

International Student Resource Center

Changing to F-1 Status from Temporary Protected Status (TPS)

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As a TPS holder, you may be interested in pursuing an education in the United States. It is not strictly necessary to apply for a student visa to study in the United States while holding TPS; TPS holders are permitted to study full or part-time.[1] However, obtaining an F-1 visa if you intend to study full time in the United States may be wise, as it will protect you from deportation should your TPS status expire or be terminated. Fortunately, TPS beneficiaries are permitted to apply for and hold F-1 status while simultaneously maintaining TPS.

The use of TPS expanded greatly during the previous Administration, and early in 2025 there were over 1 million people on TPS. It is likely that tens or even hundreds of thousands are students, and facing losing their TPS as the current Administration is not renewing TPS designations. So, the question of changing from TPS to an F-1 student visa is more important than ever. Many foreign student advisors have never worked with people on TPS before. They are also unable to fully advise on TPS because that is beyond their authority. Also, many immigration lawyers have not done a change of status from TPS to F-1. And last, perhaps most importantly, many USCIS officers who process changes of status to F-1 have never seen a change from TPS. This summary is offered to help explain the legal issues involved.

Change of Status

Generally, nonimmigrants may change their status to another nonimmigrant (temporary visa) classification from within the U.S. as long as they have been maintaining nonimmigrant status, and eligible for the status they seek to change to.[2] - A nonimmigrant must be in status at the time of filing their application for change of status (COS), and also have a valid "admission" to the United States.[3]

Maintenance of status and admission are two very important concepts in immigration law. Since TPS is a humanitarian status, some people on TPS have not maintained status or have a valid admission. For example, let's say a child came to the US on a B-2 tourist visa from Haiti after the earthquake in 2010. Then after the B-2 expired (usually six months), the child applies for TPS, and it is granted in 2011. The child is now a full-time student at a university, and TPS for Haiti is ending in February 2026. This student can file for a change of status to F-1. There is a valid "admission" to the United States in 2010 coming to the US on tourist visa. But there is a gap in status from the end of the tourist visa to the beginning of TPS. USCIS could deny the

[1] NAFSA: Association of International Educators, Adviser's Manual 360 [hereinafter NAFSA Manual], § 14.C.4, https://www.nafsa.org/professional-resources/advisers-manual-360 (last visited Dec. 13, 2025).
[2] *See* 8 C.F.R. § 284.1(a).
[3] *See* USCIS, Policy Manual, vol. 2, pt. A, ch. 4, § A.1.

change of status saying that the student has not continuously maintained status since admission. As discussed below, USCIS has discretion to excuse maintenance of status, but those decisions are inconsistent.

Consider also a young person from Cameroon who came to the US with her family in 2020. They flew to Brazil, and crossed the US/Mexico border without inspection. They applied for and received TPS in 2022 when President Biden designated Cameroon for TPS. And the young person is not a university student and filed for a change of status from TPS to F1 in the summer of 2025, before TPS for Cameroon ended. She does not have an admission (she entered without inspection), and she also has not maintained status, so she is not eligible for a change of status. If she had traveled on TPS (gotten a TPS travel authorization document) in 2023, then she would have an admission, and also would have maintained status since that last admission.

As you can see, this is a complicated area of law, and USCIS may make mistakes, or decide not to exercise discretion. If a change of status from TPS to F1 is denied, then it is worth talking to an immigration lawyer to consider a motion to reconsider or going to federal court to challenge the denial as "arbitrary and capricious" under the Administrative Procedure Act. Some TPS holders are citizens of countries subject to a travel ban, and USCIS announced in December 2025 that it will not process applications for individuals from travel ban countries - PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf If this policy continues, TPS holders may have to go to court also in a process called "mandamus" to push USCIS to adjudicate the application.

For those who have not continuously maintained status since their last entry, USCIS can still grant the change of status when 1) the delay to file was due to extraordinary circumstances beyond the applicant's control, 2) the applicant has not otherwise violated the conditions of status, 3) the applicant still has temporary intent (discussed more below) , and 4) the applicant is not in removal proceedings.[4]

Specific requirements for F-1 status include showing that the student: 1) has a residence in a foreign country which they do not intend to abandon, 2) is a bona fide student seeking to pursue a full course of study, and 3) intends to stay in the United States for the primary purpose of that study.[5]

F-1 students are supposed to have a long term plan to leave the United States. That is the way the US Immigration and National Act is structured - most temporary visas have this requirement. For F-1 students, this can be complicated because many 18-21 year olds do not know where they will end up long term. Also, immigration officers may assume that someone who has been in the

[4] 8 C.F.R. § 284.1(b).
[5] *See* INA 101(a)(15)(f).

US for many years will want to stay here. If the student has started a green card process, that is often a negative factor.
The best guidance we have is from the State Department, which recognizes this uncertainty. It may be helpful to quote this, or use this guidance to respond to any questions on temporary intent:

9 FAM 402.5-5(E)(1) (U) Residence Abroad Required

(CT:VISA-2048; 08-15-2024)

a. **(U)** INA 101(a)(15)(F)(i) and INA 101(a)(15)(M)(i) both require that an F-1 or M-1 applicant possess a residence in a foreign country they have no intention of abandoning. You must be satisfied that the applicant intends to depart upon completion of the approved activity; specifically, they must:

(1) **(U)** Have a residence abroad;

(2) **(U)** Have no immediate intention of abandoning that residence; and

(3) **(U)** Intend to depart from the United States upon completion of approved activities.

b. **(U)** Adjudicating student visa applications differs from those of other short-term visitors in that the residence-abroad requirement should be looked at differently. Typically, students lack the strong economic and social ties of more established visa applicants, and they plan longer stays in the United States. The statute assumes that the natural circumstances of being a student do not disqualify the applicant from qualifying for a student visa. You should consider the applicant's present intent in determining visa eligibility, not what they might do after a lengthy stay in the United States.

c. **(U)** If a student visa applicant is residing with parents or guardians, they are maintaining a residence abroad if you are satisfied that the applicant has the present intent to depart the United States at the conclusion of their studies. The fact that this intention may change is not sufficient reason to deny a visa. In addition, the present intent to depart does not imply the need to return to the country from which they hold a passport. It means only that they must intend to leave the United States upon completion of their studies. Given that most student visa applicants are young, they are not expected to have a long-range plan and may not be able to fully explain their plans at the conclusion of their studies. You must be satisfied when adjudicating the application that the applicant possesses the present intent to depart at the conclusion of their approved activities.

9 FAM 402.5-5(E)(2) (U) Relationship of Education or Training Sought to Existence of Ties Abroad

(CT:VISA-1970; 04-22-2024)

a. **(U)** The fact that a student's proposed education or training would not appear to be useful in their homeland is not a basis for refusing an F-1 or M-1 visa. This remains true even if the applicant's proposed course of study seems to be impractical. For example, if a student visa applicant from a developing country wishes to study nuclear engineering simply because they enjoy it, they may no more be denied a visa because there is no market for a nuclear engineer's skills in their homeland than they may be denied a visa for the study of philosophy or Greek simply because they do not lead to a specific vocation.

b. **(U)** The fact that education or training like that which the applicant plans to undertake is apparently available in their home country is not in itself a basis for refusing a student visa. An applicant may legitimately seek to study in the United States for various reasons, including a higher standard of education or training. Furthermore, the desired education or training in the applicant's homeland may be only theoretically available; openings in local schools and institutions may be already filled or reserved for others.

Ultimately, COS decisions by U.S. Citizenship and Immigration Services (USCIS) are discretionary, and a number of additional issues may arise in considering a COS application to F-1.[6] One issue is that of preconceived intent. USCIS may deny a COS application if they detect that the applicant had concealed their true purpose for entering the United States when initially applying for a visa.[7] Courts have held that even behavior such as entering on a tourist visa, and then rapidly enrolling in school and applying for change of status to F-1 can be evidence of preconceived intent.[8] Therefore, applicants must show that they did not have preconceived intent to become a student when they first entered the United States. Another issue arises if the COS application is not approved by USCIS by the program start date listed on the I-20 form (Certificate of Eligibility for Nonimmigrant Student Status), which is required to apply for an F-1 visa. When this happens, the applicant must request that the program start date be deferred before the start date comes to pass; failure to do so would invalidate the F-1 application and render the applicant ineligible for COS.[9]

If a change of status is denied, then the student has the option of booking a visa appointment at a US consulate abroad to apply for an F-1 visa stamp. That option should be considered carefully with an immigration attorney to be ready for questions on temporary intent. Also, some TPS holders are citizens of countries subject to a travel ban and may have great difficulty in receiving an approved visa.

TPS and F-1 Status

TPS is a special status which can coexist with other types of nonimmigrant status. TPS cannot be denied on the basis of existing immigration status nor are TPS holders required to relinquish their nonimmigrant status as a condition of TPS.[10] An F-1 student may apply for and hold TPS in addition to their student visa status. Additionally, a TPS holder is considered to be maintaining nonimmigrant status for purposes of COS.[11] Although TPS is not an ordinary nonimmigrant visa, it still qualifies as nonimmigrant status to meet the requirements to file for COS, as detailed above.

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[6] *See* USCIS, Policy Manual, vol. 2, pt. A, ch. 4, § A.1.
[7] USCIS, Adjudicator's Field Manual, ch. 30, § 3(c)(3)(D) n. 2.
[8] *See Seihoon v. Levy*, 408 F. Supp. 1208 (D. La. 1976).
[9] *See* USCIS, Policy Manual, vol. 2, pt. A, ch. 4, § A.3.
[10] *See* 8 U.S.C. § 1254a(a)(5).
[11] *See* 8 U.S.C. § 1254a(f)(4).

However, if TPS expires before an individual files their COS application, they are not maintaining valid nonimmigrant status, as applications ordinarily cannot be filed after an applicant's nonimmigrant status has expired.[12] While late applications can be excused, specific conditions must be met and the ultimate decision by USCIS to excuse the late filing is discretionary.[13] While TPS is by its very name temporary and can be terminated or expire without renewal, TPS beneficiaries receive advance notice of any termination or expiration. Initial TPS designations must announce an expiration date, and any terminations cannot go into effect for 60 days, providing ample time to file a COS application. [14] If a TPS holder seeks to pursue an education in the United States, they will have a period of time before their TPS status expires, in which they can apply for COS before they can no longer be considered to be maintaining nonimmigrant status.

For TPS beneficiaries wishing to apply for and hold both TPS and F-1 status simultaneously, there are some additional factors to consider. To hold both statuses simultaneously, an individual must maintain both statuses and comply with the terms of both visas.[15] This will directly affect an individual's ability to work while in the United States. TPS holders are eligible for work authorization for the duration of their status.[16] F-1 students, however, are only permitted to engage in specific types of employment.[17] Therefore, there are some kinds of work that are permissible under TPS but would violate F-1 status;[18] an individual who engages in such work may jeopardize their F-1 status.[19]

To sum up, TPS beneficiaries are eligible to apply for an F-1 visa while remaining in the United States. Having both TPS and an F-1 visa simultaneously might affect the individual's ability to work while in the United States, but the F-1 status will allow them to remain in the United States if they lose TPS. A TPS holder may apply for F-1 status up until TPS expires or is terminated, but any applications filed after the loss of TPS will likely be considered invalid. Therefore, any TPS holder seeking to pursue full time study in the United States should consider applying for COS as quickly as possible to ensure that they do not risk falling out of status. TPS holders should also be screened by their immigration attorney for all possible immigration categories - employment, family or humanitarian - to evaluate all options.

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[12] *See* 8 C.F.R. § 284.1(b).
[13] *See* 8 C.F.R. § 284.1(b).
[14] *See* 8 U.S.C. § 1254a(b)(2)-(3).
[15] USCIS, Statelessness and the Ability to Work for Joint F-1/TPS 1.
[16] 8 U.S.C. § 1254a(a)(2).
[17] *See* 8 C.F.R. § 214.2(f)(9)-(10).
[18] *See* USCIS, Statelessness and the Ability to Work for Joint F-1/TPS 1.
[19] *See* USCIS, Statelessness and the Ability to Work for Joint F-1/TPS.