Mr. John F. Reichard  
Executive Vice President  
NAFSA  
1800 19th St., N.W.  
Washington, D.C. 20009

Dear Mr. Reichard:

This responds to your request of July 21, 1987, for clarification of documentary requirements for nonimmigrant exchange visitors in J-1 classification under the employer sanction provisions of 8 CFR 274a.

Part 274 of the Immigration Reform and Control Act of 1986 deals with the control of employment of aliens. Subpart A - Employer requirements - makes clear that the employer is required to verify employment eligibility of all prospective job applicants. All employers must comply with the procedures established by this section, which involve the examination of documentary evidence of identity and employment authorization and the completion of the Employment Eligibility Verification Form (Form I-9). Service regulations at 8 CFR 274a.2(b)(1)(v)(A)(4)(ii) state that the combination of an unexpired foreign passport and a Form I-94, Record of Arrival and Departure, containing an employment authorization stamp, is acceptable documentary evidence for both identity and employment eligibility.

The requirements imposed by these regulations, however, are construed in accordance with the regulations governing the J-1 Exchange Visitor Program at 22 CFR 514. Pursuant to these regulations, J-1 exchange visitors may be employed by the designated program sponsors or their appropriate designees within the guidelines approved by the United States Information Agency. The program description on the IAP-66 form issued to the J-1 exchange usually makes specific reference to the type of exchange activity or employment authorized by USIA. Since such employment authorizations are not recorded on Forms I-94, a J-1 exchange visitor's pink copy of the IAP-66 form, appropriately referencing employment, in combination with a Form I-94, may be accepted as an employment authorization document for the particular employment authorized by the sponsor of the exchange program. Similarly, a current pink copy of the IAP-66 form, together with a Form I-94 and an unexpired foreign passport, may be accepted as proof of both identity and employment eligibility.

For a J-1 exchange student who is authorized to work due to an urgent financial necessity, a letter of approval signed by the Responsible Officer of the exchange program sponsor pursuant to 22 CFR 514.24 is required in addition to the documents specified above.
Meanwhile, copies of this letter may be reproduced and distributed to F-1 students and their prospective employers, providing an official explanation of the unique employment authorization procedures involving nonimmigrant students in this classification.

I trust that NAFSA will find this letter helpful. Please let me know if I can be of further assistance.

Sincerely,

[Signature]

Richard E. Norton
Associate Commissioner,
Examinations