

WILDES LAW ON IMMIGRATION

BY MICHAEL WILDES, ESQ.



Reading, Writing And Arithmetic For Non-Citizens

The F-1 Academic Student Visa allows students to enter the United States to attend a full-time program of study at an accredited college, university, secondary, conservatory, academic high school, elementary school, or other academic institution or in a language training program. The student must be enrolled in a program or course of study that culminates in a degree, diploma, or certificate and the school itself must be authorized by the U.S. government to accept international students. This article aims to provide international students with a better understanding of the necessary steps in the student visa process.

1. The student must be enrolled in an "academic" educational program, a language-training program, or a vocational program;
2. The sponsoring school itself must be approved by the Student and Exchange Visitors Program (SEVP);
3. The student must be enrolled in a full-time study program at the institution;
4. The student must be proficient in English or be enrolled in courses leading to English proficiency;
5. The student must have sufficient funds available for self-support during the entire proposed course of study; and
6. The student must maintain a residence abroad that he/she has no intention of giving up.

Student visas are issued by U.S. embassies or consulates abroad. Before one appears at a U.S. embassy or consulate to obtain an F visa, the prospective student must first apply to and be accepted by a SEVP-approved school. Once the student is accepted by the U.S. school he/she plans to attend, the student will be enrolled in the Student and Exchange Visitor Information System (SEVIS) and pay the SEVIS I-901 fee. The U.S. school will then provide the student with a Form I-20 to present to the consular officer when he/she applies for the visa and appears for the visa interview.

For a school or school system to issue a Form I-20, it must have been pre-approved by United States Citizenship and Immigration Service (USCIS) to accept foreign students. The Form I-20 is a paper record of the foreign student's academic information, in compliance with SEVIS. A sponsoring school must comply with all of the requirements of the SEVIS program, including electronic transmission of data to the USCIS and the State Department, and must report a student's failure to enroll, failure to maintain status, leaving the school, etc. The SEVIS requirement was instituted after the World Trade Center catastrophe, which was caused by students whose schools failed to report their failure to attend schools in the U.S.

F-1 students may not work off-campus during the first academic year, but may thereafter accept on-campus employment subject to certain conditions and restrictions. F-1 students may engage in three types of off-campus employment after they have been studying for one full academic year. These three types of employment are: Curricular Practical Training (CPT), Optional Practical Training (OPT) (pre-completion or post-completion) and Science, Technology, Engineering, and Mathematics (STEM) Optional Practical Training Extension (OPT). All off-campus employment must be related to the student's area of study and must be authorized prior to starting any work by both USCIS and the Designated School Official (DSO), the person authorized to maintain the school's official SEVIS records.

Believe it or not, it is a violation of a visitor's visa to attend school. Those who enter the United States as visitors for business or pleasure (B-1 or B-2 status) are not permitted to enroll in school. Study leading to a U.S. conferred degree or certificate is not permitted on this type of visa, even if it is for a short duration. Accordingly, before enrolling in any classes, individuals in B-1/B-2 status must first acquire F-1 student status.

Individuals currently holding visitors' status who would like to enroll in classes may apply for a "change of status" to F-1 only if (1.) The individual has not yet enrolled in classes; (2.) The individual's current status has not yet expired; and (3.) The individual has not engaged in unauthorized employment. To change from a B-1/B-2 visa holder to F-1 status, an Application to Extend/Change Nonimmigrant Status must be timely filed with USCIS together with the required fees and supporting documents.

It is important to note that all individuals, regardless of their visa status, may not remain in the United States past the expiration of their unauthorized status. A person who overstays up to 180 days after the

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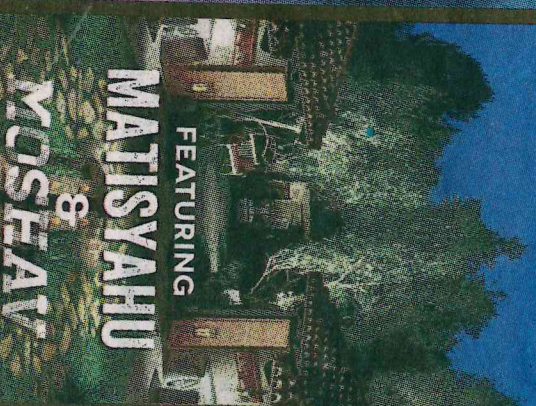
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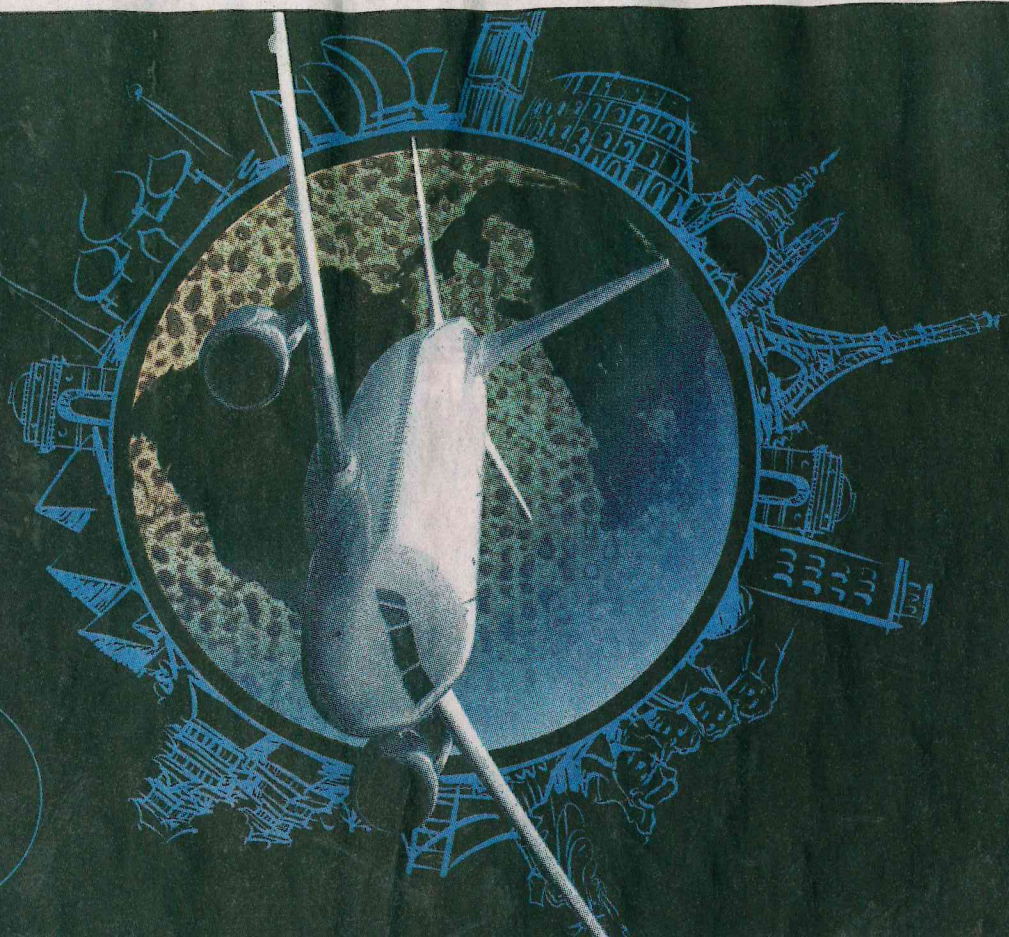
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Mazel Tov - Engagements: Moshe Hendeles, son of Chaim and Miriam Hendeles, to Eit Gross of Ramat Beit Shemesh, Israel... Eshi Reichman, daughter of Howard and Elkie Reichman, to Mark Kaminitzky of Teaneck, NJ... Tova Zauderer, daughter of Joshua and Chana Zauderer, to Shlomo Todd... Chaim Weltman to Jessica Bittan... **Motty Feingold, son of Avrohom and Gitte Feingold, to Folly Tauber of Boro Park, NY.**

Mazel Tov - Weddings: Chanie Blau, daughter of Rabbi Mechel and Deena Blau, to Avrumi Ehrenreich (Grandmother Dr. Susan Vorhand)... Riki Smilow, daughter of Shlomo and Devorah Smilow, to Avi Wertheimer... Penina Gross, daughter of Dr. Binjamin and Yaffa Gross, to David Levitz of Brooklyn, NY.
Congratulations: Michael Friedman for passing the California Bar Exam.

SAN DIEGO, CALIFORNIA
Mazel Tov - Bar Mitzvah: Blake Dujovich, son of Jim and Celine Dujovich.
Mazel Tov - Engagement: Ar-

la Rosenberg, daughter of Dr. Zev and Edith Rosenberg, to Max Levy.

SAN FRANCISCO, CALIFORNIA
Mazel Tov - Birth: Yonatan and Malki Pachas of Ramat Beit Shemesh, Israel, a daughter (Grandparents Rabbi Joel and Johi Landau).

DENVER, COLORADO
Mazel Tov - Birth: BZ and Shana Heller of Brooklyn, a son (Grandparents Dovey and Fran Heller).

Mazel Tov - Engagements: Tzvi Shapiro, son of Anne Shapiro, to Leah Rimson of Passaic, NJ... Miriam Clayman, daughter of Drs. Joe and Helen Horowitz, to Ben Yablon of Portland, OR... Aaron Litzman, son of Avraham and Joyce Litzman, to Penina Hollander of NY.

PORTLAND, OREGON
Mazel Tov - Births: Avriel and Emily Tamir, a daughter (Grandparents Michael and Rachel Rosenberg)... Rabbi Menachem and Chavie Berzon, a daughter.

Mazel Tov - Engagement: Ben Yablon, son of Brian and Laurie Yablon, to Miriam Clayman of Denver.

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expiration of his authorized visa status will obtain a mandatory 3-year bar to re-enter into the United States. One who overstays for 365 days will incur a mandatory 10-year bar to re-entry. It is, therefore, of paramount importance that students seek advice from an immigration attorney on options to live and/or work in the United States post-graduation with the proper authorization.

WildesLaw on Immigration is a new monthly column by Michael J. Wildes, a

managing partner of Wildes and Weinberg, P.C. Wildes is a former federal prosecutor with the United States Attorney's Office in Brooklyn (1989-1993). Wildes is an adjunct professor of Business Immigration Law at the Benjamin N. Cardozo School of Law in New York. From 2004 through 2010, He was also the mayor of Englewood, NJ, where he resides. Wildes and Weinberg, P.C. has offices in New York, New Jersey and Florida. If you would like to contact Michael Wildes with specific immigration questions, email him at michael@wildeslaw.com or visit the firm's website at www.wildeslaw.com.

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