

**Summary of New F-1 OPT Regulation
Effective April 8, 2008**

**This in an Interim Final Regulation with a 60 day comment period before
becoming final**

1. Gap Cap provision to extend status and work authorization to Oct. 1 H-1B begin date

1. If an H-1 Petition has been filed in a timely manner for an October 1 start date,
2. If the F-1 status will end between the time it has been filed and October 1,
3. Then F-1 status and employment authorization will be automatically extended to October 1.
4. However, if the petition is rejected, denied, or revoked, student status and work authorization is terminated at that time.

2. New regulations for 12 month OPT

- A. Applications may be filed during a period of 90 days prior to completion of degree requirements up until 60 days after completion of degree requirements.
- B. Application must be made within 30 days of the date that the DSO recommended the OPT. (Date on I-20)
- C. Precompletion OPT, done after all coursework is completed, and while doing research, now includes those completing a Bachelor’s degree.
- D. Students must report any change of name or address to the DSO within 10 days of the change. The DSO has 21 days to report to SEVIS.
- E. Students must report any employment within 10 days. DSO’s must report to SEVIS within 21 days.
- F. Students must report the end of any employment within 10 days. DSO’s must report to SEVIS within 21 days.
- G. OPT students are allowed an aggregate (total) of 90 days during the 12 month OPT period to be unemployed. Anything over 90 days puts the student out of status.
- H. Failure to report change of address, employment, change of employers, or ending employment puts the student out of status.

3. New 17 month extension for STEM (Science, Technology, Engineering, Math) degrees

- A. Students whose most recent degree (the one the 12 months OPT was based on) in a STEM field, may be eligible for a *one time* extension of OPT for 17 more months. DHS will determine if the degree qualifies. It will be determined by CIP code. The CIP codes included are:

Actuarial Science 52.1304

Computer Science 11.xxxx (except 11.06xx)

11.0101	11.0102	11.0103	11.0201	11.0202	11.0203
11.0301	11.0401	11.0501	11.0701	11.0801	11.0802
11.0803	11.0901	11.1001	11.1002	11.1003	11.1004

Engineering 14.xxx

14.0101	14.0201	14.0301	14.0401	14.0501	14.0601
14.0701	14.0801	14.0802	14.0803	14.0804	14.0805
14.0901	14.0902	14.0903	14.1001	14.1101	14.1201
14.1301	14.1401	14.1801	14.1901	14.2001	14.2101
14.2201	14.2301	14.2401	14.2701	14.2801	14.3101
14.3201	14.3301	14.3401	14.3501	14.3601	14.3701
14.3801	14.3901				

Engineering Technologies 15.xxx

15.0000	15.0101	15.0201	15.0303	15.0304	15.0305
15.0401	15.0403	15.0404	15.0405	15.0501	15.0503
15.0505	15.0506	15.0507	15.0508	15.0607	15.0611
15.0612	15.0613	15.0701	15.0702	15.0703	15.0704
15.0801	15.0803	15.0805	15.0901	15.0903	15.1001
15.1102	15.1103	15.1201	15.1202	15.1203	15.1204
15.1301	15.1302	15.1303	15.1304	15.1305	15.1306
15.1401	15.1501				

Biological and Medical Sciences 26.xxxx

26.0101	26.0102	26.0202	26.0203	26.0204	26.0205
26.0206	26.0207	26.0208	26.0209	26.0210	26.0301
26.0305	26.0307	26.0308	26.0401	26.0403	26.0404
26.0405	26.0406	26.0407	26.0502	26.0503	26.0504
26.0505	26.0506	26.0507	26.0701	26.0702	26.0707
26.0708	26.0709	26.0801	26.0802	26.0803	26.0804
26.0805	26.0806	26.0901	26.0902	26.0903	26.0904

26.0905	26.0906	26.0907	26.0908	26.0909	26.0910
26.0911	26.1001	26.1002	26.1003	26.1004	26.1005
26.1006	26.1007	26.1101	26.1102	26.1103	26.1201
26.1301	26.1302	26.1303	26.1304	26.1305	26.1306
26.1307	26.1308	26.1309			

Mathematics and Statistics 27.xxxx

27.0101	27.0102	27.0103	27.0104	27.0105	27.0301
27.0303	27.0501	27.0502			

Military Technologies 29.0101

Physical Sciences 40.xxxx

40.0101	40.0201	40.0202	40.0203	40.0401	40.0402
40.0403	40.0404	40.0501	40.0502	40.0503	40.0504
40.0506	40.0507	40.0508	40.0601	40.0602	40.0603
40.0604	40.0605	40.0606	40.0607	40.0801	40.0802
40.0804	40.0805	40.0806	40.0807	40.0808	40.0809
40.0810					

Science Technologies 41.xxxx

41.0101	41.0204	41.0205	41.0301
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Health Professions and Related Clinical Sciences 51.1401

- B. The Federal Register notice for this rule is available on line at <http://edocket.access.gpo>.
- C. Employer must be part of the E-Verify system
 - a. This application may cost the employer approximately \$170 in employee time and consultation expenses for registration

- b. At the end of the registration process, the employer will need to sign an MOU (Memorandum of Understanding) with DHS and the Social Security Administration. This will cost time in Human Resources, and possible legal consultation time. It will require the company to use E-Verify for all new hires at the company. They will also be agreeing to allow DHS to review their employment records. Violation will result in termination in participation in the program.
 - c. All new hires must be verified through E-Verify within 3 days of hire.
- D. Employer must agree to report when a student leaves his/her employment. The employer must report to the DSO no later than 48 hours after employment end. This ending is by choice of the employer, the employee, or if the employee has been absent without consent for 5 days, whichever comes first. The DSO must report to SEVIS.
- E. A new I-765 has been issued to include information about the student's degree and the employer.
 - The new I-765 asks:
 - Education level and major field of study
 - To submit a copy of the conferred degree
 - Employer's name as it shows in E-Verify
 - The employer's E-Verify company identification number, or the company's agent's client E-Verify number
- F. Application for extension will include a new I-20 from the DSO with a recommendation. It must be filed before the expiration of the 12 month OPT, should USCIS not complete adjudication before expiration of the original 12 month OPT, employment may continue for 180 days while waiting for the adjudication.
- G. Students must validate their address and employment to the DSO every 6 months.
- H. Students must report to DSO, within 10 days, any change in
 - Legal name
 - Residential or mailing address
 - Employer address and/or
 - Loss of employment
- I. The approving of the additional 17 months also allows the student an additional 30 days aggregate of unemployment, to add to the original 90 days given during the original 12 month OPT, for a total of 120 days.
- J. At the end of the 17 month extension, the student does have 60 days to remain in status, although not working to allow for time to leave the US, return to school, or change to another visa status.

NOTE: A new I-765 has been issued. Any former I-765's will no longer be valid as of May 8, 2008. You can find the new one at www.uscis.gov . The new one will be required for all applications using an I-765.

The regulation can be found in the Federal Register, April 8, 2008 edition:
<http://edocket.access.gpo.gov/2008/E8-7427.htm>

When reading the regulation note that there is a lengthy discussion first, followed by the actual regulation. There will be discrepancies between the wording in the discussion and in the regulation. The regulation itself is the final word.

This summary is prepared to the best of their knowledge by the staff of International Advising at the University of North Texas. April 16, 2008