

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 422

[Regulations No. 22]

RIN 0960-AF87

Evidence Requirements for Assignment of Social Security Numbers (SSNs); Assignment of SSNs to Foreign Academic Students in F-1 Status

AGENCY: Social Security Administration (SSA).

ACTION: Proposed rules.

SUMMARY: We propose to clarify our rules for assigning SSNs to foreign academic students in Bureau of Citizenship and Immigration Services (BCIS, formerly the Immigration and Naturalization Service or INS) classification status F-1 (referred to throughout this preamble as F-1 students). Specifically, we propose to add additional evidentiary requirements for F-1 students who are applying for an SSN. In addition to meeting SSA's requirement to provide evidence of age, identity, legal alien status, and work authorization, F-1 students would also be required to present evidence that employment has been secured before we will assign the F-1 student an SSN. These rules would further enhance the integrity of SSA's enumeration processes for assigning SSNs by reducing the opportunity for fraud through misuse of SSNs.

DATES: To be sure that your comments are considered, we must receive them by February 17, 2004.

ADDRESSES: You may give us your comments by: using our Internet facility (*i.e.*, Social Security Online) at <http://policy.ssa.gov/pnpublic.nsf/LawsRegs> or the Federal eRulemaking Portal: <http://www.regulations.gov>; email to regulations@ssa.gov; telefax to (410) 966-2830; or letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235-7703. You may also deliver them to the Office of Regulations, Social Security

Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days.

Comments are posted on our Internet site, or you may inspect them physically on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>. It is also available on the Internet site for SSA (*i.e.*, Social Security Online) at <http://policy.ssa.gov/pnpublic.nsf/LawsRegs>.

FOR FURTHER INFORMATION CONTACT:

Robert J. Augustine, Social Insurance Specialist, Office of Regulations, 100 Altmeyer Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-0020, or TTY (410) 966-5609. For information on eligibility or filing for benefits, call our national toll-free numbers, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet web site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Background

Under section 205(c)(2)(A) of the Social Security Act (the Act), the Commissioner of Social Security is required to "establish and maintain records of the amounts of wages paid to * * * each individual and of the periods in which such wages were paid * * *" In addition, under section 205(c)(2)(B)(i)(I) of the Act, the Commissioner is required to assign Social Security numbers "to the maximum extent practicable * * * to aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make it lawful for them to engage in such employment."

Current SSA Rules

Our regulations at 20 CFR 422.105 currently state that a nonimmigrant alien whose INS Form I-94, Arrival/Departure Record, does not reflect a

classification permitting work must submit a current document issued by INS that verifies authorization to work has been granted.

Our regulations at 20 CFR 422.107(e) currently state that "When a person who is not a U.S. citizen applies for an original social security number or a duplicate or corrected social security number card, he or she is required to submit, as evidence of alien status, a current document issued by the [INS] in accordance with [its] regulations. The document must show that the applicant has been lawfully admitted to the United States, either for permanent residence or under authority of law permitting him or her to work in the United States, or that the applicant's alien status has changed so that it is lawful for him or her to work." If the applicant submits a valid unexpired INS document(s) that shows current authorization to work, we will assign an SSN and issue a card that is valid for work.

Current SSA procedures require an F-1 student who needs an SSN for work to present evidence of age, identity, lawful F-1 alien status, and work authorization. This work authorization can either be from BCIS in the form of an employment authorization document (EAD) or from the F-1 student's school. In the past, when an F-1 student applied for an SSN, we believed that the student had a job or imminent plans to secure a job. However, our recent experience has shown that some F-1 students apply for an SSN even when there is limited or no employment available. F-1 students often inform us that they do not intend to work but need an SSN to obtain goods or services in the community.

Additional evidence requirements for F-1 student SSN applicants are needed because available SSA data suggest that some F-1 students assigned SSNs misuse those SSNs to work illegally in the U.S. (*i.e.*, in work not permitted by their classification under immigration regulations at 8 CFR 274a.12) or engage in other fraudulent activities. (See the SSA Office of the Inspector General (OIG) study, "Using Social Security Numbers To Commit Fraud" (A-08-99-42002, May 1999) at <http://www.ssa.gov/oig/ADOBEPDF/A-08-99-42002.pdf>).

Wages have been reported to us for F-1 students who have been engaged in