport, a British Overseas Citizen Passport, a Hong Kong Permanent Identity card, or a Hong Kong Special Administrative Region (HKSAR) Document of Identity for Visa Purposes.

through February 5, 2023. *See* 86 FR 67485 (November 26, 2021). Effective with this publication, suspension of the employment limitations is available through February 5, 2025, for those who were in lawful F–1 nonimmigrant status as of January 26, 2023, the date of the Presidential Memorandum extending and expanding protections for eligible Hong Kong residents. DHS will deem an F–1 nonimmigrant student granted employment authorization through this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the student satisfies the minimum course load set forth in this notice.² *See* 8 CFR 214.2(f)(6)(i)(F).

Who is covered by this notice?

This notice applies exclusively to F–1 nonimmigrant students who meet all of the following conditions:

- (1) Are Hong Kong residents, regardless of country of birth;
- (2) Were lawfully present in the United States in F–1 nonimmigrant status on January 26, 2023, under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i);
- (3) Are enrolled in an academic institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment for F–1 nonimmigrant students;
- (4) Are currently maintaining F–1 nonimmigrant status; and
- (5) Are experiencing severe economic hardship as a direct result of the current crisis in Hong Kong.

This notice applies to F–1 nonimmigrant students in an approved private school in kindergarten through grade 12, public school grades 9 through 12, and undergraduate and graduate education. An F–1 nonimmigrant student covered by this notice who transfers to another SEVP-certified academic institution remains eligible for

² Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a “full course of study,” *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of February 5, 2025, provided the student satisfies the minimum course load requirements in this notice. DHS also considers students who engage in online coursework pursuant to U.S. Immigration and Customs Enforcement (ICE) Coronavirus Disease 2019 (COVID–19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID–19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, <https://www.ice.gov/coronavirus> (last visited Jan. 17, 2023).

the relief provided by means of this notice.

Why is DHS taking this action?

On January 26, 2023, President Biden issued a memorandum to the Secretary of State and the Secretary of DHS to defer for 24 months the removal of certain Hong Kong residents present in the United States.³ There continue to be compelling foreign policy reasons to grant Deferred Enforced Departure (DED), including the defense of democracy and the promotion of human rights in Hong Kong.

By unilaterally imposing on Hong Kong the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (NSL) in June 2020, the PRC has undermined the enjoyment of rights and freedoms in Hong Kong, including those protected under the Basic Law and the Sino-British Joint Declaration. The PRC has continued its assault on Hong Kong’s autonomy, undermining its remaining democratic processes and institutions, imposing limits on academic freedom, and cracking down on freedom of expression, including for members of the press. Since June 2020, at least 150 opposition politicians, activists, and protesters have been taken into custody on politically motivated NSL-related charges including secession, subversion, terrorist activities, and collusion with a foreign country or external elements. Over 1,200 political prisoners are now behind bars, and over 10,000 individuals have been arrested for other charges in connection with anti-government protests.⁴ Now, DHS is again taking action so eligible F–1 nonimmigrant students who are Hong Kong residents, regardless of country of birth, may request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain F–1 nonimmigrant student status.

Previously DHS took action to provide temporary relief to F–1 nonimmigrant students who are Hong Kong residents,

³ “Deferred Enforced Departure for Certain Hong Kong Residents Memorandum for the Secretary of State [and] the Secretary of Homeland Security,” <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/01/26/memorandum-on-extending-and-expanding-eligibility-for-deferred-enforced-departure-for-certain-hong-kong-residents/> (last visited Jan. 27, 2023).

⁴ “Deferred Enforced Departure for Certain Hong Kong Residents Memorandum for the Secretary of State [and] the Secretary of Homeland Security,” <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/01/26/memorandum-on-extending-and-expanding-eligibility-for-deferred-enforced-departure-for-certain-hong-kong-residents/> (last visited Jan. 27, 2023).

regardless of country of birth, and who experienced severe economic hardship because of the crisis in Hong Kong. *See* 86 FR 67485 (November 26, 2021). This temporary relief has enabled these F–1 nonimmigrant students to obtain employment authorization, work an increased number of hours while school was in session, and reduce their course load, while continuing to maintain their F–1 nonimmigrant student status.

As of March 2, 2023, approximately 5,863 F–1 nonimmigrants students who are Hong Kong residents were physically present in the United States and enrolled in SEVP-certified academic institutions. Many of these students are impacted by the current crisis in Hong Kong because their primary means of financial support comes from Hong Kong. Without employment authorization, these students may lack the means to meet basic living expenses. Therefore, in support of affected F–1 nonimmigrant students who may be unable to return to Hong Kong for the foreseeable future, the Secretary is exempting them from the normal student employment requirements so that they may support themselves as they continue their program of study in the United States.

What is the minimum course load requirement to maintain valid F–1 nonimmigrant status under this notice?

Undergraduate F–1 nonimmigrant students who receive on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six semester or quarter hours of instruction per academic term. Undergraduate F–1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a “full course of study.” *See* 8 CFR 214.2(f)(6)(i)(B) and (F). A graduate-level F–1 nonimmigrant student who receives on-campus or off-campus employment authorization under this notice must remain registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v). Nothing in this notice affects the applicability of other minimum course load requirements set by the academic institution.

In addition, an F–1 nonimmigrant student (either undergraduate or graduate) granted on-campus or off-campus employment authorization under this notice may count up to the equivalent of one class or three credits per session, term, semester, trimester, or quarter of online or distance education toward satisfying this minimum course load requirement, unless their course of

study is in an English language study program.⁵ See 8 CFR 214.2(f)(6)(i)(G). An F–1 nonimmigrant student attending an approved private school in kindergarten through grade 12 or public school in grades 9 through 12 must maintain “class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation,” as required under 8 CFR 214.2(f)(6)(i)(E). Nothing in this notice affects the applicability of Federal and State labor laws limiting the employment of minors.

May an eligible F–1 nonimmigrant student who already has on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?

Yes. An F–1 nonimmigrant student who is a Hong Kong resident, regardless of country of birth, who already has on-campus or off-campus employment authorization and is otherwise eligible may benefit under this notice, which suspends certain regulatory requirements relating to the minimum course load requirement under 8 CFR 214.2(f)(6)(i) and certain employment eligibility requirements under 8 CFR 214.2(f)(9). Such an eligible F–1 nonimmigrant student may benefit without having to apply for a new Form I–766, Employment Authorization Document (EAD). To benefit from this notice, the F–1 nonimmigrant student must request that their designated school official (DSO) enter the following statement in the remarks field of the student’s Student and Exchange Visitor Information System (SEVIS) record, which the student’s Form I–20, Certificate of Eligibility for Nonimmigrant (F–1) Student Status, will reflect:

Approved for more than 20 hours per week of [DSO must insert “on-campus” or “off-campus,” depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of the notice or the beginning date of the student’s employment, whichever date is later] until [DSO must insert either the student’s program end date, the current EAD expiration date (if the student is currently authorized for off-

⁵ DHS considers students who are compliant with ICE COVID–19 guidance for nonimmigrant students to be in compliance with regulations while such COVID–19 guidance remains in effect. See ICE Guidance and Frequently Asked Questions on COVID–19, <https://www.ice.gov/coronavirus> (last visited Jan. 17, 2023).

campus employment), or the end date of this notice, whichever date comes first].⁶

Must the F–1 nonimmigrant student apply for reinstatement after expiration of this special employment authorization if the student reduces his or her “full course of study”?

No. DHS will deem an F–1 nonimmigrant student who receives and comports with the employment authorization permitted under this notice to be engaged in a “full course of study”⁷ for the duration of the student’s employment authorization, provided that a qualifying undergraduate level F–1 nonimmigrant student remains registered for a minimum of six semester or quarter hours of instruction per academic term, and a qualifying graduate level F–1 nonimmigrant student remains registered for a minimum of three semester or quarter hours of instruction per academic term. See 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). Undergraduate F–1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a “full course of study.” See 8 CFR 214.2(f)(6)(i)(B) and (F). DHS will not require such students to apply for reinstatement under 8 CFR 214.2(f)(16) if they are otherwise maintaining F–1 nonimmigrant status.

Will an F–2 dependent (spouse or minor child) of an F–1 nonimmigrant student covered by this notice be eligible for employment authorization?

No. An F–2 spouse or minor child of an F–1 nonimmigrant student is not authorized to work in the United States and, therefore, may not accept employment under the F–2 nonimmigrant status. See 8 CFR 214.2(f)(15)(i).

Will the suspension of the applicability of the standard student employment requirements apply to an individual who received an initial F–1 visa and makes an initial entry into the United States after the effective date of this notice in the Federal Register?

No. The suspension of the applicability of the standard regulatory

⁶ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a “full course of study,” see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of February 5, 2025, provided the student satisfies the minimum course load requirements in this notice.

⁷ See 8 CFR 214.2(f)(6).

requirements only applies to certain F–1 nonimmigrant students who meet the following conditions:

- (1) Are Hong Kong residents, regardless of country of birth;
- (2) Were lawfully present in the United States in F–1 nonimmigrant status on January 26, 2023, under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i);
- (3) Are enrolled in an academic institution that is SEVP-certified for enrollment of F–1 nonimmigrant students;
- (4) Are maintaining F–1 nonimmigrant status; and
- (5) Are experiencing severe economic hardship as a direct result of the current crisis in Hong Kong.

An F–1 nonimmigrant student who does not meet all these requirements is ineligible for the suspension of the applicability of the standard regulatory requirements (even if experiencing severe economic hardship as a direct result of the current crisis in Hong Kong).

Does this notice apply to a continuing F–1 nonimmigrant student who departs the United States after the effective date of this notice in the Federal Register and who needs to obtain a new F–1 visa before returning to the United States to continue an educational program?

Yes. This notice applies to such an F–1 nonimmigrant student, but only if the DSO has properly notated the student’s SEVIS record, which will then appear on the student’s Form I–20. The normal rules for visa issuance remain applicable to a nonimmigrant who needs to apply for a new F–1 visa to continue an educational program in the United States.

Does this notice apply to elementary school, middle school, and high school students in F–1 status?

Yes. However, this notice does not by itself reduce the required course load for F–1 nonimmigrant students who are Hong Kong residents enrolled in kindergarten through grade 12 at a private school, or grades 9 through 12 at a public high school. Such students must maintain the minimum number of hours of class attendance per week prescribed by the academic institution for normal progress toward graduation, as required under 8 CFR 214.2(f)(6)(i)(E). The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F–1 nonimmigrant students regardless of educational level. Eligible F–1 nonimmigrant students who are Hong Kong residents enrolled in an

elementary school, middle school, or high school do benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session. Nothing in this notice affects the applicability of Federal and State labor laws limiting the employment of minors.

On-Campus Employment Authorization

Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice be authorized to work more than 20 hours per week while school is in session?

Yes. For an F-1 nonimmigrant student covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F-1 nonimmigrant student's on-campus employment to 20 hours per week while school is in session. An eligible F-1 nonimmigrant student has authorization to work more than 20 hours per week while school is in session if the DSO has entered the following statement in the remarks field of the student's SEVIS record, which will be reflected on the student's Form I-20:

Approved for more than 20 hours per week of on-campus employment and reduced course load, under the Special Student Relief authorization from [DSO must insert the beginning date of this notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert the student's program end date or the end date of this notice, whichever date comes first].⁸

To obtain on-campus employment authorization, the F-1 nonimmigrant student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship directly resulting from the current crisis in Hong Kong. An F-1 nonimmigrant student authorized by the DSO to engage in on-campus employment by means of this notice does not need to file any applications with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting full-time employment on-campus when school is not in session or during school vacations apply, as described in 8 CFR 214.2(f)(9)(i).

⁸ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a "full course of study," see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of February 5, 2025, provided the student satisfies the minimum course load requirements in this notice.

Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain his or her F-1 nonimmigrant student status?

Yes. DHS will deem an F-1 nonimmigrant student who receives on-campus employment authorization under this notice to be engaged in a "full course of study"⁹ for the purpose of maintaining their F-1 nonimmigrant student status for the duration of the on-campus employment, if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F-1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F-1 nonimmigrant student to take a reduced course load if the reduction would not meet the academic institution's minimum course load requirement for continued enrollment.¹⁰

Off-Campus Employment Authorization

What regulatory requirements does this notice temporarily suspend relating to off-campus employment?

For an F-1 student covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following regulatory requirements relating to off-campus employment:

- (a) The requirement that a student must have been in F-1 nonimmigrant student status for one full academic year to be eligible for off-campus employment;
- (b) The requirement that an F-1 nonimmigrant student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study;
- (c) The requirement that limits an F-1 nonimmigrant student's employment authorization to no more than 20 hours per week of off-campus employment while the school is in session; and
- (d) The requirement that the student demonstrate that employment under 8 CFR 214.2(f)(9)(i) is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

⁹ See 8 CFR 214.2(f)(6).

¹⁰ Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

Will an F-1 nonimmigrant student who receives off-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain F-1 nonimmigrant status?

Yes. DHS will deem an F-1 nonimmigrant student who receives off-campus employment authorization by means of this notice to be engaged in a "full course of study"¹¹ for the purpose of maintaining F-1 nonimmigrant student status for the duration of the student's employment authorization if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F). However, the authorization for a reduced course load is solely for DHS purposes of determining valid F-1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F-1 nonimmigrant student to take a reduced course load if such reduced course load would not meet the school's minimum course load requirement.¹²

How may an eligible F-1 nonimmigrant student obtain employment authorization for off-campus employment with a reduced course load under this notice?

An F-1 nonimmigrant student must file a Form I-765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship directly resulting from the current crisis in Hong Kong.¹³ Filing instructions are located at <https://www.uscis.gov/i-765>.

Fee considerations. Submission of a Form I-765 currently requires payment of a \$410 fee. An applicant who is unable to pay the fee may submit a completed Form I-912, Request for Fee Waiver, along with the Form I-765, Application for Employment Authorization. See www.uscis.gov/feewaiver. The submission must include an explanation about why USCIS should grant the fee waiver and the reason(s) for the inability to pay, and any evidence to support the reason(s). See 8 CFR 103.7(c) (Oct. 1, 2020).

Supporting documentation. An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate the following to their DSO:

¹¹ See 8 CFR 214.2(f)(6).

¹² Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

¹³ See 8 CFR 274a.12(c)(3)(iii).

(1) This employment is necessary to avoid severe economic hardship; and
 (2) The hardship is a direct result of the current crisis in Hong Kong.

If the DSO agrees that the F–1 nonimmigrant student is entitled to receive such employment authorization, the DSO must recommend application approval to USCIS by entering the following statement in the remarks field of the student’s SEVIS record, which will then appear on that student’s Form I–20:

Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I–766 until [DSO must insert the program end date or the end date of this notice, whichever date comes first].¹⁴

The F–1 nonimmigrant student must then file the properly endorsed Form I–20 and Form I–765 according to the instructions for the Form I–765. The F–1 nonimmigrant student may begin working off-campus only upon receipt of the EAD from USCIS.

DSO recommendation. In making a recommendation that an F–1 nonimmigrant student be approved for Special Student Relief, the DSO certifies that:

(a) The F–1 nonimmigrant student is in good academic standing and is carrying a “full course of study”¹⁵ at the time of the request for employment authorization;

(b) The F–1 nonimmigrant student is a resident of Hong Kong, regardless of country of birth, and is experiencing severe economic hardship as a direct result of the current crisis in Hong Kong, as documented on the Form I–20;

(c) The F–1 nonimmigrant student has confirmed that the student will comply with the reduced course load requirements of this notice and register for the duration of the authorized employment for a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level or for a minimum of three semester or quarter hours of instruction per academic term if at the graduate level;¹⁶ and

(d) The off-campus employment is necessary to alleviate severe economic hardship to the individual as a direct result of the current crisis in Hong Kong.

Processing. To facilitate prompt adjudication of the student’s application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the F–1 nonimmigrant student should do both of the following:

(a) Ensure that the application package includes all of the following documents:

(1) A completed Form I–765 with all applicable supporting evidence;
 (2) The required fee or properly documented fee waiver request as defined in 8 CFR 103.7(c) (Oct. 1, 2020); and

(3) A signed and dated copy of the student’s Form I–20 with the appropriate DSO recommendation, as previously described in this notice; and

(b) Send the application in an envelope which is clearly marked on the front of the envelope, bottom right-hand side, with the phrase “SPECIAL STUDENT RELIEF.”¹⁷ Failure to include this notation may result in significant processing delays.

If USCIS approves the student’s Form I–765, USCIS will send the student a Form I–766 EAD as evidence of employment authorization. The EAD will contain an expiration date that does not exceed the end of the granted temporary relief.

Deferred Enforced Departure (DED) Considerations

Can an F–1 nonimmigrant student re-apply or apply for a DED-related EAD and for benefits under this notice at the same time?

Yes. Although they are not required to apply for a DED-related EAD, if an eligible F–1 nonimmigrant student wants to obtain such an EAD, the student must file Form I–765 and pay the related fee (or request a fee waiver). The F–1 student may also apply for Special Student Relief under this notice by requesting that the DSO notate on their Form I–20 in SEVIS that the student has been authorized to carry a reduced course load and is permitted to work an increased number of hours under Special Student Relief while school is in session. The DSO should also notate on the Form I–20 that the student is working pursuant to a DED-related EAD. As long as the F–1 nonimmigrant student maintains the minimum course load described in this notice, does not otherwise violate the

student’s nonimmigrant status, including as provided under 8 CFR 214.1(g), and remains covered under DED, then the student maintains F–1 nonimmigrant status and DED concurrently.

When a student applies simultaneously for a DED-related EAD and benefits under this notice, what is the minimum course load requirement while an application for employment authorization is pending?

The F–1 nonimmigrant student must maintain normal course load requirements for a “full course of study”¹⁸ unless or until the F–1 nonimmigrant student is granted employment authorization under this notice. DED-related employment authorization, by itself, does not authorize a nonimmigrant student to drop below twelve credit hours, or otherwise applicable minimum requirements (e.g., clock hours for language students). Once approved for Special Student Relief employment authorization, the F–1 nonimmigrant student may drop below twelve credit hours, or otherwise applicable minimum requirements (with a minimum of six semester or quarter hours of instruction per academic term if the student is at the undergraduate level, or a minimum of three semester or quarter hours of instruction per academic term if the student is at the graduate level). See 8 CFR 214.2(f)(5)(v), 214.2(f)(6), 214.2(f)(9)(i) and (ii).

How does an F–1 student who has received a DED-related EAD then apply for authorization to take a reduced course load under this notice?

There is no further application process with USCIS if a student has been approved for a DED-related EAD. However, the F–1 nonimmigrant student must demonstrate and provide documentation to the DSO of severe economic hardship as a direct result of the current crisis in Hong Kong. The DSO will then verify and update the student’s SEVIS record to enable the F–1 nonimmigrant student with DED to reduce their course load without any further action or application. No other EAD needs to be issued for the F–1 nonimmigrant student to have employment authorization.

¹⁴ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a “full course of study,” see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of February 5, 2025, provided the student satisfies the minimum course load requirements in this notice.

¹⁵ See 8 CFR 214.2(f)(6).

¹⁶ 8 CFR 214.2(f)(5)(v).

¹⁷ Guidance for direct filing addresses can be found here: <https://www.uscis.gov/i-765-addresses>.

¹⁸ See 8 CFR 214.2(f)(6).

Can a noncitizen who has been granted a DED-related EAD apply for reinstatement to F-1 nonimmigrant student status after the noncitizen's F-1 nonimmigrant student status has lapsed?

Yes. Current regulations permit certain students who fall out of F-1 nonimmigrant student status to apply for reinstatement. See 8 CFR 214.2(f)(16). This provision might apply to students who worked on a DED-related EAD or dropped their course load before publication of this notice, and therefore fell out of F-1 nonimmigrant status. The student must satisfy the criteria set forth in the F-1 nonimmigrant student status reinstatement regulations.

How long will this notice remain in effect?

This notice grants temporary relief through February 5, 2025,¹⁹ to eligible F-1 nonimmigrant students. DHS will continue to monitor the situation in Hong Kong. Should the special provisions authorized by this notice need modification or extension, DHS will announce such changes in the **Federal Register**.

Paperwork Reduction Act (PRA)

An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship resulting from the current crisis in Hong Kong must demonstrate to the DSO that this employment is necessary to avoid severe economic hardship. A DSO who agrees that a nonimmigrant student should receive such employment authorization must recommend an application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The authority to collect this information is in the SEVIS collection of information currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1653-0038.

¹⁹ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a "full course of study," see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of February 5, 2025, provided the student satisfies the minimum course load requirement in this notice. DHS also considers students who engage in online coursework pursuant to ICE COVID-19 guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. See ICE Guidance and Frequently Asked Questions on COVID-19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, <https://www.ice.gov/coronavirus> (last visited Jan. 17, 2023).

This notice also allows an eligible F-1 nonimmigrant student to request employment authorization, work an increased number of hours while the academic institution is in session, and reduce their course load while continuing to maintain F-1 nonimmigrant student status.

To apply for employment authorization, certain F-1 nonimmigrant students must complete and submit a currently approved Form I-765 according to the instructions on the form. OMB has previously approved the collection of information contained on the current Form I-765, consistent with the PRA (OMB Control No. 1615-0040). Although there will be a slight increase in the number of Form I-765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I-765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

Alejandro Mayorkas,

Secretary, U.S. Department of Homeland Security

[FR Doc. 2023-09512 Filed 5-3-23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS 2739-23; DHS Docket No. USCIS 2021-0020; RIN 1615-ZB90]

Implementation of Employment Authorization for Individuals Covered by Deferred Enforced Departure for Hong Kong

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security.

ACTION: Notice of employment authorization for individuals covered by Deferred Enforced Departure (DED).

SUMMARY: On January 26, 2023, President Joseph Biden issued a memorandum to the Secretary of State and the Secretary of Homeland Security (Secretary) determining that it was in the foreign policy interest of the United States to extend and expand the deferral of removal of certain Hong Kong residents present in the United States through February 5, 2025, and to provide them with employment authorization documentation. The memorandum directed the Secretary to make provision for immediate allowance of employment authorization for such individuals. This Notice provides information about Deferred

Enforced Departure (DED) for eligible Hong Kong residents and provides information on how eligible individuals may apply for DED-based Employment Authorization Documents (EADs) with USCIS. Through this notice, DHS is providing employment authorization, including procedures for obtaining related documentation, for covered individuals through February 5, 2025, and automatically extending the validity of DED-based EADs bearing a Category Code of A11 and a "Card Expires" date of February 5, 2023 through February 5, 2025. Finally, this Notice provides instructions for DED-eligible Hong Kong residents on how to file for advance travel authorization. For the purposes of this Notice, a Hong Kong resident is defined as an individual of any nationality, or without nationality, who has met the requirements for, and been granted, a Hong Kong Special Administrative Region Passport, a British National Overseas Passport, a British Overseas Citizen Passport, a Hong Kong Permanent Identity card, or a Hong Kong Special Administrative Region (HKSAR) Document of Identity for Visa Purposes.

DATES: DED and employment authorization for noncitizens covered by DED for Hong Kong residents is effective January 26, 2023, through February 5, 2025. Employment authorization and the procedures for obtaining EADs in this Notice apply to any of the following individuals (except those who are subject to any of the ineligibilities described in President Biden's memorandum to the Secretaries of State and Homeland Security): noncitizens who are Hong Kong residents, who were covered by DED until February 5, 2023; as well as Hong Kong residents, who have been continuously physically present in the United States since January 26, 2023. Hong Kong residents must meet all eligibility criteria for DED described below.

FOR FURTHER INFORMATION CONTACT:

- You may contact Rená Cutlip-Mason, Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 800-375-5283.

- For further information on DED, including additional information on eligibility, please visit the USCIS DED web page at <https://www.uscis.gov/humanitarian/deferred-enforced-departure>. You can find specific information about DED for Hong Kong residents by selecting "DED Covered Country: Certain Hong Kong Residents"