



Don't Place Your Immigration Status At Risk: Some Consequences of Illegal Employment

by Ellen H. Badger

The vast majority of international students have a good understanding of the federal immigration regulations with which they must comply and cannot imagine violating any of them, as the risks are so great. This is especially true of F-1 student employment regulations, including practical training (which is limited to off campus employment that is directly related to a student's field of study) and authorized employment based on documented economic hardship. But at one time or another, a student might wonder to himself or herself, "Would anyone find out if I worked off campus without authorization, or took a job under authorized practical training that was not related to my field of study?" The short answer is, "Yes," so don't do it! Here's why.

Any employment that is in violation of your F-1 status is a deportable offense if it comes to the attention of the Department of Homeland Security. An employer who hires you for a position that does not comply with the limitations set by your employment authorization category can be subject to civil penalties and in some cases, criminal penalties. Your employer is required to report your earnings to the U.S. Department of the Treasury's Internal Revenue Service, and you are required to file an income tax return reporting those earnings and paying any taxes due on them, even if the employment was not authorized. If at some point in the future, you decide to apply for U.S. permanent residency (either through an employment petition, a petition filed by an immediate relative, or through the diversity visa lottery), you are required to submit copies of your past U.S. federal income tax returns as part of the application. If previous employment is indicated on your tax returns, the immigration officer can require that you present proof of work authorization for those jobs. Regardless of whether you are applying for permanent residency or some other non-immigrant status (such as H-1B), if previous employment is indicated on your immigration paperwork (such as an endorsement for optional practical training on an I-20, or some other evidence of work authorization) the immigration officer adjudicating the new application may request specific information regarding the previous employment and its applicability to the work authorization you held.

As students, you have worked very hard to achieve a U.S. college degree. Don't risk all the time and money you have invested in that goal. Do not rely on your employer to determine whether your job meets the requirements for your employment authorization. Remember that compliance with federal immigration regulations is your responsibility, and the consequences for non-compliance are punitive.

Ellen Badger is the Director of International Student and Scholar Services, Binghamton University, State University of New York. Special thanks to Stephen Yale-Loehr, nationally known immigration attorney with the law firm of True, Walsh & Miller in Ithaca, New York, and an adjunct faculty member of Cornell University Law School, for consulting on the article's content.