

Foreign Born Student Victims of Sexual Assault, Dating Violence, Stalking, and Sexual Harassment: Special Needs of “F” Visa Holders¹

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F-1 Visa Description and Eligibility

F-1 is a visa for full-time students in academic programs.

- Covers secondary and high school programs as well as courses of study in colleges and universities, seminary, conservatory, and other training programs in an academic institution, including a language training program²

Requirements

Duration: The F-1 visa can be issued for as long as it takes to complete the student’s specified academic program.

School: The school must be approved by the Student and Exchange Visitors Program, Immigration and Customs Enforcement (SEVP).

Student: The student must:

- Be enrolled in a program or course of study that culminates in a degree, diploma, or certificate
- Maintain a residence abroad which the student applicant must prove to the United States Immigration and Customs Service (USCIS) that they have no intention of abandoning
- Students are required to maintain a full-time schedule³
- Students who are outside the United States, and who have not been attending classes for five months or more, should apply for a new student visa to reenter the United States

Exceptions to the Requirements

Crime Victim Needs: Common forms of interim measures student victims of sexual assault, dating violence and/or stalking will need is a reduced course load or leave of absence from school so that they can get the time, services and support they need to heal following abuse.

Reductions in Course Load or No Course Load: USCIS may authorize a reduced course load or if necessary no course load for a period of time not to exceed an aggregate of 12 months. In calculating the aggregate of 12 months for students who were on F-1 visas during high school or at another academic institute, any reductions in course load the student previously received counts toward the 12-month maximum.

- *Example:* A student who took off a semester (4 months) due to illness in high school while on an F-1 visa who is continuing on an F-1 visa in college, if they were sexually assaulted in college would only be eligible for a maximum of 8 months of reduced or no course load.

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² <https://travel.state.gov/content/visas/en/study-exchange/student.html>

³ Full-time for both F and J visas means 12 credits or above for an undergraduate student in either a term or semester school, 9 credits for a graduate student in a semester or term school, and 12 credits for a Juris Doctor student.

Each school has Designated School Officials (DSOs) who advise students on their immigration obligations. The DSO, usually with support from the student's academic advisor, can petition USCIS for the F-1 student to receive a reduced or no course load. To qualify for a reduced course load or no course a student must demonstrate one of the following legitimate reasons for reduced or no course load:

- **Bona Fide Academic Reasons:** The DSO may authorize for reasons such as: trouble with English proficiency, unfamiliarity with the U.S. teaching methods, improper course placement.
- **A Medical Condition:** The DSO may authorize a student to fall below full-time status if they have a qualified medical condition as determined by a medical professional⁴:
 - Class A: a communicable disease
 - Class B: physical or mental abnormality, disease, or disability serious in a degree or permanent in nature amounting to a substantial departure from normal well-being
 - Victims of sexual assault, dating violence or stalking will need to obtain medical documentation that their need for leave or reduced course load meets these criteria

Interrelationship Between Interim Measures and a Student's F Visa

- **Impact of Reduced Course Load and Absence from School:** Interim measures that allow victims to take a leave of absence from school or reduce their course load cannot last longer than an aggregate of 12 months. Since reduced course loads previously approved count toward the total maximum of 12 months, schools should screen F-1 student victims seeking reduced course loads or time off from school for any previous periods of reduced course loads that have been authorized. The previous time authorized will be recorded in the USCIS SEVIS computer system.
- **Helpful Interim Measures:**
 - The DSO files a request with USCIS requesting that the student be authorized to take a reduced or time off from school.
 - Healthcare providers at the university attest that the victim student has significant physical and/or psychological needs as a result of the abuse suffered that merit a reduced course load or time off from school.
- **Screen the Student for U visa, T visa or VAWA eligibility**
 - Screen the student for VAWA/T/U visa eligibility based on crime victimization occurring as a student and occurring prior to their becoming a student.⁵
 - Screen students who are under age 21 about crime victimization that their parent may have suffered that would make their parent eligible to file a U visa or VAWA case that includes the student in their parent's application.
 - Provide U visa certification by campus police for abuse suffered on campus.
 - Assist the student in making police reports and obtaining U visa certification from local law enforcement.
 - Collaborate with local law enforcement on criminal investigations and prosecutions involving the student victim.

⁴ A medical professional refers to a licensed medical doctor, doctor of osteopathy, or a licensed clinical psychologist.

⁵ Under 25-year-old immigrant students who were abused by a U.S. citizen or lawful permanent resident parent or step-parent may qualify to file VAWA self-petitions which bring access to FAFSA student grants and loans.

- Know and develop relationships with community based and victim services organizations with expertise serving immigrant crime victims including help filing VAWA/U/T immigration cases that serve the community⁶ in which the University/College is located.

⁶ To locate programs with this expertise in your state go to: <http://www.niwap.org/directory/>