

# FALLING OUT OF STATUS

(Just HOW out of status am I?)

Type of Problem	How does it happen?	What are the penalties?
<p><b>Out of Status (Violation of status)</b></p>	<ul style="list-style-type: none"> <li>• Staying beyond expiration of I-94 card (if not admitted for Duration of Status, aka D/S)</li> <li>• Enrolled for less than full time</li> <li>• Not enrolled at all</li> <li>• Unauthorized employment</li> <li>• Not engaging in activity for which admitted</li> <li>• Not processing transfer on time</li> <li>• Not processing change of program on time</li> <li>• Staying beyond expiration of I-20 while still enrolled</li> <li>• Not processing J-1 extension on time</li> <li>• Staying beyond F or J grace period</li> <li>• Staying after employment ends (H, O, TN)</li> <li>• Other violations</li> </ul>	<ul style="list-style-type: none"> <li>• Should leave the U.S. (or apply for reinstatement if available)</li> <li>• May not be employed (even on campus)</li> <li>• May not be granted any immigration benefits, such as OPT, extension, transfer, etc.</li> <li>• May not change status in the U.S.</li> <li>• May never adjust to permanent residence in the U.S. unless married to a U.S. citizen (some other exceptions may also apply)</li> </ul>
<p><b>Unlawfully Present (3/10 Year Bar)</b></p>	<ul style="list-style-type: none"> <li>• Staying beyond the end of date-specific I-94 card</li> <li>• If I-94 is date specific, unlawful presence days can also begin if and when an INS judge or adjudicator declares the person in violation of status</li> <li>• If I-94 is valid for Duration of Status (D/S), unlawful presence begins <u>only</u> if and when an INS judge or adjudicator declares the person in violation of status</li> </ul> <p>Note: A person with a date specific I-94 card, who files a non-frivolous application for an extension or change of status, will not accumulate days of unlawful presence after I-94 expiration as long as the application is pending with INS.</p>	<ul style="list-style-type: none"> <li>• After 180 days of unlawful presence, the person may not be readmitted to the U.S. for 3 years</li> <li>• After 365 days of unlawful presence, the person may not be readmitted to the U.S. for 10 years</li> </ul> <p>Note: No days before April 1, 1997, will be counted. Days are generally not cumulative. Days are counted separately for each visit. Days before age 18 are not counted.</p>
<p><b>Overstay (Voiding of visa)</b></p>	<ul style="list-style-type: none"> <li>• Staying beyond the end of date-specific I-94 if entered with a visa</li> <li>• If I-94 is date specific, the person can also be an overstay if INS declares him/her in violation of status</li> <li>• Persons with D/S are considered overstays <u>only</u> if declared unlawfully present by an INS judge or adjudicator</li> </ul>	<ul style="list-style-type: none"> <li>• The visa used to enter the U.S. automatically becomes invalid, even if it appears to be unexpired</li> <li>• All future visas must be obtained in the country of citizenship or legal permanent residence (some exceptions may apply)</li> </ul>