



# F-1 Visa Advisors, Inc.

Presents

## A GUIDE TO U.S. RULES AND REGULATIONS on *STUDENT VISAS*

Including

### Tips on How to Get a Visa

#### INTRODUCTION

*The material contained herein is a summary of **FREE** information compiled by a U.S. Immigration Lawyer who, over more than 25 years, has assisted several thousand international student applicants in obtaining their visas to study in the U.S. The explanations of the U.S. Law and the “tips” suggested here are available to all student applicants who may use them as they choose, **without cost**.*

*However, should anyone wish to have more information about engaging **F-1 Visa Advisors, Inc.**, to provide personalized guidance and visa training (including a mock interview with a U.S. immigration Lawyer), or to inquire about the low fees for their services, go to [jfbrand@usa-fvisa.com](mailto:jfbrand@usa-fvisa.com) or call (541) 345-1734. (Note: If applicant engages **F-1 Visa Advisors, Inc.** for personal visa training and fails to get a visa, **NO FEE will be charged.***

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OF

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## **REGULATION #1**

# ***APPLICANT MUST INTEND TO BE A TEMPORARY STUDENT, RATHER THAN A PERMANENT RESIDENT***

### **WHAT U.S VISA LAW STATES ABOUT INTENT TO BE A TEMPORARY STUDENT**

101.8 U.S.C. 1101 (f) (1) 3 states that an applicant who wishes to apply for a Student Visa in the U.S. must be, **a bona fide student qualified to pursue a full course of study who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study who must be a resident in a foreign country that he has no intention of abandoning**".

### **EXPLANATION OF THIS LAW (re: Intention to be a Student, rather than an Immigrant))**

For international residents, there are two major classes of visas which are possible to apply for in order to go to the U.S. (1) One class of visas are Immigrate visas for those who want to go to the U.S. to live and work and stay there. (2) The other class of visas are Temporary visas for those who are for those who wish to go to the U.S. to stay for a while and then return back to their home country—such as students. It is the responsibility of the U.S. visa office to try to identify those few student applicants who, while they say they are applying to go to the U.S. only to study, in reality they are trying to get into the country on temporary visas-- and then they plan to stay in the U.S. to work or live, rather than return back home.

How can a visa officer differentiate which applicants are "legitimate" students who intend to study and then come home, and which ones intend to stay in the U.S.? Below is a list of some **questions** that may be asked by visa officers to help them make this determination. Following each question, find our best understanding of the **reason** why that question might be asked.

### **QUESTION #1 "HOW MANY SCHOOLS IN THE U.S. DID YOU APPLY TO?"**

***REASON FOR ASKING THIS QUESTION (about how many U.S. schools you applied to):***

A legitimate student who is "serious" about going to the U.S. to study would certainly do research on a lot of possible universities in order to find those which might best fit his education goals and budget. And then, by applying to at least a few of these schools he would more likely be seen by the visa official as a genuine "bona fide" applicant wanting to study rather than immigrate. On the other hand, if a student applies to only one university, the suspicion on the part of the visa officer may persist that such a student has not been very serious about picking a school that fits him best in terms of curriculum or cost.

### **QUESTION #2 "WHY DID YOU CHOOSE THIS SCHOOL, RATHER THAN ANY OF THE OTHERS?"**

***REASON FOR ASKING THIS QUESTION (about why you have chosen this school):***

If the student has applied to several schools and has received I-20s from some of them, there must be some reason(s) why the student has chosen to apply for a visa for this school, rather than for any of the

other schools. The fact is that there are many acceptable reasons for narrowing the choice down to just one school, but if the student cannot convincingly articulate those reasons, a visa officer may suspect that the student has applied to several universities just in order to bolster his image for the visa interview—by showing that he has been acceptable and qualified by many American universities.

The student may have any number of valid reasons for finally deciding to apply for his visa to attend this school—it may be because it is more affordable, or because of the area where the school is located, or the size of the university, or because of a recommendation from a friend or student at that school, or for some other personal reason. Any of these reasons can be valid. But, the important point is that he be open and truthful in his answer about why he actually has chosen this school.

### **QUESTION # 3    "HAVE YOU TAKEN THE GRE OR GMAT TEST? IF NOT, WHY NOT?"**

#### ***REASON FOR ASKING THIS QUESTION (about GRE or GMAT test):***

International Master Degree applicants who study for, and take, the GRE or GMAT test can benefit greatly by learning new vocabulary and language usage in the U. S. which can help them get acclimated to American life and culture more quickly upon arriving there. And surveys have shown that those students who prepare themselves ahead of time by taking these tests generally have higher scores and perform better in their classes throughout their course of study when they get to the U.S.

Knowing this, a visa officer may feel that a legitimate, serious student would do everything he could to prepare himself as best as possible prior to going to the U.S., including the taking of preparation tests such as the GRE or the GMAT. Conversely, an applicant who decides not to take one of those tests may be considered by the visa officer as not very serious about his success as a student in the U.S., perhaps because his intent may be to actually become an immigrant and not to be a student at all.

(Special caution—if all of the schools to which a student has applied (or has researched) are ones which do not require the taking of the GRE or GMAT, this fact may suggest to a visa official that the student is not very serious about trying to find the best school, but is only trying to find one of the easiest schools to get in to).

### **QUESTION #4    "ARE YOU CHANGING YOUR MAJOR FIELD OF STUDY?"**

#### ***REASON FOR ASKING THIS QUESTION (about changing your major field of study):***

This question will probably only be asked to students whose undergraduate major was different from the major that the applicant is now planning to study in the U.S. It often seems to the visa officer that it is unreasonable to believe that a serious and legitimate student would choose to abandon his original career path and forfeit the large investment he has made in his education up through his undergraduate studies—and suddenly is now changing majors and is planning a totally different career. This “change of major” can often be interpreted by the visa officer as a sign of a candidate whose intent is to get to the U.S. any way possible by accepting an I-20 from any school, anywhere, anytime, to study ANY MAJOR AT ALL. This sometimes can be seen as the profile of a person wanting to immigrate, rather than wanting to study in his chosen career and then return home for a better job.

## **QUESTION #5 “WHAT DO YOU PLAN TO DO WHEN YOU FINISH YOUR STUDIES IN THE U.S?”**

***REASON FOR ASKING THIS QUESTION (about your plan when you finish your studies).***

If an applicant does not have in mind a career plan based in his home country, he will not be able to answer that question successfully, and, most likely, the officer will conclude that what the applicant does have in mind is, instead, a career plan in the U.S. On the other hand if the applicant does some advance research on companies in his country who hire students who have returned from the U.S. to get really good jobs, and if he actually interviews some of those companies regarding possibilities for future employment, or if his current employer has promised a higher salary and position if he returns home with his American degree—this can demonstrate to a visa officer that his FOCUS for employment is back home and not in the U.S.

## **QUESTION #6 “WHAT COURSES WILL YOU BE TAKING IN YOUR MAJOR OF STUDY?”**

***REASON FOR ASKING THIS QUESTION (about what courses you will be taking in your major):***

If the applicant has not already studied the university catalogue to see what classes he will be taking in his major, this is certainly evidence that he is not very interested in academics, but rather, just is focused on trying to get to the U.S. for some other reason.

## **QUESTION #7 “HOW WILL THESE COURSES HELP YOU GET A GOOD JOB BACK HOME?”**

***REASON FOR ASKING THIS QUESTION (about how these courses will help you get a job):***

If the applicant cannot relate the courses he will be taking in the U.S. to an anticipated job when he returns to his home country, a visa officer may conclude that he may not care what the courses are about—because he doesn't plan to go back home to apply for an enhanced job there that requires skill in those areas.

## **QUESTION #8 “TELL ME SOMETHING ABOUT THIS UNIVERSITY AND WHERE IT IS LOCATED”.**

***REASON FOR ASKING THIS QUESTION (about this university and where it is located):***

It is obvious that any genuine applicant for a student visa will have studied the website and literature of the university which has issued him an I-20. However, if, at the time of the visa interview, the student does not know, for example, details about the location, the climate or the history of the university, the start dates, the size of the school, the services offered for international students, etc., this can indicate to the visa officer that the candidate's focus is not on this university at all, but, rather his focus is on just getting to the U.S., but probably not to enroll and graduate there. This may indicate to the officer that this applicant has no intention of studying at this particular university, and could be considered to be a probable “immigrant”, (and therefore ineligible for a student visa).

## **QUESTION #9 “DO YOU HAVE RELATIVES OR FRIENDS LIVING NEAR THIS UNIVERSITY?”**

***REASON FOR ASKING THIS QUESTION (about relatives and friends near the university)***

If the student has friends or relatives near the university where he plans to attend, a visa officer may want to know the nature of the relationship with those persons. For example, if the student has a “friend” near there who is actually a fiancé and a U.S. resident, the possibility of marriage and change of status may be a consideration in not granting the visa. Or, if the close relatives have a business in the area, it can sometimes be assumed that the student might work for them in their business or their home (such as babysitting) in exchange for room and board. While this would ordinarily be a convenient and pleasant relationship for both the student and the family, such a work arrangement is actually illegal for a student to engage in. Thus, the visa may possibly be denied if the visa officer concludes that the applicant’s intent is to “work” for his relatives while he is studying.

### TIPS AND SUGGESTIONS FOR THE VISA INTERVIEW:

- Apply to several schools, or do on-line research of more than one university.
  - Be honest about the real reasons for selecting this university, rather than the others.
  - Take either the GRE, or the GMAT, if at all possible.
  - Review the courses you will study and relate them to your anticipated job back home.
  - Do research on aspects of your selected university and the area where it is located.
  - Take with you to the interview some school brochures, or download info on-line.
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### REGULATION # 2

## **APPLICANT MUST HAVE “STRONG TIES” TO THE HOME COUNTRY**

### WHAT U.S VISA LAW STATES ABOUT “STRONG TIES” TO THE HOME COUNTRY

214(b) of the Immigration & Nationality Act & the U.S. State Department require student applicants to have ***“strong ties to your home country that will compel you to leave the United States at the end of your temporary stay”***.

### EXPLANATION OF THIS LAW (re: *Ties to the Home Country*)

The Department of State, which handles visa applications for residents of foreign countries, gives Visa Officials wide discretion to interpret and act on this requirement that students applying for visas demonstrate “strong ties” to their home country. Thus, the officers are allowed to use their own judgment as to what “home ties” means. And they expect applicants will make clear what their current connections and ties are to their home country that surely they would not want to abandon. See below the various kinds of “ties” that may be looked at by a visa officer; such as, one’s family, social connections, current or

anticipated future job in the home country, property owned, or even “emotional” ties to the homeland. Failing to demonstrate sufficiently these “home ties” during the visa interview will normally result in being denied a visa. In such cases of denial, the visa officer will give to the disappointed applicant a form which states that he/she failed based on 214-b (that is not showing sufficient “ties”).

### **Note: For Applicants Who Have Already Been Denied Visas, But Who Wish To Apply Again:**

The advisory letter given to a student at the time of his denial will usually state that, ***“If you decide to reapply, you should be prepared to provide information that was not presented in your original application, or to demonstrate that your circumstances have changed since that application”.***

This means that in your second interview, if you do not bring in “new information” regarding your “ties” to your home country, nor new information that your circumstances have changed since the previous interview, you will CERTAINLY be denied again. Only upon reviewing your “new information” (which you did not present in your first interview) can the second visa officer consider other issues relating to your eligibility.

### **QUESTION #1 “DO YOU HAVE IMMEDIATE FAMILY MEMBERS IN THE U.S.?”**

#### ***REASON FOR ASKING THIS QUESTION (about relatives you have in the U.S.):***

If you have close relatives who live in the U.S., it is possible that your “family ties” to those relatives there are strong enough to overcome your ties to your family in your home country. Generally, having one or two siblings or cousins in the U.S. will not be a problem, but, if you have parents who are U.S. residents, or have numerous other siblings or close relatives who have come to the U.S. as students or visitors and then changed their status to become U.S. residents---those ties may cause a visa officer to deny your visa due to having “immigration tendencies”.

### **QUESTION #2 “ARE YOU CURRENTLY A MEMBER OF A CLUB OR OTHER SOCIAL GROUP?”**

#### ***REASON FOR ASKING THIS QUESTION (about your social groups):***

If you can show how important any social group is to you, it will help a little bit in showing a significant tie to your home country that you would not want to lose forever. Even belonging, for example, to a sports organization, or book club, or religious group or friendship circle, or any other type of social group—may seem to be insignificant at first thought. But, the regulations actually give these as examples that may be considered as “ties” that a prospective candidate going to the U.S. probably would not want to “abandon” forever. Thus, these connections can go a long way in showing significant “ties” and can help legitimize the applicant as a genuine and “bona fide” temporary student in the U.S.

### **QUESTION #3 “ARE YOU CURRENTLY EMPLOYED, AND IF SO, FOR HOW LONG?”**

#### ***REASON FOR ASKING THIS QUESTION (about your current employment):***

If you have been employed for some time and if you express the possibility (or provide a letter from your current or former employer that you could get a better job at that same company when you return from the U.S., this could be a very important “tie” that the visa officer would consider. Another reason for

asking this question might be to give you the opportunity to show that the kind of employment you have had is the same (or related to) the major that you intend to study when you go to the U.S. Still another possible reason why a visa officer might ask you about your employment would be to help you demonstrate that this has been a source of some of the funding that you have (and will need to prove) in order to satisfy the Bank Statement requirements of the university and U.S. Visa regulations.

#### **QUESTION #4 “DO YOU OWN ANY PROPERTY IN YOUR HOME COUNTRY?”**

##### ***REASON FOR ASKING THIS QUESTION (about property that you own):***

Owning any property that you would not want to “abandon” by going to the U.S. is one of the specific examples mentioned in U.S. Visa regulations as being a significant “tie” to the home country. As with the other examples mentioned in the regulations as being possible “ties”, owning a house or land is not a guarantee, by itself, that the student will get a visa. But owning property can help to satisfy the regulation’s requirements (as a part of your overall “profile”).

#### **QUESTION #5 WHY DON’T YOU STAY HERE TO STUDY RATHER THAN GO TO THE U.S.?**

##### ***REASON FOR ASKING THIS QUESTION:***

This question may sometimes be used by a visa officer to see if you have too many “emotional ties” to the U.S. that could suggest that you “love America” more than your home country. An applicant who talks too much about how American education (and other parts of American culture and life) are superior to those in his/her home country may cause the visa officer to conclude that you probably would choose to stay in the U.S. to live permanently, rather than to return home. In answering this question, candidates need to be aware that some U.S. schools may be superior to schools in the home country of the candidate—but this is not universally true. Schools all over the world may have equal or superior programs than those in the U.S. Consequently, it is not wise for students to make the claim that the general superiority of American schools is the basic reason for choosing to go to America to study.

However, it is true that the PERCEPTION of American schools being superior is often widespread among employers in various parts of the world. Consequently, sometimes a valid reason for a candidate to choose the U.S. for higher education is that, upon returning home after graduating and applying for a job—having the American degree and some U.S. work experience can often give the candidate a better chance of being selected by an employer in the home country, because of the employer’s perception that you are more qualified than other candidates (who may only have a degree from a local university) to take one of the best and highest positions available.

#### **TIPS AND SUGGESTIONS FOR THE VISA INTERVIEW:**

- If asked about relatives you may have in the U.S., be truthful about their status.
  - Prepare a written list of all of your “home ties” and hand it to the visa officer.
  - Do not claim that all U.S. education and life in the U.S. is better than at home.
  - Explain how local employers might give you a better job offer if you have a U.S. degree.
  - Do research on aspects of your selected university and the area where it is located.
  - Take to the interview school brochures, and/or info and pictures from on-line research.
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## **REGULATION # 3**

# **APPLICANT MUST BE TRUTHFUL AND HONEST**

## **WHAT U.S. VISA LAW STATES ABOUT BEING TRUTHFUL AND HONEST**

8 U.S. Code #1546 states that student applicants must...**not make any false statements nor present any document which contains false statements when appearing before a U.S. officer.**

### **EXPLANATION OF THIS LAW (re: Truthfulness and Honesty)**

Actually, this warning against making false statements is found in many U.S. laws and regulations and is strictly enforced—not only for international persons, but also for U.S. citizens who file official documents or making appearances before any judge, policeman, justice of the peace or any other “official”. As for an international student applicant’s appearance before a visa official—occasionally, when there is a **strong suspicion** that an applicant has not been totally truthful in some way during the visa interview, some officers have been known to “test” the student’s honesty. They can do that by asking a rather insignificant question which the officer is sure that the student would not be able to answer, one way the other. In many such cases, the student, afraid that he will be denied a visa if he doesn’t give a response of some kind—will make up an answer, instead of just admitting, “I don’t know the answer to your question”. By failing to admit that he does not know the answer (and, instead, he makes up an answer), he has violated the above law which directs the visa office to assume that, if a person lies about some insignificant matter, he probably will be lying about more important matters. By way of example, if the applicant has earlier said, “I surely will come back home after I graduate from my studies in the U.S.”, the visa officer is more or less obligated to assume he is lying about this also, and he should be denied a visa. (Moral to the story: **Always** tell the truth, and if you don’t know the answer to a question, don’t make up an answer; rather, politely say, “I’m sorry, I don’t know”).

### **TIPS AND SUGGESTIONS FOR THE VISA INTERVIEW:**

- **ALWAYS TELL THE TRUTH**, even about insignificant matters.
  - If you don’t know the answer to a question, don’t guess or make up an answer.
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## **REGULATION # 4**

# **APPLICANT MUST HAVE SUFFICIENT FINANCIAL ABILITY**

### **WHAT U.S VISA LAW STATES ABOUT HAVING FINANCIAL ABILITY**

CFR 214.2 (f) states that a student applicant must have...**documentary evidence of financial support in the amount indicated on the Sevis Form I-20” issued by the university.**

#### **EXPLANATION OF THIS LAW (re: Having Sufficient Financial Ability)**

As the regulation states, the candidate must have a personal (or a sponsor’s) bank statement showing “liquid” funds (readily available cash) in an amount which the university has already decided he needs for the first year’s tuition, fees and personal expenses. However, please note that the visa officer may require additional information beyond just a copy of the bank statement. That is, the officer may also require some proof regarding the source of the money that is shown in the bank statement. The purpose of this is so the visa officer can be assured that the money showing in the bank statement has not been borrowed by the student temporarily only for purpose of qualifying for acceptance by the school or to qualify for a visa. Evidence of the source of the funds may consist of monthly bank statements or employment history showing funds coming into student’s or sponsor’s bank account during the previous 6 to 12 months.

A visa officer may also require the applicant to show a “reasonable expectation” of funds to pay for the student’s second year at a U.S. university. If the student is relying on a sponsor to provide funding in the 2<sup>nd</sup> year, that sponsor should indicate in his/her statement that both the first year’s cost, as well as funds, as needed, in the 2<sup>nd</sup> year, will be covered. Note: Usually, some of the money required by the university may be borrowed from a certified bank in the student’s home country. But a loan from a private party usually is not be an acceptable source of funding.

If using a sponsor for funding, information about the nature of the relationship between student and sponsor should be explained. And, the relationship must be reasonable and believable (in order to prove that the promised amount is not just a loan). This usually means that an acceptable sponsor should be a close family member of the student.

### **TIPS AND SUGGESTIONS FOR THE VISA INTERVIEW**

- Provide a sponsor or personal bank statement for year one as required by the school.
  - Bring documented evidence of the source of the money in the bank.
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## **REGULATION #5**

# ***APPLICANT'S CONDUCT DURING THE VISA INTERVIEW MUST BE APPROPRIATE.***

## **WHAT U.S. VISA LAW STATES ABOUT HOW TO CONDUCT THE INTERVIEW**

8 U.S. Code 1361 states that *...an applicant for a temporary student visa shall be assumed to have intention to be an immigrant, and the burden of proof shall be on the applicant to overcome the assumption and establish to the satisfaction of the consular officer that he is eligible to receive a visa...*

### **EXPLANATION OF THIS LAW (re: *Conduct in the Visa Interview*)**

This law seems very out of character with historical U.S. jurisprudence. That is, it has always been a cherished belief and practice in U.S. courts that a person accused of a crime is innocent until he has been proven guilty. That is, the accuser must present proof beyond a reasonable doubt against the defendant.

However, as 8 U.S. Code 1361 of the Immigration Act states, when it comes to granting visas, an international student who applies for a student visa is automatically assumed to be guilty of wanting to be an immigrant who does not want to return home—from the moment he hands to the visa officer his application. Everyone agrees that this does not seem to be fair, including, probably the visa officer. But, the officers are required to begin every visa interview with the belief that this person is NOT wanting to be a student at all. Rather, he is actually someone trying to get into the U.S. (disguised as a temporary student), but actually wanting to immigrate and stay.

And, to make matters worse, the law (as noted above) puts the “burden of proof” (that is, the obligation) on the student to try to overturn this harsh pre-determination that he just trying to use the student “route” to get into the U.S. to stay there.

How can a young, and innocent international student possibly be able to prevail in overcoming this “pre-judgment” of intention to immigrate in just the few minutes while he is standing before the visa official?

- (1) First of all, this is possible by recognizing that most visa officials seek to help the students by prompting them with questions related to some of the requirements that they must present in their effort to overcome their unfortunate position of being assumed from the beginning to be ineligible immigrant hopefuls. Due to the huge volume of students applying in most consular posts around the world, the officers can only take 2 to 5 minutes to help the candidate present enough evidence that, in fact, he is truly, a serious/legitimate/bona fide student. During those few minutes, the officers will generally raise questions about the most important issues that only the student has in his mind that could possibly be able to persuade the officer that he is telling the truth about not wanting to immigrate. The first questions will usually relate to the “Intent” and “Ties” to the home country issues. Other issues, while also very important, can often be dealt with by the officers from their viewing of written documentation that the candidate hands to them at the beginning of the interview (such as financial statements, transcripts, sponsor statements, school documents, etc.).

- (2) The second way to ensure success (apart from the prompting from the visa officers) is to be fully prepared on all of the issues that are embedded in the rules and regulations regarding requirements for obtaining a student visa. You can never know for sure which of all of these issues will be the ones that the visa officer will deal with in the few minutes available.

In summary, remember that the visa officer is your friend and is trying to help you present your case, and also remember to BE PREPARED on all of the 5 most important rules and regulations outlined above.

### **TIPS AND SUGGESTIONS FOR THE VISA INTERVIEW:**

- Take charge of the interview by making your case as an “advocate” would do.
  - Have all documents and summary lists in written form, if possible.
  - Ask permission to present your arguments about “ties to the home country”
  - Don’t argue with the visa officers (they are trying to help you).
  - Speak English, and speak up.
  - Don’t just wait for questions from the visa officer in presenting your plan.
  - Maintain eye contact and smile.
  - If you don’t understand the question, respectfully ask the officer to repeat.
  - Ask the visa officer at the end of the interview if more information is needed.
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### **SUMMARY OF THIS “GUIDE”**

- (1) According to U.S. visa regulations, a legitimate “bona fide” applicant is defined as one whose desire to study in the U.S. arises out of EMPLOYMENT OPPORTUNITIES WHICH APPLICANT HAS FOUND IN HIS HOME COUNTRY, which require higher education in the U.S.
- (2) To be successful in obtaining a visa, it is the responsibility of the applicant to overcome the law’s “pre-judgement” that he is not being honest (and actually intends to stay in the U.S. rather than return home to take advantage of those enhanced employment opportunities).
- (3) A “legitimate” applicant can overcome this “pre-judgement” only by demonstrating and proving to a visa official his true intent, and his ties to the home country, and his financial ability, and his honesty, as well as by conducting himself appropriately during the visa interview.

### **JUST FOLLOW THE REGULATIONS AND GUIDELINES**

and

### **YOU WILL HAVE A HIGH PROBABILITY OF SUCCESS!**

For more information about engaging F-1 VISA ADVISORS, INC., for customized services (including a mock interview with a U.S. Immigration Lawyer), and to inquire about the low fees and costs for their services, contact Dr. J. Fred Brandenfels at [jfbrand@usa-fvisa.com](mailto:jfbrand@usa-fvisa.com) , or call 541 345 1734.