

THE AMERICAN BAZAAR

Change to F-1 student without ‘bridge the gap’ applications

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July 21, 2021

In a major relief to legal dreamers, children of H-1B workers, applicants for change of status to F-1 student visa no longer need to submit subsequent applications to ‘bridge the gap’.

Previously, children of non-immigrant visa holders on turning 21 had to either transit to an F-1 visa meant for international students, or deport back to their home country.

The new policy is expected to help some 136,000 children of Indian parents caught up in the employment-based green card backlog, running into several decades, as of April 2020, according to a study by Washington think tank CATO Institute.

A new policy guidance announced Tuesday by US Citizenship and Immigration Services (USCIS) eliminates the need for applicants for change of status (COS) to F-1 student to apply to change or extend their nonimmigrant status while their initial F-1 COS application is pending.

Under the previous policy, applicants needed to maintain status up to 30 days before the program start date listed on their Form I-20, Certificate for Eligibility for Nonimmigrant Student Status, which required them to file extensions, or an initial COS and subsequent extensions ensuring that they would not have a “gap” in status.

To prevent a “gap” in status, USCIS said it “will grant the change of status to F-1 effective the day we approve an applicant’s Form I-539, Application to Extend/Change Nonimmigrant Status.”

If the USCIS approves an application more than 30 days before the student’s program start date, the student must ensure they do not violate their F-1 status during that time.

An example of a violation would be engaging in employment, including on-campus employment, more than 30 days before the program start date as listed on their Form I-20, it said.

The new policy will reduce workloads and costs for both the applicants and USCIS, the immigration agency said.

USCIS is in the process of revising the Form I-539 instructions to reflect these changes.