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International

Understanding the 24-Month STEM OPT Rule

**Presented by:
UNT International Student &
Scholar Services (ISSS)**

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What is Optional Practical Training (OPT)?

- **Temporary employment that is directly related to an F-1 student's major area of study.**
- **Given after Bachelor's, Master's, & PhD programs.**
- ***A benefit* to F-1 students.**
- **Standard post-completion OPT lasts for 12 months.**

What is STEM OPT?



F-1 students approved for standard post-completion optional practical training based on a bachelor's, master's, or doctoral degree in a STEM (science, technology, engineering, mathematics) field that appears on the U.S. Department of Homeland Security's (DHS) STEM-Designated Degree Program List can apply to U.S. Citizenship & Immigration Services for a 24-month extension of post-completion OPT (for a total eligibility of up to 36 months).

What Was the 17-Month Extension?

- **The 17-month STEM extension was created in 2008 by DHS.**
- **This allowed students on Post-Completion OPT based on a bachelor's, master's, or PhD in *certain* STEM fields to be granted an additional 17 months of OPT for a total of 29 months of OPT.**
- **Allowed once in a lifetime.**
- **Types of employment allowed:**
 - **Multiple employers.**
 - **1099 employment.**
 - **Self-employment (business owner).**
 - **Employment through an agency or consulting firm.**

What Was the 17-Month Extension?, Continued



➤ **Students were required to:**

- **Work for an employer who is registered with USCIS' E-Verify database.**
- **Check in with UNT ISSS every 6 months.**
- **Report any changes in employer or personal information to UNT ISSS.**

➤ **Employers were required to:**

- **Report within 48 hours of termination or departure of a student on STEM OPT.**

Background on the WashTech Ruling



- **The Washington Alliance of Technology Workers sued the Department of Homeland Security (DHS) over the OPT program for F-1 students.**
- **WashTech argued that OPT caused grievances to its members through increased competition for STEM jobs.**
- **The resulting ruling invalidated the existing 17-month STEM OPT program on the ground that DHS had not followed the proper administrative process when implementing the rule.**
- **In response, DHS proposed and published a new final rule on STEM OPT.**

The 24-Month Extension



- **The 24-month STEM extension will go into effect on May 10, 2016.**
- **Allows students on Post-Completion OPT based on a bachelor's, master's, or PhD in *certain* STEM fields to be granted an additional 24 months of OPT for a total of 36 months of OPT.**
- **Allowed twice in a lifetime. Students may be eligible for a second extension after:**
 - **Earning another qualifying STEM degree at a higher degree level.**
 - **Obtaining a new initial period of standard 12 month Post-OPT.**

The 24-Month Extension, Cont.



- **Expands the total unemployment allowable while engaged in OPT and the STEM OPT extension. The new rule allows for 60 days during the 24-month extension for a total of 150 days through the entire OPT period.**
- **Students may apply up to 90 days before the expiration of their post-completion OPT. Students may *not* apply for the STEM extension during their 60 day grace period.**
- **Students are required to work a minimum of 20 hours a week for their employer.**
- **Requires students and employers to fully complete an individualized [Form I-983 Training Plan](#).**

The 24-Month Extension, Cont.

➤ Previous Degrees:

- **Students are able to apply for the STEM extension based on a previously obtained & directly related STEM degree from an accredited & SEVP (Student & Exchange Visitor Program) certified school, as long as the position is directly related to the STEM degree.**

For Example: If a student earns a BS in Biology & then an MBA & is on 12 month post-OPT for the MBA, the student may apply for the STEM extension based on the BS in Biology if they did not already use the STEM extension for their BS & their job is related to biology.

- 1. Student must be in a valid period of 12 month post-completion OPT.**
- 2. Their prior, qualifying STEM degree was conferred within 10 years preceding the date the DSO (Designated School Official) recommends the student for STEM OPT.**
- 3. The STEM degree needs to be listed on DHS's STEM List at the time the student submits their application.**

The 24-Month Extension, Cont.



➤ **Students with *Current* STEM OPT:**

- **Students on active 17-month STEM OPT after the effective date may be eligible to apply for the additional 7 months from USCIS if they meet all of the criteria:**
 1. **Application to USCIS must be filed between May 10th & August 8th, 2016.**
 2. **Must have at least 150 calendar days remaining prior to the expiration of the 17-month extension at the time the application is filed.**
 3. **Must meet all of the 24-month requirements including submitting Form I-983.**

➤ **Students with *Pending* STEM OPT:**

- **Any STEM OPT applications approved *before* the effective date of May 10th will fall under the old 17-month extension rules. These students can apply for the additional 7 months if they choose to do so.**
- **Any STEM OPT application still pending *after* May 10th will be sent a request for evidence by USCIS requesting a new DSO recommendation. This will require the student to submit Form I-983.**

The 24-Month Extension, Cont.



➤ **Types of Employment:**

1. The STEM Extension must involve a bona fide employer-employee relationship.

- **No volunteer work allowed!**

2. May participate in entrepreneurial ventures.

- **Students may not fill out their own Form I-983, Sections 3 to 6, nor act as their own employer for the purposes of the form.**
- **This will extremely limit self-employment options.**

The 24-Month Extension, Cont.



3. Employment through an agency or consulting firm is a grey area.

According to DHS,

“certain types of arrangements, including multiple employers, sole proprietorships, employment through ‘temp’ agencies, employment through consulting firm arrangements that provide labor for hire, & other relationships that do not constitute a bona fide employer-employee relationship”

do not make this type of employment apt for STEM Extension employment.

Form I-983 Training Plan

- **Before applying to USCIS for a STEM OPT extension, a STEM OPT student must download, complete, sign, & submit the Form I-983 to their DSO.**
- **The student & their prospective employer must work together to complete this form.**
- ***Students are responsible* for facilitating the completion of this form & submitting it to UNT ISSS with their STEM OPT request.**

Form I-983 Training Plan, Cont.



- **Employer must be enrolled in USCIS's E-Verify employment eligibility verification program & must, along with the student, complete & sign Form I-983.**
- **Form I-983 must include information that clearly describes how the training opportunity being offered by the employer has a direct relationship to the student's qualifying STEM degree.**
- **F-1 students must be a bona fide employee of the employer signing the Form I-983.**

Student Requirements

- 1. Submit the completed Form I-983 to UNT-ISSS in order to apply for STEM OPT. This is in addition to the STEM OPT request form that UNT-ISSS already requires.**
- 2. Six month validation reports- report to UNT-ISSS every six months with the following information:**
 - **Legal Name**
 - **Residential and mailing address**
 - **Employer name and address**
 - **Status of current employment/OPT experience**

Note: UNT-ISSS has an electronic form for this on our website.
- 3. Submit an updated Form I-983 to UNT-ISSS within 10 days of:**
 - **Beginning a new OPT experience with a new employer during the 24 month extension.**
 - **Any time there is a “material” change in the terms and conditions of the original Form I-983.**

REMEMBER: It is the student's responsibility to provide changes in information to their DSO, & failure to do so constitutes a violation of the student's F-1 status.

Student Requirements, Cont.

➤ What is a “material” change?

- Includes, but not limited to, any change of Employer Identification Number (EIN), any reduction in compensation from the amount previously submitted on the plan, any significant decrease in hours per week that a student engages in a STEM training opportunity, & any decrease in hours below the 20 hours per week minimum under this rule.
- If there are material changes to or deviations from the Form I-983 the DSO has on file during the STEM OPT extension period, the student & employer must sign a modified training plan reflecting the material changes. The student (or employer) must file the modified Form I-983 with the DSO.

4. Evaluations- Complete two self-evaluations during the 24 month period: the first one within 12 months of the STEM OPT start date & a second, final evaluation at the end of the STEM OPT period.

- Must be signed by the student & his or her employer & submitted to UNT-ISSS.

Employer Requirements

1. Complete & Certify the Form I-983

2. Review & Sign Annual Evaluations on Student Progress

- **The STEM OPT employer must review the student's annual self-evaluation on their progress & sign it to attest to its accuracy.**

3. Report Material Changes to an Existing Form I-983

- **Employers must work with the STEM OPT student to report to UNT-ISSS any material changes to the student's formal training plan by filling out a new Form I-983.**

Employer Requirements, Cont.



4. Report Loss of Employment

- **The employer and the student both must notify UNT-ISSS when the student's employment has been terminated for any reason before the end of the STEM OPT extension period.**
- **The employer must report this information to UNT-ISSS within 5 business days after the termination of the student's employment or the student's departure.**

Resources



1. DHS Study in the States STEM OPT Hub:

<https://studyinthestates.dhs.gov/stem-opt-hub>

2. Form I-983 Overview:

<https://studyinthestates.dhs.gov/form-i-983-overview>

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