

**SEVP Policy Guidance:** 0801-01

**Title:** Updates to Post-Completion Optional Practical Training (OPT)

**Applicability:** Designated school officials (DSOs) for SEVP-certified schools with F-1 students who are eligible for or pursuing post-completion OPT

**Effective Date:** April 25, 2008

**Authority:** 8 CFR 214.2(f)(5),(10), (11), and (12) and 247a.12(c)(6)(iv) and (v)

**Disclaimer:** This Policy Guidance is issued as guidance to DSOs of SEVP-certified schools. Policy Guidance is not a regulation and is not intended to create or confer any rights or legal obligations or to bind the public. This Policy Guidance is intended to assist DSOs in applying the regulatory requirements in the course of their duties as a DSO. SEVP issues guidance to describe and make available to DSOs:

- Methods that the SEVP staff considers acceptable for use in implementing specific parts of the regulations pertaining to F and M nonimmigrants and SEVP-certified schools;
- Techniques the SEVP staff uses in evaluating specific issues; and
- Data the SEVP staff needs in reviewing school certification or individual student issues.

SEVP will take into consideration a school's use of these practices and any other alternative method in determining whether the school has complied with the regulation. Methods and practices that differ from those in this operational instruction may be acceptable if the school provides a basis for showing they comply with the applicable statutes and regulations. Schools are responsible for ensuring that they are using the latest version of the guidance.

**Purpose:** On April 8, 2008, DHS published an Interim Final Rule (IFR) titled *Extending Period of Optional Practical Training by 17 Months for F-1 Nonimmigrant Students With STEM Degrees and Expanding Cap-Gap Relief for All F-1 Students With Pending H-1B Petitions*. The text of the rule can be read at <http://edocket.access.gpo.gov/2008/E8-7427.htm>.

This rule makes some changes to post-completion OPT that are effective immediately. The Federal Register notice gives a detailed explanation of the reasons for publishing the rule and for making the provisions effective immediately.

This Policy Guidance for DSOs explains the changes in OPT based on this rule and provides guidance for DSOs.

**Unfamiliar Terms:** This Policy Guidance does not define all acronyms and terms that may be unfamiliar. Please see the [glossary](#) if you do not understand a term or acronym.

**Comments:** To comment on this Policy Guidance or suggest a change, please e-mail [sevis.source@dhs.gov](mailto:sevis.source@dhs.gov) with "Policy Guidance 0801-01 Comment" in the subject line.

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## 1. GENERAL INFORMATION ABOUT THE OPTIONAL PRACTICAL TRAINING INTERIM FINAL RULE (IFR)

### 1.1. Where can I find a copy of the rule?

**Federal Register Notice:** The Interim Final Rule was published in Federal Register on April 8, 2008. See 73 FR 18944. The notice contains a preamble explaining the rule and the text of the changes to the CFR. This is the official legal copy of the changes. Until the 2009 version of the CFR is published, this is the only version that can be relied upon for official legal purposes. You can find the text of the [notice on-line](#) on the Federal Register Web site or in [PDF](#) format from the SEVP Web site.

The [Electronic Code of Federal Regulations \(e-CFR\)](#) is a currently updated version of the Code of Federal Regulations (CFR). It is not an official legal edition of the CFR. It is an editorial compilation of CFR material and Federal Register amendments produced by the Office of the Federal Register (OFR) and the Government Printing Office. The e-CFR is updated daily. You can find the text of the 8 CFR by selecting Title 8 on the drop down list and following the links for the relevant paragraphs.

### 1.2. Is DHS accepting comments on the rule?

Yes, DHS is accepting comments until June 9, 2008. You may submit comments, which must be identified by Department of Homeland Security docket number ICEB-2008-0002, using one of the following methods:

- Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments electronically.
  - Mail: Office of Policy, U.S. Immigration and Customs Enforcement, Department of Homeland Security, 425 I Street, NW., Room 7257, Washington, DC 20536.
  - Hand Delivery/Courier: The address for sending comments by hand delivery or courier is the same as that for submitting comments by mail. Contact telephone number is (202) 514-8693.
  - Facsimile: Comments may be submitted by facsimile at (866) 466-5370.
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The most helpful comments reference the specific section of the rule using section number, explain the reason for any recommended change, and include data, information, and the authority that supports the recommended change.

Instructions: All submissions must include the agency name and Department of Homeland Security docket number ICEB-2008-0002. All comments (including any personal information provided) will be posted without change to <http://www.regulations.gov>. Mailed submissions may be paper, disk, or CD-ROM.

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## **2. MAJOR PROVISIONS OF THE RULE**

### **2.1. Provisions applicable to all F-1 students eligible for OPT**

This rule establishes two new provisions that apply to all F-1 students eligible for post-completion OPT. The rule:

- Extends the period in which a student may apply for post-completion OPT to 60 days after the student's program end date. See the section of the rule on the [deadline for filing for post-completion OPT](#) for details.
- Establishes a limit on the number of days students in a period of post-completion OPT can be unemployed and still maintain F-1 status. For students on regular post-completion OPT or an automatic extension due to the cap gap provisions, the limit is 90 days. Students with an approved STEM OPT extension will receive another 30 days of unemployment time for a total of 120 days over the entire period of post-completion OPT. See the section on [limits on the periods of unemployment](#) for details.

### **2.2. Provisions applicable to F-1 students who are the beneficiaries of a properly filed H-1B petition**

These provisions apply to F-1 students who are the beneficiaries of an H-1B petition who, due to the cap on the number of H-1B petitions accepted in a given year, cannot begin employment until the beginning of the fiscal year following the fiscal year in which the H-1B petition was filed. In the past, the F-1 status for these students often expired before their H-1B status began — a period known as the [cap gap](#).

This provision of the new rule automatically extends the F-1 status and, for students on post-completion OPT, their employment authorization for students formerly subject to the cap gap. See the section on the [cap gap provisions](#) for details.

**2.3. Provisions applicable to F-1 students with a STEM degree**

This rule allows F-1 students who are on a period of post-completion OPT approved after earning a bachelor's, master's, or doctoral degree in a science, technology, engineering, or math program that is on the list of designated STEM degrees to apply for a 17-month extension of their post-completion OPT. See the section on [17-month OPT extension](#) for details.

**2.4. Where is the list of STEM designated degrees?**

The list of [STEM degrees](#) is in the preamble to the interim final rule (see 73 CFR 18948) and posted on the ICE Web site. The list is also available as a [PDF](#).

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**3. GENERAL INFORMATION ABOUT OPT AND THE CAP GAP**

**3.1. What is optional practical training?**

OPT is training that is directly related to an F-1 academic student's major area of study. It is intended to provide students with practical experience in their field of study during or upon completion of a degree program.

**3.2. Who is eligible for OPT?**

An F-1 academic student who has attended an SEVP-certified college, university, conservatory, or seminary on a full-time basis for at least one academic year may be authorized up to 12 months of OPT per program level. However, F-1 students who have one year or more of full-time curricular practical training are not eligible for OPT for that degree.

**3.2.1. Pre-completion OPT**

Pre-completion OPT is OPT authorized to be worked before the student's program end date. Students with approved pre-completion OPT may work up to 20 hours per week while school is in session. Students who are eligible to register for the next term, and who plan to do so, may have approval to work full time when school is not in session.

**3.2.2. Post-completion OPT**

Post-completion OPT is OPT authorized to be worked after the student's program end date.

#### **4. TERMS INTRODUCED IN THIS DOCUMENT**

A number of terms are introduced in this Policy Guidance and are defined here.

##### **4.1. H-1B Cap**

The H-1B cap is the Congressionally-mandated limit on the number of individuals who may be granted H-1B status during each fiscal year. For FY09, the cap is 65,000.

Many employers file H-1B petitions on behalf of F-1 academic students after their post-completion OPT expires. Under the previous regulation (and unchanged by this rule), an employer could not file, and USCIS could not approve, an H-1B petition submitted earlier than six months before the date of actual need for the beneficiary's services or training.

As a result, the earliest date that an employer can file an H-1B petition for consideration under the next fiscal year cap is April 1, for an October 1 employment start date. If that H-1B petition and the accompanying change of status request are approved, the earliest date that the student may start approved H-1B employment is October 1.

Consequently, prior to effective date of this rule, F-1 students who were the beneficiaries of approved H-1B petitions, but whose periods of authorized stay (including authorized periods of post-completion OPT and their [grace period](#) expired before October 1, had to leave the United States, apply for an H-1B visa at a consular post abroad, and then seek readmission to the United States in H-1B status.

##### **4.2. Cap gap**

This Policy Guidance uses the term cap gap to refer to the period of time between the time a nonimmigrant's F-1 student status would ordinarily end and his or her H-1B status begins.

Under the previous regulation, the cap gap occurred when an F-1 student was the beneficiary of a successful H-1B petition, but his or her F-1 status ended before his or her H-1B status began. The time between the end of the F-1 status and beginning of H-1B employment was referred to as the cap gap.

The most common situation occurred when the student's OPT ended in the spring or early summer, and his or her F-1 status expired 60 days after that, leaving a gap of several months before the individual's H-1B status began on October 1.



Under the previous regulation, DHS could remedy this problem by publishing a Federal Register notice allowing students to remain in status in order to span the cap gap. However, this remedy was not automatic and did not allow the student to continue OPT during the gap period. This rule automatically extends the student's F-1 status and work authorization.

**4.3. Cap gap extension**

Under the new rule, the cap gap extension is a period in which an eligible F-1 student's status is automatically extended to bridge the gap between the end of F-1 status and start of H-1B status. If the student is in a period of authorized post-completion OPT on or after the date the student becomes eligible for the extension, the student's post-completion OPT is also automatically extended.

**4.4. Cap gap OPT**

A period of OPT that has been extended beyond the date on the F-1 student's employment authorization document during an authorized cap gap extension.

**4.5. STEM OPT extension**

An additional 17-month period of OPT granted to a student on post-completion OPT who meets the qualifications in 8 CFR 214.2(10)(ii)(C).

**4.6. E-Verify employer**

An E-Verify employer is an employer currently registered and in good standing with the [USCIS E-Verify program](#).

**4.7. CIP Code**

Classification of Instructional Programs (CIP) codes are published by the National Center for Education Statistics (NCES) and are used in SEVIS to designate a student's major, secondary major, and minor. Certain CIP codes have been designated as [STEM designated degrees](#).

More information on NCES CIP codes is available at:  
<http://nces.ed.gov/Pubsearch/pubsinfo.asp?pubid=2002165>.

**4.8. Grace period**

The 60-day period of time given to F-1 students after the completion of a program of study or an authorized period of post-completion OPT allowing the student time to prepare for departure from the United States, apply for a transfer to another SEVP-certified school, request a change of level to continue at the current school, or take steps to otherwise maintain legal status.

#### **4.9. Unemployment time**

The time spent without a qualifying job during post-completion OPT. Except as noted in the section on [what counts as time unemployed](#), each day that the student is not employed in a qualifying job, is counted toward the limit on unemployment time. The limit is 90 days for students on post-completion OPT, including those with a cap gap extension, except that students with a STEM OPT extension are given an additional 30 days of unemployment time for a maximum of 120 days.

#### **4.10. Data fix**

A change or correction made to a SEVIS record by authorized SEVP staff, usually at the request of a DSO. Some data fixes may be requested through the correction function in SEVIS. If a correction function is not available, the data fix must be requested from the SEVIS help desk at (800) 892-4829.

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### **5. DEADLINE FOR APPLYING FOR OPT**

#### **5.1. What is the new deadline for applying for post-completion OPT?**

F-1 students may apply for post-completion OPT up to 90 days before their program end date and up to 60 days after their program end date. The application must be properly filed with the correct USCIS Service Center. In addition, the application must be properly filed within 30 days of the date the student's DSO recommends OPT in SEVIS.

#### **5.2. When does the new deadline go into effect?**

The new deadline goes into effect April 8, 2008. Due to the short notice based on an immediate effective date and the technical issues involved, students whose 60-day grace period expires between April 8, 2008 and April 25, 2008, have until April 25, 2008, to file for post-completion OPT.

#### **5.3. How can a DSO recommend OPT after a student's program end date?**

SEVIS has not yet been updated to allow DSOs to recommend OPT after the student's program end date (other than the STEM extension). Until SEVIS is updated, DSOs should request a data fix by calling the SEVIS help desk at (800) 892-4829.

If the student needs to file immediately, the student should file the Form I-765, Application for Employment Authorization, with USCIS without waiting for the Form I-20. The student should include a statement indicating that a data fix is pending and the Form I-20 will be furnished

later. SEVP recommends including the SEVIS help desk ticket number in this statement.

When SEVP processes the data fix, the DSO will be able to print a Form I-20 recommending post-completion OPT and provide it to the student. USCIS has requested that students wait until the USCIS Service Center sends a request for evidence (RFE) to send the Form I-20. This will help the USCIS Service Center ensure the Form I-20 is matched to the correct application.

**5.4. When should a student request that his or her DSO recommend post-completion OPT?**

A student should ask his or her DSO to recommend post-completion OPT within 30 days of the date the student expects the application to arrive at the USCIS Service Center. If the OPT recommendation in SEVIS is dated more than 30 days prior to the receipt date, the application may be denied.

**5.5. What is the earliest date a student can file a request for post-completion OPT with USCIS?**

A student may file the request for post-completion OPT no more than 90 days prior to the student's program end date.

**5.6. What is the earliest a student can apply for pre-completion OPT?**

A student may file for OPT up to 90 days before he or she completes a full academic year. If the student has already completed a full academic year, he or she may apply for OPT up to 120 days in advance of the requested employment start date.

**5.7. Can a student file for combined pre-completion OPT and post-completion OPT?**

No. The new regulatory provisions differentiate between pre-and post-completion OPT in the application process and in the requirements for maintaining employment.

SEVIS will be updated to support this revision. Until then, DSOs should ensure that the employment end date for pre-completion OPT is on or before the student's program end date.

**5.8. What is the impact on students who are currently on OPT that started before their program end date and will end after the program end date?**

For students who are currently on a period of OPT that is both pre-and post-completion OPT, the following changes apply based on the new regulatory provisions:

- Any unemployment after April 8, 2008, and the student's program end date will count towards the 90-day maximum on unemployment.
- The student's SEVIS record will not show the link for a DSO to recommend a STEM extension. If the student is qualified for a STEM extension, the DSO will have to request a data fix by contacting the SEVIS help desk at (800) 892-4829.

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## **6. BEGINNING AND ENDING DATES OF POST-COMPLETION OPT**

### **6.1. What are the restrictions on the requested start date for post-completion OPT?**

Students cannot have a requested start date that is more than 60 days past the student's program end date.

### **6.2. What are the restrictions on the requested end date for post-completion OPT?**

The requested end date can not be more than 12 months after the requested start date. The end date may be sooner if the student has less than 12 months of OPT left at the current degree level or the student wishes to retain a period of OPT for pre-or post-completion OPT for another degree at the same academic level.

### **6.3. What will be the authorized employment dates for post-completion OPT?**

The start date will be the requested start date or the date of approval, whichever is later. (A start date more than 60 days after the program end date is treated as a request to start on the 60th day after the program end date.)

The end date will be the earliest of:

- The requested end date
- The date on which the student's remaining allotment of OPT expires – for example, a student who previously used three months of full-time pre-completion OPT – will have only nine months of OPT time remaining.
- 14 months after the student's program-end date.

**6.4. Can a student apply for OPT prior to his or her program end date and continue that employment after the program end date?**

No. See the question on [filing for both pre- and post-completion OPT](#).

**6.5. What happens if a student applies for post-completion OPT before his or her program end date and subsequently fails to complete the requirements for his or her program?**

The student should contact his or her DSO immediately for guidance.

If the employment authorization application has not been adjudicated by USCIS, the student may withdraw the application by notifying the Service Center where the application was filed. The DSO should also withdraw the recommendation for OPT in SEVIS.

If the employment authorization application has already been approved, the DSO should extend the student's program end date to the appropriate date. The student may work part time while enrolled in courses to complete the requirements for his or her program and full time during breaks and vacations. After successful completion of all the program requirements, the student may work full time.

However, even though the student's program end date was extended, because the OPT was granted as post-completion OPT; **the student is subject to the 90 day limitation on unemployment.**

SEVP strongly recommends that a student who may not be able to successfully complete all program requirements on time should defer applying for post-completion OPT until after his or her program ends.

**6.6. How does a transfer or change of level impact the period of OPT?**

Any OPT authorization ends on the transfer release date for a student who requests a transfer to another SEVP-certified school or a change of level to continue at the same school.

**7. LIMITS ON PERIODS OF UNEMPLOYMENT DURING A PERIOD OF AUTHORIZED OPT**

**7.1. Limits on periods of unemployment**

**7.1.1. What are the limits on periods of unemployment?**

Students on post-completion OPT may have up to 90 days of unemployment.

Students who have OPT extended due to the cap gap provisions continue to accrue unemployment time and are subject to the 90-day limitation on unemployment.

Students who receive a 17-month STEM OPT extension are given an additional 30 days of unemployment for a total of 120 days over their entire post-completion OPT period.

**7.1.2. Do the limits on unemployment apply to any periods of unemployment prior to April 8, 2008?**

No, the limits on unemployment do not apply retroactively.

**7.1.3. Do the limits apply to students who had post-completion OPT approved before April 8, 2008?**

For students who started post-completion OPT prior to April 8, 2008, unemployment time will accrue only for time spent unemployed after April 8, 2008. Time unemployed prior to April 8, 2008, will not be counted.

**7.1.4. Is a student who splits OPT between two degrees at the same level limited to a total of 90 days of unemployment?**

No, the student is not limited to a total of 90 days of unemployment in this case. For each new period of post-completion OPT, the student will have the full 90-day period of unemployment.

**7.1.5. What counts as time unemployed?**

Each day during the period when OPT authorization begins and ends that the student does not have qualifying employment counts as a day of unemployment. The only exception is that periods of up to 10 days between the end of one job and the beginning of the next job will not be included in the calculation for time spent unemployed.

**7.1.6. How does travel outside the United States impact the period of unemployment?**

If the student whose approved period of OPT has started travels outside of the United States while unemployed, the time spent outside the United States will count as unemployment against the 90/120-day limits.

If a student travels while employed either during a period of leave authorized by an employer or as part of their employment, the time spent outside the United States will not count as unemployment.

## 7.2. Employment allowed while on OPT

### 7.2.1. What types of employment are allowed for regular pre- and post-completion OPT?

All OPT employment, including post-completion OPT, must be in a job that is [related to the student's degree program](#).

For students who are not on a STEM extension, this employment may include:

- **Paid employment**. Students may work part time (at least 20 hours per week when on post-completion OPT) or full time.
  - **Multiple employers**. Students may work for more than one employer, but all employment must be related to the student's degree program and for pre-completion OPT cannot exceed the allowed per week cumulative hours.
  - **Short-term multiple employers (performing artists)**. Students, such as musicians and other performing artists may work for multiple short term employers (gigs). The student should maintain a list of all gigs, the dates and duration. If requested by DHS, students must be prepared to provide evidence showing a list of all gigs.
  - **Work for hire**. This is also commonly referred to as 1099 employment where an individual performs a service based on a contractual relationship rather than an employment relationship. If requested by DHS, students must be prepared to provide evidence showing the duration of the contract periods and the name and address of the contracting company.
  - **Self-employed business owner**. Students on OPT may start a business and be self-employed. In this situation, the student must work full time. The student must be able to prove that he or she has the proper business licenses and is actively engaged in a business related to the student's degree program.
  - **Employment through an agency**. Students on post-completion OPT must be able to provide evidence showing they worked an average of at least 20 hours per week while employed by the agency.
- **Unpaid employment**. Students may work as volunteers or unpaid interns, where this does not violate any labor laws. The work must be at least 20 hours per week for students on post-completion OPT. These students must be able to provide evidence from the employer that the student worked at least 20 hours per week during the period of employment.

**7.2.2. What types of employment are allowed for students during an OPT STEM extension?**

Students authorized an OPT STEM extension must work at least 20 hours per week for an E-Verify employer in a position directly related to the student's STEM degree.

STEM students may work multiple jobs, but all the employers must be enrolled in E-Verify.

Students on a STEM extension are allowed to volunteer, incidental to their status. This means that volunteer work is allowed but does not count as employment for the purpose of maintaining F-1 status.

**7.2.3. How do students show that employment is directly related to their degree program?**

SEVP recommends that students maintain evidence — for each job — of the position held, proof of the duration of that position, the job title, contact information for the student's supervisor or manager, and a description of the work.

If it is not clear from the job description that the work is related to the student's degree, SEVP highly recommends that the student obtain a signed letter from the employer's hiring official, supervisor, or manager stating how the student's degree is related to the work performed.

**7.3. Reporting employment and unemployment (other than students with a STEM extension)**

**7.3.1. What should students report to ensure that their status does not expire due to excessive unemployment time?**

Students are encouraged to report changes in employment to their DSO as soon as possible. SEVP recommends that students report changes within 10 business days of the change to avoid situations where a DHS official may determine the student is out of status.

The following table suggests the best way to report employment or a change in employment.

<b>Situation</b>	<b>Report</b>
New job	<ul style="list-style-type: none"><li>• Name of the employer</li><li>• Start date of employment</li><li>• Mailing address for the employer</li></ul>



Situation	Report
Change to a new job	<ul style="list-style-type: none"> <li>• Name of the previous employer</li> <li>• Ending date of the employment with the previous employer</li> <li>• Name of the employer</li> <li>• Start date of employment</li> <li>• Mailing address for the employer</li> </ul>
<a href="#">Multiple short-term gigs</a> in one period with less than 10 days between gigs	<ul style="list-style-type: none"> <li>• Report at the beginning of the first gig and indicate “Multiple short term gigs”</li> </ul>
<a href="#">Work for hire</a> (start)	<ul style="list-style-type: none"> <li>• Indicate “Self-employed work for hire”</li> <li>• Indicate the start date of the contract</li> </ul>
Work for hire (ending more than 10 days between the end of one contract and the beginning of another contract or a new job)	<ul style="list-style-type: none"> <li>• Indicate “Self-employed work for hire”</li> <li>• Indicate you have no current contract</li> <li>• Ending date of the last contract worked</li> </ul>
More than 10 days of unemployment	<ul style="list-style-type: none"> <li>• Indicate “unemployed”</li> <li>• Ending date of last job</li> </ul>
<a href="#">Self-employed business owner</a> (start)	<ul style="list-style-type: none"> <li>• Indicate “Self-employed business owner”</li> <li>• Indicated date went into business</li> </ul>
Self-employed business owner (end)	<ul style="list-style-type: none"> <li>• Indicate “Self-employed business owner”</li> <li>• Indicate date business closed or student no longer worked for the business full time</li> </ul>
Student decides to exit the United States and complete his or her F-1 status prior to the end date of OPT	<ul style="list-style-type: none"> <li>• Indicate “Completing OPT and exiting the United States”</li> <li>• Date of exit</li> </ul>

**7.3.2. How should students report employment/unemployment information to their DSO?**

Students should consult with their DSO as to the preferred method of reporting changes. SEVP recommends using e-mail as it provides both evidence of reporting and the date reported. Some schools may provide other electronic means (such as a web page) to accept reports from students.

Students should keep a record of all reports made to the DSO and the method by which the report is made.

**7.3.3. How should DSOs report periods of employment in SEVIS?**

From the *Student Information* screen in SEVIS, click the [OPT Request](#) link to display the OPT Employment screen. On this screen, click the Edit link. This will allow the DSO to update the employer information.

Situation	Employer Name Field	Employer Address Field
New job	Name of the employer [start date mm/dd/yyyy] Example: ABC Inc. [04/15/2008]	Employer address supplied by student
Change to a new job (less than 10 days between jobs)	Name of the new employer [start date mm/dd/yyyy] Example: A New Job, Inc. [06/15/2008]	New employer's address supplied by student
More than 10 days of unemployment	Unemployed [ending date of last job mm/dd/yyyy] Example: Unemployed [07/12/2008]	Leave blank
Multiple short-term gigs in one period	Multiple gigs [start date]	Leave blank
<a href="#">Work for hire</a> (start)	Work for hire [start date mm/dd/yyyy]	Leave blank
Work for hire (end)	Unemployed [end date of last contract mm/dd/yyyy]	Leave blank
<a href="#">Self-employed business owner</a> (start)	Self-employed business owner [date started business mm/dd/yyyy]	Business address
Self-employed business owner (end)	Unemployed [date business closed or student no longer worked for business full time mm/dd/yyyy]	Leave blank
Student decides to exit the United States and complete his or her F-1 status prior to the end date of OPT	No change Complete the student's record — this will stop the accrual of unemployment time	No change

## **7.4. Consequences of exceeding the period of unemployment**

### **7.4.1. What is the effect on a student's status if the student exceeds the period of unemployment?**

A student who has exceeded the period of unemployment while on post-completion OPT has violated his or her status unless he or she has taken one of the following actions:

- Applied to continue his or her education by a change of level or transferring to another SEVP-certified school
- Departed the United States
- Taken action to otherwise maintain legal status

### **7.4.2. Are DSOs responsible for determining if a student has exceeded the limit of unemployment time while on OPT?**

No. DSOs are responsible for updating SEVIS with employment information provided by the student or the student's employer. DHS will determine if the student has violated his or her status by exceeding the permissible unemployment period.

### **7.4.3. How will DHS enforce this provision?**

Students may be denied future immigration benefits that rely on the student's valid F-1 status if DHS determines that the student exceeded the limitations on unemployment.

Additionally, ICE/SEVP may examine SEVIS data for an individual, a selected group, or all students on post-completion OPT and terminate a student's record if it fails to show the student maintained the proper period of employment. In such cases, the student will be given an opportunity to show that he or she complied with all OPT requirements, including maintaining employment.

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## **8. 17 MONTH EXTENSION OF OPT FOR F-1 STUDENTS WITH A STEM DEGREE**

### **8.1. Eligibility**

#### **8.1.1. Who is eligible for the STEM extension?**

F-1 students who completed a bachelor's, master's, or doctoral degree in a STEM field and are currently engaged in post-completion OPT may apply for the STEM extension if they have a job or job offer from an [E-Verify employer](#).

**8.1.2. Is the extension available to students who completed their post-completion OPT prior to April 8, 2008?**

No. The eligibility is not retroactive.

**8.1.3. How does a student or DSO know which degrees are designated as STEM degrees?**

The [STEM Designated Degree Program List](#) is on the SEVP Web site.

**8.1.4. Can a student with a dual major qualify for the STEM extension based on one of the degree programs?**

Yes, if one of the degrees is on the [STEM Designated Degree Program List](#) and any job worked while on the STEM extension is related to the student's STEM degree. However, the CIP Code for the student's secondary major will not print on the Form I-20 recommending the STEM extension. The DSO must annotate the Form I-20 with the proper [CIP Code](#) for the secondary major.

**8.1.5. Can a student qualify for the STEM extension based on the student's minor?**

No.

**8.1.6. Can a student who has previously earned a degree in a STEM field and has now earned a non-STEM degree apply for the extension?**

No. The STEM extension must be based on the same degree as the post-completion OPT.

**8.1.7. How can someone suggest a change to the STEM Designated Degree Program List?**

To suggest a change to the list of STEM designated degrees, write to [sevis.source@dhs.gov](mailto:sevis.source@dhs.gov), with STEM Code Change Request in the subject line. Please include your name, phone number, organizational affiliation, the code(s) you would like to see added and the rationale for the addition. Change requests will be reviewed by ICE in conjunction with the Department of Education and other interested government agencies.

Prior to June 9 2008, you may also make recommendations for changes to the STEM Designated Degree Program List through the public comment process [by submitting a comment on the OPT rule](#).

## **8.2. Filing for the STEM OPT extension**

### **8.2.1. What are the DSO's responsibilities when recommending a STEM OPT extension for a student?**

Before recommending a STEM extension in SEVIS, a DSO should confirm that:

- The student's education level shown in SEVIS is bachelor's, master's, or doctoral
- The name of the student's major shown in SEVIS is on the [STEM Designated Degree Program List](#)
- SEVIS shows the student is on an approved period of OPT that has not expired
- The employer name and address entered into SEVIS are entered exactly as provided by the student

While the DSO must ensure that the student knows that he or she must work for an [E-Verify employer](#), the DSO is not responsible for verifying an employer's registration with E-Verify.

Note that the extension application of a student who is ineligible for an extension will be denied and the application fee will not be refunded.

### **8.2.2. When does the student need to file for the extension?**

The student must ensure the Form I-765, the supporting evidence, and the fee payment reaches the proper USCIS Service Center before his or her current OPT expires. USCIS recommends that students file within 90 and 120 days of the expiration date of the current OPT.

### **8.2.3. What are the DSO's responsibilities for assisting a student who is filing for a STEM extension?**

The DSO must [verify the student's eligibility for the extension](#), make the recommendation in SEVIS if the school supports the student's request, and print a Form I-20 showing the recommendation.

### **8.2.4. How and where does the student for file the extension?**

The student should follow the directions published on the USCIS Web site for [filing a Form I-765, Application for Employment Authorization](#). The student should file with the USCIS Service Center serving the area of the student's current residence.

**8.2.5. What is the fee for the application for the STEM extension?**

The fee is the current amount for [filing a Form I-765, Application for Employment Authorization](#), as listed on the USCIS Web site. At the time this guidance was published, the fee was \$340.

**8.2.6. What if the DSO believes the student is eligible for the extension but SEVIS does not show the link needed to request the extension?**

The DSO should contact the SEVIS help desk at (800) 892-4829 and request a data fix.

**8.2.7. If the extension link shows in SEVIS, does this indicate the student is eligible for the extension?**

No. The link is available for all students currently participating in post-completion OPT. The DSO must verify the [individual student's eligibility](#) for the STEM extension.

**8.2.8. What documents will meet the USCIS requirements on the Form I-765 for a copy of the student's degree?**

The student may provide one of the following documents in order to meet these requirements:

- Official transcripts
- Unofficial transcripts
- Copy of the diploma showing the level and program of study

**8.2.9. In Item 17 of the Form I-765, what should the student list as the degree?**

The student should list the name of the degree as it is shown on his or her Form I-20. In addition, the [CIP Code](#) for the student's degree will be printed on page 3 of the Form I-20. The USCIS adjudicator will verify that the student's degree is on the STEM Designated Degree Program List by using the CIP Code.

If a student with a dual major has the STEM degree listed as the secondary major in SEVIS, the DSO must annotate this on the Form I-20 the student will submit to USCIS. The student should provide the CIP Code for the secondary major on the Form I-765.

**8.3. E-Verify**

**8.3.1. Is there a resource list of employers who are enrolled in the E-Verify program?**

No, there is no public list of employers enrolled in E-Verify.

**8.3.2. How do employers enroll in E-Verify?**

The USCIS Web site has information on E-Verify and the enrollment procedures at [www.uscis.gov/everify](http://www.uscis.gov/everify).

**8.3.3. What does the student need to know about the employer in order to complete the Form I-765 when applying for the STEM extension?**

The student must have the employer's name as listed in E-Verify and the employer's E-Verify company identification number or a valid E-Verify client company identification number. This information must be listed in item 17 of the Form I-765.

**8.3.4. Is the DSO responsible for verifying that the student is working for an E-Verify employer?**

No. A USCIS adjudicator will make this determination by verifying the information in Item 17 of the student's Form I-765.

**8.4. Employment authorization while the STEM Extension Application is pending**

**8.4.1. When does the student's period of STEM extension OPT start?**

If the student has properly filed for a STEM extension, the student's period of STEM extension OPT starts the day after the expiration of the student's original period of optional practical training.

The student must comply with all the [requirements for students with a STEM extension](#).

**8.4.2. Can the student work with an expired employment authorization document while a STEM extension is pending?**

Yes. 8 CFR 214.2(f)(11)(i)(C) and 8 CFR 247a.12(c)(6)(iv) automatically extends the student's work authorization for up to 180 days while the student's STEM extension application is pending.

**8.4.3. Can the student change employers while the STEM extension application is pending?**

Yes. However, if the STEM extension period has started, the employer must also be an E-Verify employer. The student must [report the change in employment](#) to his or her DSO.

**8.4.4. Can the student travel outside of the United States if his or her employment authorization document expires and the OPT extension request is pending?**

No. The student must wait to receive the new employment authorization document.

**8.5. How do employers report to a DSO that a STEM extension OPT student is no longer employed?**

The school may provide the student with information on how to report the end of the student's employment. The student must provide this information to the employer. If the school does not provide alternative instructions the employer may send the report to the school address listed on the student's Form I-20.

The employer should provide the student's name, SEVIS ID number (if available), and the date that the student's employment ended.

**8.6. Student responsibilities while on STEM extension OPT**

Students pursuing a period of STEM extension OPT must:

- Work in a paid position for an E-Verify employer at least 20 hours per week
- Work in a position related to the STEM degree
- Report to their DSO within 10 days of:
  - Legal name changes
  - A change in residential or mailing address
  - Changes in employer, giving the employer name and employer address
  - Loss of employment
- Send the DSO a validation report every six months starting from the date the STEM extension starts and ending when the student's F-1 status ends or the STEM extension ends, whichever is first. The validation report must include the student's:
  - Full legal name
  - SEVIS identification number (if requested by the school)
  - Current mailing and residential address
  - Name and address of the current employer
  - Date the student began working for the current employer

Students pursuing a period of STEM extension OPT must **not**:



- Work in a paid position for any employer that is not an E-Verify employer
- Have more than 120 days of unemployment time during the entire period of post-completion OPT (regular post-completion OPT and STEM extension OPT).

**8.7. DSO responsibilities relating to students who have been granted STEM extension OPT**

The DSO must update SEVIS with information on changes to the student's name and address and changes in the student's employer's name and address.

This chart shows how to enter the reported information into SEVIS.

<b>Situation</b>	<b>Employer Name Field</b>	<b>Employer Address Field</b>
New job	Name of the employer [start date mm/dd/yyyy] Example: ABC Inc. [04/15/2008]	Employer address supplied by student
Change to a new job (less than 10 days between jobs)	Name of the new employer [start date mm/dd/yyyy] Example: A New Job, Inc. [06/15/2008]	New employer's address supplied by student
More than 10 days of unemployment	Unemployed [ending date of last job mm/dd/yyyy] Example: Unemployed [07/12/2008]	Leave blank

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**9. CAP GAP AUTOMATIC EXTENSION FOR F-1 STUDENTS WHO ARE THE SUBJECT OF AN H-1B PETITION**

**9.1. Basic provisions**

The eligibility date is the date a USCIS Service Center receives a properly filed Form I-129, Petition for a Nonimmigrant Worker, naming the student as a beneficiary of the petition from the prospective employer.

The cap gap extension starts when the student's current period of F-1 status ends, regardless of whether the student was in a period of OPT. However, if the student was not in a period of authorized post-completion

OPT on the eligibility date, the extension of status starts on the day after the student's initial grace period expires.

**9.1.1. What determines the length of the cap gap extension?**

The following chart shows how the length of the cap gap extension is determined.

**Events Impacting the Length of the Cap Gap Extension**

<b>The Petition Naming the Student:</b>	<b>Impact on Cap-Gap OPT</b>	<b>Impact on F-1 Status</b>	<b>Extension Request Needed</b>	<b>Action Required by Student</b>	<b>Action Required by DSO</b>
Is properly filed	OPT extended to the June 2, 2008, (the date announced by USCIS as the likely date for the end of the receipting period)	F-1 status extended to August 2, 2008	Yes	Must send a request for the extension to DSO with proof of proper filing ( <a href="#">see note 1</a> )	Request a data fix from the SEVIS help desk in response to student's request ( <a href="#">see note 1</a> )
Is not selected for receipting during the <a href="#">random selection process</a>	No additional extension	No additional extension	N/A	None	None
Is selected for <a href="#">wait-listing</a>	OPT authorization is extended to July 28 for FY 2008 (allowing the 8 weeks USCIS expects to need before receipting or returning the application)	F-1 status is extended to September 27	Yes	Must send a request for the extension to DSO with proof that the petition was wait listed ( <a href="#">see note 2</a> )	Request a data fix from the SEVIS help desk ( <a href="#">see note 2</a> )
Is selected for receipting	OPT authorization is extended to September 30	The student's record completes on September 30, ending the nonimmigrant's F-1 status	No, SEVIS will use the data from CLAIMS	Student may request the DSO print a Form I-20 showing the extension	Print updated Form I-20 as requested
Is withdrawn or denied	OPT authorization ends 10 days after the date of the withdrawal or denial	Grace period ends 60 days after the date of the withdrawal or denial	No, SEVIS will use the data from CLAIMS	Student must terminate OPT on the proper date and either leave the United States upon expiration of the grace period or take other steps to maintain status	None

*Note 1: If a student's regular period of OPT extends to June 2, the student does not need to make the request*

*Note 2: If a student's regular period of OPT extends to July 28, the student does not need to make the request*

**9.1.2. If a student was not in an authorized period of OPT on the eligibility date, can the student work during the cap gap extension?**

No. In order for a student to have employment authorization during the cap gap extension, the student must be in an approved period of OPT on the eligibility date.

**9.1.3. Do students need to file an application or pay a fee to receive a cap gap extension?**

No, the extension is granted automatically at no cost. However, as noted on the [chart of events impacting the length of the cap gap extension](#), the student may need to notify the DSO of his or her eligibility for extensions prior to the date USCIS issues a receipt for the H-1B petition listing the student as a beneficiary.

However, it is important to note that although the extension is automatically granted, SEVIS may not be automatically updated to show the extension. Students are responsible for checking with their DSOs and verifying that their SEVIS record has been updated with the extension. See the [section on how students will know they have a cap gap extension](#).

**9.1.4. What is the length of the cap gap extension?**

For students with active post-completion OPT, the cap gap extension for both employment and F-1 status starts the date the student's original OPT expires and ends September 30 unless the H-1B petition for the student is rejected, denied, or withdrawn. In those cases, the employment authorization ends and the grace period begins.

For students whose post-completion OPT expired prior to the filing date of the H-1B petition, the cap gap extension starts at the end of their grace period and ends September 30 unless the H-1B petition for the student is rejected, denied, or withdrawn. However, these students will not have work authorization.

Due to the complexities involved, students will receive cap gap extensions in increments, as the petition goes through the steps of filing, receipting, and adjudication.

- A student who is the beneficiary of a properly filed H-1B petition will have his or her OPT extended to June 2, 2008, and F-1 status extended to August 2, 2008

- A student who is the beneficiary of wait listed H-1B petition will have his or her OPT extended to July 28, 2008, and F-1 status extended to September 27, 2008
- A student who is the beneficiary of a receipted H-1B petition will have his or her OPT and F-1 status extended to September 30, 2008
- A student whose H-1B petition is withdrawn or denied will have his or her OPT extension terminate 10 days after the date of the withdrawal or denial and their F-1 status extension will end 60 days after that. Termination of the automatic extension will not prematurely terminate a student's period of approved OPT, as shown on the student's employment authorization document or the student's original period of F-1 status.

**9.1.5. Will students receive personal notification when they have a cap gap extension?**

Students will not automatically receive notification when they have a cap gap extension. Students must request a Form I-20 from their DSO showing the period of the extension. In some cases, students may need to notify their DSO they are eligible for the extension.

**9.1.6. How will students know they have a cap gap extension?**

Students must remain in contact with the employer that filed the Form I-129, Petition for a Nonimmigrant Worker, on their behalf and with their DSO.

Until USCIS issues receipt notices, only the petitioning employer will know when the application was properly filed or wait listed. The student may obtain evidence from the employer for either of these two events and ask the DSO to request a data fix from SEVP. If the student's current OPT expires before June 2, 2008, it is possible that the student will have to request such a data fix.

When USCIS has receipted an H-1B petition, the information is entered into CLAIMS (the system used by the USCIS Service Centers) and will be used to update SEVIS. However, there are some cases where the data from the interface does not properly update SEVIS. Students are responsible for checking with their DSOs and verifying that their SEVIS record has been updated with the extension.

**9.1.7. How will students know if their cap extension is terminated before September 30 due to a withdrawn or denied H-1B petition?**

Students will not be personally notified by DHS of a withdrawn or denied H-1B petition, so they must remain in contact with the sponsoring employer and their DSO. It is the student's responsibility to check regularly on his or her status.

**9.2. Proof of the extension of status and work authorization**

**9.2.1. What proof will students have that they are entitled to the extension of work authorization and status?**

SEVP is working to update SEVIS with the ability to print a Form I-20 showing the dates of continued F-1 status and employment authorization.

SEVP is also coordinating with other components of DHS to provide additional guidance on work authorization. This guidance will be updated as soon as the functionality exists or a workaround is developed.

**9.3. Issues with SEVIS and the cap gap extension**

**9.3.1. What if SEVIS does not show that an eligible student's work authorization and status have been extended?**

Students are responsible for checking with their DSOs and verifying that their SEVIS record has been updated with the extension. If the student's SEVIS record does not properly reflect his or her status, the student should ask the DSO to request a data fix and provide evidence that the student is entitled to the extension.

The evidence needed to support a data fix is:

- For a properly filed H-1B petition
  - A statement from the employer that the student is the beneficiary listed on a properly filed H-1B petition
  - Proof of delivery to a USCIS Service Center showing the date of receipt
- For a wait listed H-1B petition
  - A copy of the wait list letter from USCIS to the employer
- For a receipted or approved H-1B application
  - A copy of the receipt (Form I-797) and/or the receipt number

**9.3.2. What are the responsibilities of the DSO for ensuring that SEVIS properly shows the student has a cap gap extension?**

DSOs are responsible for:

- Providing status information in response to a student's request
- Requesting a data fix by calling SEVIS help desk at (800) 892-4829 and forwarding evidence provided by the student

DSOs are not responsible for initiating any actions in connection with the cap gap extensions.

**9.4. Student responsibilities during the cap gap extension**

**9.4.1. Can students travel outside the United States during a cap gap extension period and return in F-1 status?**

Yes, provided the student has a valid EAD. See 8 CFR 214.2(f)(13). A student may choose to leave the United States and obtain an H-1B visa to return to the United States to assume H-1B employment.

**9.4.2. Do the limits on unemployment time apply to students with a cap gap extension?**

Yes. The 90 day limitation on unemployment continues during the cap gap extension.

**9.4.3. What do students on a cap gap extension need to report to their DSO?**

As with all students on post-completion OPT, the student must report any change of address within 10 days, any legal name change, and interruptions of employment. See [8 CFR 214.2\(f\)\(12\),\(17\)](#).

In addition the student should follow directions in the [section on what students should report](#) to ensure that their status does not expire due to excessive unemployment time.

**9.4.4. What are the restrictions on the type of employment for a student with a cap gap OPT?**

See the section on [acceptable post-completion OPT employment](#).

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**10. REPORTING FOR STUDENTS ON POST-COMPLETION OPT**

Students on all types of post-completion OPT — regular, cap gap extension OPT, or STEM extension — OPT have reporting obligations.

All must report any change of address within 10 days, any legal name change, and interruptions of employment.

Students with regular OPT or a cap gap extension should see directions in the [section on what students should report](#) to ensure that their status does not expire due to excessive unemployment time.

Students with STEM extension OPT should follow the directions in the section on [responsibilities for students with a STEM extension](#).