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Change of Status FAQ

Immigration rules are very important to understand. We have prepared this quick guide for general information only. Information in this document does not constitute legal advice. Consulting a qualified immigration attorney is strongly recommended. Because immigration rules and interpretations can change, U.S. Citizenship and Immigration Services (USCIS) and the Department of State (DOS) may modify eligibility requirements or interpretations at any time.

What is a Change of Status?

A change of status is when a nonimmigrant visa holder in the US requests permission from the US Citizenship and Immigration Services (USCIS) to change status to another nonimmigrant category without departing from the US..

Who Can Request a Change of Status?

If you are in the United States with a nonimmigrant visa, you may apply to change your visa status. USCIS must receive your application before your current status expires. Tourists (B-1/B-2 visa holders) who did not receive a "prospective student" note from a Customs and Border Protection (CBP) officer when they entered the U.S. are generally not advised to apply for a change of status. All applicants requesting a change of status are subject to the 90-Day Rule.

What Is the 90-Day Rule?

The 90-day Rule refers to an assumption by USCIS that a visa holder was not honest about their initial reason for coming to the United States. This can happen if someone enters the U.S. and, within 90 days, does something that is not allowed under their visa. For example, if you come to the U.S. on a tourist visa and apply for school admission or request a change of status within 90 days, USCIS may believe you planned to change your status before you entered the country. If USCIS decides that you misrepresented your true purpose for visiting the U.S. to the Department of State (DOS), your application will likely be denied. Applicants should know that even if USCIS approves a change of status, the U.S. Department of State (DOS) will generally believe that people who enter the U.S. on a tourist visa and apply to change status are trying to avoid applying for a visa at a U.S. embassy or consulate.

How Long Does the Change of Status Process Take?

Current processing times for the I-539 change of status process at the California Service and Vermont Service Centers may be viewed on the USCIS processing times website.

Can I stop maintaining my current status if I file for a change of status?

It is always recommended that you maintain your current status while your change of status application is being processed. You may attend school only if your current visa allows study, and you may work only if your current visa allows work. **Applicants changing from tourist visa status are not eligible to study while a change of status is pending**. Mt. SAC will support a change of status from tourist only if the applicant will file using Premium Processing (see below).

After USCIS receives your application, you may also choose to stop maintaining your current status. If you do this, you are fully responsible for the risk. If your application is denied and you did not keep your current status, you will have to leave the United States. Similarly, if you do not maintain your current status, you cannot engage in

employment while the change of status is pending. It is highly recommended that you consult with a qualified immigration attorney on any plans to stop maintaining your current status.

What Are the Pros (Positives) and Cons (Negatives) of a Change of Status?

The Pros are:

- You do not need to leave the U.S.
- Application fees may be lower than the cost of travel.

The Cons are:

- Lengthy processing times.
- You do not receive a visa. The next time you travel, you must apply for a visa abroad to
- return to the U.S.
- For tourist visa applicants, additional "cons" are:
    - Higher costs – we will only support a change of status from tourist for those who will file using premium processing; see below.
    - Increased scrutiny on your application.
    - Applicants approved for a change of status from tourist will usually experience higher rates of denial for future visa. DOS will presume that you misrepresented your original intent when obtaining the tourist visa.

Applicants in tourist status are highly recommended to travel and request a student visa via consular processing in place of change of status. **If you decide to apply for a change of status from tourist, you should be comfortable with the risk that you may never receive another visa to come to the US.**

How do I apply for a Change of Status?

In general, it is recommended that you return home to apply for a student visa, however, if you decide to file a change of status request, you must first be accepted to a U.S. school and receive an I-20 for a change of status. You must submit all other application materials for review before an admission decision can be made.

Upon admission, you must then gather the following:

- Application filing fees:
    - Current filing fee for Form I-539. **Note**: if you are applying with dependents, you may not file online at this time. You will have to complete the paper Form I-539 and an I-539A for each co-applicant listed and pay the mailed application fees.
    - Premium Processing fee for I-539 for F-1 classifications **(required only for those requesting a change from tourist status)**. Premium processing will begin once your required biometric services appointment is completed, and requires an application decision within 30 calendar days.
- A draft of your completed Form I-539 online application. Please do not submit your application without having your draft I-539 reviewed by our office.
    - **You must complete the form on your own** – we will suggest changes only after your completed I-539 draft is submitted. Mt. SAC ISP staff cannot help you fill out the application. You will send these items to us for review.
    - **If applying via paper**, make sure that all items you send are single-sided copies.
- An applicant statement explaining why and when you decided to change visa status. This should include how your full-time study in F-1 status will support your academic and career goals in your home country.
    - If you are applying for a change of status from tourist and **do not** have a "prospective student" notation, you need to prove that you decided to attend school after you entered the U.S. Include answers to the following questions in your letter:
        - What reason did you give the consular officer for coming to the U.S.?
        - When you entered the U.S., what reason did you give the immigration officer for your visit?
        - Why and when did you decide to study in the U.S.?
        - How and when did you first contact the College, and when were you informed you had been admitted?

    - If you planned to study before coming to the U.S., why didn't you apply for a student (F-1) visa instead of a visitor (B-2) visa?
    - Have you been in the U.S. before? When and for what purpose?
    - Any relatives in the U.S.? If so, what types of visas are they here on?
- Copies of the 1st and 2nd pages of the Change of Status I-20 issued by Mt. SAC, signed by you. Keep the original.
- Receipt for SEVIS I-901 fee payment (paid after you receive your I-20)
- Admission letter to our program
- Current I-94
- Copies of passport picture page and visa page (including latest entry stamp, if provided by CBP); **do not send your original passport**
- Financial statements showing the amount in available funds listed on the I-20. You may submit copies of the same materials you submitted to us for your application, however, it is recommended that you submit at least three consecutive months' worth of statements showing the continued availability of these funds.

Send your draft I-539 and applicant statement to f1visa@mtsac.edu for review. After this review, you may submit your application online (or via paper; see the Where to File section on the I-539 page). If you send a paper application, please use a mail service with tracking, such as certified mail. You will receive an application receipt once USCIS receives your materials. **Send a copy of your application receipt notice to our office at f1visa@mtsac.edu.**

Tourist visa holders: You must check the Premium Processing option when submitting your online application or file an I-907 Request for Premium Processing. **A copy of the Premium Processing application receipt notice must be sent to our office within 10 days of admission.**

What if I use a lawyer to file the Change of Status?

If you wish to obtain the services of a qualified immigration attorney to assist you in this process, Mt. SAC will not review your materials. Instead, work with your attorney to review your documents and file your application. **Tourist applicants, you will need to inform your attorney that you need to file using Premium Processing and provide this receipt to our office within 10 days of admission**. If you would like referrals to local attorneys, please let us know at f1visa@mtsac.edu.