

## F-1 OPTIONAL PRACTICAL TRAINING (OPT)

*Optional Practical Training (OPT) is defined in the regulations as "temporary employment for practical training directly related to the student's major area of study." Optional Practical Training (OPT) is a 12 month opportunity to work in the United States. It is a form of employment authorization that is a benefit of your F-1 student status, not a "working visa."*

### **While on OPT you are still an F-1 student for immigration purposes.**

*You are encouraged to read the information provided by the U.S. Bureau of Citizenship and Immigration Services at:  
<http://www.uscis.gov/i-765>*

F-1 regulations state that an F-1 student who has been in continuous valid status for a full academic year is entitled up to a 12-month period of Optional Practical Training after each completed higher level degree program with the exception of English Language Training. You may obtain authorization for Optional Practical Training before or after completion of a degree program. All authorized Optional Practical Training at a specific level will be counted toward each 12-month limit.

### **OPT BEFORE COMPLETION OF STUDIES (PRE-COMPLETION)**

Eligibility requirements for Optional Practical Training before completion of a degree program are: a student must be in full-time student status for at least one academic year; a student maintains a full-time program of study and valid F-1 status. The applicant must intend to work in a job directly related to the student's course of study. A job offer is not required to request OPT.

If the above eligibility requirements are met, Optional Practical Training can be requested and authorized through OGI and USCIS as follows:

1. While school is in session: OPT (Optional Practical Training) can be authorized for up to 20 hours/week. The period authorized will be deducted from the 12-month total at a rate of one half month for each month authorized;
2. During vacation periods: OPT may be authorized either part-time or full-time (more than 20 hours/week); and deducted from the total allowed accordingly.

*Once OPT has been approved, it is virtually impossible to have it rescinded.* Because of the long approval process and expense of Optional Practical Training, in general it is more beneficial for students to use Curricular Practical Training during the course of their studies and save OPT for after completion of their programs of studies.

### **OPT AFTER COMPLETION OF STUDIES (POST-COMPLETION)**

To be eligible for post-completion OPT, the applicant must have been a student valid nonimmigrant status for at least one academic year (minimum of 9 months) prior to the start of OPT; must have continuously maintained a full-time program of study, with the exception of authorized Reduced Course Loads; be maintaining valid F-1 status; be completing or have completed a program of study or degree (to start full time work in OPT) or be a post graduate student with only thesis work remaining; and student must intend to work in a job directly related to his or her major course of study. A job offer is not required to request OPT.

Post-completion OPT authorization should commence within 60 days of your completion date and is required to end no later than 14 months from your completion date. Completion of study date is usually the

date a student completes the actual degree requirements (last day of finals in last term), *not* the date of the graduation ceremony or the date a degree is posted.

After completion of a studies/degree program, OPT may be authorized for any period up to the maximum amount allowed (12 months) or time remaining when other OPT has been used at the same level of studies. For example, if a student did not use OPT during his course of study, the student will have 12 months available; but if a student has used several months of OPT before the completion of her degree program, s/he may request the *remainder* of the 12 months not previously approved.

## **MAINTAINING STATUS DURING POST COMPLETION OPT**

*While you are on Post Completion Optional Practical Training, you are still an EWU student for immigration purposes and are required to report regularly to OGI and the Student and Exchange Visitor Program (SEVP) to maintain valid visa status.*

We expect new functionality in SEVIS in February 2017 enabling students to directly update employment and contact information to an SEVP Portal. Within the Portal or by contacting OGI, you are required to report:

- Any change of residence within 10 days.
- Any and all employment information within 10 days, including
  - Name of employer or company
  - Employer address
  - Job title
  - Employment start date (and end date when applicable)
  - Full or part time for each employer (Full time = 20 hours per week or more)
  - How the job is related to your major coursework. How does this use your degree?
  - Supervisor information: name, telephone number, email address
  - Employer Identification Number (EIN), available from pay-stubs, W-2 forms, or Human Resources staff

## **Limits on unemployment**

8 C.F.R. § 214.2(f)(10)(ii)(E) (effective April 8, 2008) states that "during post-completion OPT, F-1 status is dependent upon employment," and sets an aggregate limit of 90 calendar days of "unemployment" that can be accrued while on post-completion OPT. If a student receives a 24-month STEM OPT extension, the limit on unemployment is raised to an aggregate of no more than 150 days, applied to the entire 36-month period of post-completion OPT (60 days). Time spent outside of the U.S. or on vacation inside the U.S. after approval may count towards your 90/150 day unemployment limit unless you are on an authorized vacation from an established position or traveling for work. If you are considering traveling, or taking leave from current employer for any reason, please discuss the situation with a DSO, who can update you on current regulations.

**The following scenarios all count individually and in combination as “employment” for OPT purposes during regular post-completion OPT:**

- Regular paid employment in a position directly related to the student's program of study (for post-completion OPT, employment must equal 20 hours or more per week). It is permissible to work for multiple employers, as long as all positions are directly related to the student's program of study.
- Multiple short-term employers. SEVP says that "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."

- Work for hire. SEVP says, "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 should 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. SEVP says, "Students on OPT may start a business and be self-employed. The student *should be able to prove that he or she has the proper business licenses and is actively engaged in a business related to his or her degree program.*"
- Employment through an agency. According to SEVP "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."
- Volunteers or unpaid interns: SEVP guidance says "Students may work as volunteers or unpaid interns, where this practice does not violate any labor laws. The work should be at least 20 hours per week for students on post-completion OPT. A student should be able to provide evidence, acquired from the student's employer, to verify that he or she worked at least 20 hours per week during the period of employment."
- Combinations of one or more of the above employment options
- **Note that very different rules apply during any STEM OPT extension period**

Since OPT is specifically for training in your field of study, all employment must be directly related to your major field(s) of study and should be appropriate to degree level. **SEVP requires students to explain how employment activities are related the program of studies when reporting employment to OGI & SEVP.** In addition, SEVP recommends that students maintain evidence of each job held – position, proof of duration, job title, contact information from the student’s supervisor 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 recommends that the student obtain a signed letter from his or her hiring official, supervisor, or manager stating how the student's degree is related to the work performed.* Any employment that is not clearly related to your studies may require additional proof or justification. In particular, if you are volunteering to meet the “employment” requirement for OPT, it is important to keep careful records of your activities and the time involved.

The obligation to evaluate how a job relates to your major area of study is yours, not OGI’s. OGI immigration advisors cannot evaluate whether a particular job is acceptably related to your studies – however, if an advisor indicates concern about the relationship, you would be wise to be extra careful in your record keeping and explanation of the relationship for SEVP. Final authority on what constitutes appropriate employment rests with the Department of Homeland Security. OGI will update your SEVIS record with the job information you provide through our Canvas OGI class.

### **Transferring voids your remaining OPT**

It is permissible to study “incidentally” while on post-completion OPT. However, if you are intending to go on to another program of studies, please plan your transfer carefully. If you request an immigration transfer (or program change at EWU) date within your authorized period of OPT, your OPT authorization ends on the date of SEVIS transfer regardless of when you are scheduled to begin classes or complete your period of employment. Please discuss your plans with an OGI advisor and plan your dates carefully.

### **Permanent departure after OPT is granted**

Departing the US does not automatically complete your SEVIS status correctly. If you plan to return home and do not intend to engage in further employment, let OGI know when you have returned home. It is important to have your SEVIS record updated for “completion” rather than a termination for lack of employment during authorized OPT.

### **Grace Period on Completion of OPT**

Students who do not exceed unemployment limits or otherwise violated OPT regulations have a 60-day grace period after the end date listed on the EAD (Employment Authorization Document/I-766). Your 60-day grace period may be used to prepare for departure from the US, transfer to a new school, change levels of study at EWU, or apply for a change of status.

If your OPT application is denied, the duration of your legal F-1 status returns to the end of your studies or I-20 end date (whichever is sooner) plus 60 days grace period. If your grace period has not started or you are still in the grace period, you may stay in the U.S. for the remainder of the 60 days. However if your grace period has already ended, you should depart the U.S. immediately.

### **24 Month Extension for some STEM students**

Students who have earned a degree or completed all requirements towards a degree from an accredited U.S. institution in specific Science, Technology, Engineering, and Math (STEM) fields and who are participating in regular post-completion OPT may be eligible for a 24 month extension of OPT. STEM extensions may be based on the degree most recently completed or a prior degree in an approved STEM field, and the benefit may be approved twice in a lifetime.

The extension must be directly related to the STEM OPT employment opportunity in a field that appears on STEM Designated Program List from Immigration & Customs Enforcement (ICE). Eligible degree fields are listed by their Classification of Instructional Programs (CIP) code as designated by the US Department of Education. Please note, not all STEM programs qualify for the extension

## **ADDITIONAL CONSIDERATIONS**

### **Non-cancellation of Optional Practical Training**

Once authorization to engage in OPT is granted, getting it rescinded or canceled may be impossible. This means that unexpected delays such as completing degree requirements, inability to find an appropriate job and loss of a job may result in loss of otherwise eligible time to work. Once permission to work for 12 months has been granted, assume that will be your **ONLY** chance to use it, and plan accordingly.

Exception: If OPT has not yet been approved by USCIS, it is sometimes possible for an application to be withdrawn through a direct request from you to the appropriate USCIS Service center and your DSO; please submit your cancellation request in writing to OGI immediately and request additional information. Please be aware that there are no guarantees that a request to rescind will be successful and that filing fees will never be refunded.

If you decide not to pursue OPT because you find you will not complete your educational program as expected, please contact OGI immediately. The next steps will vary according to your individual situation, but in most cases, your I-20 will need to be extended immediately.

If the employment authorization application has already been approved, and if you have not already reached the end date on your I-20, request an extension of your I-20 from OGI immediately to the date you will

actually complete your studies. You may then work part time while enrolled in courses to complete the requirements for your program and full time during breaks and vacations. After successful completion of all the program requirements, you may work full time during the remaining period of OPT. Please note you will still be limited to 90 cumulative calendar days of unemployment during this period. However, if you have reached your program end date, your I-20 cannot be extended.

### **Transferring voids your remaining OPT**

It is permissible to study “incidentally” while on post-completion OPT. However, if you are intending to go on to another program of studies, please plan your transfer carefully. If you request an immigration transfer (or program change at EWU) date within your authorized period of OPT, your OPT authorization ends on the date of SEVIS transfer regardless of when you are scheduled to begin classes or complete your period of employment. Please discuss your plans with an OGI advisor and plan your dates carefully.

### **Permanent departure after OPT is granted**

Departing the US does not automatically complete your SEVIS status correctly. If you plan to return home and do not intend to engage in further employment, let OGI know when you have returned home. It is important to have your SEVIS record updated for “completion” rather than a termination for lack of employment during authorized OPT.

### **Social Security Number**

If you plan to work in the U.S., you will need a valid Social Security Number (SSN). If you have not previously received an SSN, according to the Social Security Administration you do not need a letter of employment if you have an EAD, however, in practice you may be asked for one. See <https://www.socialsecurity.gov/pubs/EN-05-10181.pdf> for additional information. Processing your application and issuing you a number will probably take about two weeks. At your appointment you can request a receipt letter, which serves as proof to your employer that you have applied properly and timely.

### **Health Insurance**

At this writing the Affordable Care Act requires everyone residing in the US to carry a minimum amount of health insurance. Students may wish to consider other health insurance options if their employers do not offer insurance. EWU’s International Health Insurance, which exceeds ACA requirements, is available by request through EWU for students on post-completion OPT; request coverage at the beginning of each term, so long as the coverage is continuous, by emailing OGI at [global@ewu.edu](mailto:global@ewu.edu).

### **Taxes**

In general, F-1 students who have been in the U.S. for less than five years are exempt from social security taxes (also known as F.I.C.A. tax). You should be sure to notify your employer because many employers are not familiar with this provision of the tax laws. The information is in Tax Publication 519 from the Internal Revenue Service (IRS) and is updated each year.

F-1 students authorized for practical training employment are subject to all other taxes that may apply: federal, state, and local. You should consult an accountant or tax attorney for more information. IRS information is available at <http://www.irs.gov/businesses/small/international/article/0,,id=96431,00.html>

EWU provides access to nonresident alien tax software to students on OPT via Eagles email or the EWU Portal, so it is important that you keep your student account active. Access codes are usually sent in February. Please contact a DSO in mid-February if you have questions or have not received an access code.

## **Employment Eligibility Verification**

At the time of hire, you and your employer must complete a form entitled Employment Verification (USCIS FORM I-9). This form will be kept on file by your employer and must be updated each time you receive a renewal of your work permission. Employers are not permitted to ask for specific documents, but you should plan to bring your EAD as a “List A” document that establishes both identity and authorization to work in the U.S. No other document or combination of documents proves this during your OPT period. Employers do sometimes also request to see your Social Security Card to verify that they have the correct number on file for tax reporting.

## **Travel Abroad and Re-Entering the United States**

*Please note: while the OPT application is pending at USCIS, travel outside the U.S. is discouraged. You should plan to contact OGI prior to any travel outside the U.S. during your application period or during OPT. If USCIS sends an RFE regarding your OPT application while you are gone, you may not be able to respond in time and may lose your opportunity to participate in OPT at the current level.*

F-1 students who have been authorized for OPT can travel outside the U.S. if they have the necessary documents. You will need (1) a form I-20 endorsed by OGI within the last six months (note this is a change from your time as a student, when you needed a signature only once per year); (2) a valid F-1 U.S. visa stamp; (3) the Employment Authorization Document (EAD) issued by USCIS or the receipt notice; and (4) proof of employment. If you do not have these documents, you may not be allowed to reenter the U.S.

If your F-1 visa stamp has expired, you will need to apply for a new one to reenter the U.S., and you will be required to prove nonimmigrant intent. As this may be difficult to do in some instances, you are urged to consult with OGI and your employer before making your travel plans.

It is important to understand that time spent outside the United States during an approved period of post-completion OPT counts against your unemployment limits, unless the you are either: 1) employed during a period of leave authorized by an employer; or traveling as part of your employment.”

## **APPLICATION PROCEDURES FOR PRE- & POST- COMPLETION OPT**

At the time of this writing, applications for post completion OPT may be submitted between 90 days before completion of studies and up to the end of your 60 day post completion grace period. However, it is not recommended that you apply any closer to the end of your grace period than 2 weeks, as USCIS must receive and acknowledge your application prior to the expiration of your grace period. USCIS will also deny applications received too early.

USCIS will absolutely deny any applicant whose application is received more than 30 days after the DSO endorses an OPT recommendation in SEVIS – no appeals are allowed, although if you are still within your

application window you may apply (and pay the fee) again. **DO NOT WAIT TO MAIL YOUR OPT PACKET.**

The following information and forms are required to apply. OPT packets can be obtained from OGI. Processing time at USCIS can take 3 months or more, so apply early.

Please complete the forms included in the packet and gather all required documents. Bring them with you to a final appointment with an immigration advisor. The following is required to file the OPT application:

- Application for degree candidacy (with updated course completion information), signed graduation application checklist, or other proof that you are completing your studies (for post-completion)
- Completed OGI OPT Request Form signed by you and your academic advisor, Department Chair, or Dean
- Check or money order drawn on a US bank account or financial institution to US Department of Homeland Security for the filing fee (currently \$410) – personal checks are recommended, since it allows you to gauge when the check has been cashed; however, you should ensure the funds will be available in your account. Checks drawn on insufficient funds will, at best, cause a delay in processing, but it is our understanding that it will soon cause a complete rejection of applications. We recommend that you include the notation I-765 with your SEVIS N number on the memo line.
- Completed Form I-765 available at <http://www.uscis.gov/i-765> marked or “(c)(3)(B)” for post-completion or “(c)(3)(A)” for pre-completion eligibility in item #16. I-765 forms should be completed as fillable PDF documents online, then printed and signed in black ink. Please note the address you list on the I-765 will be the address to which USCIS will send any correspondence and your final EAD. USCIS mail, including your EAD and requests for further evidence (RFE), cannot be forwarded by the postal service, so please be 100% sure this address will be valid for at least 4 months or use OGI’s address.
- 2 professional passport style photos with name and SEVIS ID number (“N” number) printed lightly in pencil on the back – photos should be less than 30 days old. Do not use “selfies” or similar photos. Photos cannot include eyeglasses. detailed guidelines for photo requirements can be found at <http://travel.state.gov/content/passports/en/passports/photos/photos.html> .
- Clear copies of any previous Forms I-20 from EWU and all previous institutions, regardless of SEVIS ID number, ONLY if they indicate any off campus employment authorization at any level of study. Only information pages need to be included – instruction pages (page 2 on I-20s issued before July 2015 or page 3 after July 2015) should not be included.
- Copy of passport information page (and update/modification page(s), if applicable)
- Copy of current or most recent student visa and/or change of status approval notice
- Printout of electronic I-94 information and copy of passport entry stamp OR copy of current I-94 card (front & back)
- Copy of previous I-766 EAD(s), if ever issued; including previous OPT and/or Economic Hardship authorizations
- Original 3x5” signature card – unlined 3x5 card with your signature in black ink (not required, but can prevent a delay for in person appointment for signing if your signature on the form I-765 cannot be scanned)
- G-1145 – <http://www.uscis.gov/files/form/g-1145.pdf> allows USCIS to notify you by email or text when your application is received (strongly recommended, but not required)

The DSO (Designated School Official) will review the above information. If everything is correct and complete, the DSO will provide a printout of the student’s SEVIS employment history, a cover letter, and issue a new SEVIS I-20 with the recommendation for OPT.

The EWU OPT application form and completion of studies documentation are retained in the student’s file. The new I-20 is retained by the student and a copy of it, along with a copy of your SEVIS employment

history if there is a continuous SEVIS ID and/or copies of any previous I-20s indicating employment information (information pages only), is sent with the completed application to the USCIS Lockbox servicing either the area of the school the student attended or the student's place of residence. Application assembly and mailing instructions are provided with the OPT I-20. Please make a copy (PDF preferred) of your entire assembled application packet before mailing.

USCIS will review the application. If the application is missing information, USCIS may issue a Request for Further Evidence ("RFE"); which must be responded to immediately. OGI Immigration Advisors can help you submit the additional information required. If your application is valid, USCIS will issue a plastic photo ID card called an I-766 "Employment Authorization Document" or "EAD," – ideally valid for the OPT period requested on page 2 of the student I-20. The EAD card will be sent to the address listed on the I-765. EADs cannot be forwarded by the US Postal Service – make sure you put a permanent address on your I-765 or use the OGI address.

**Employment is not permitted until you receive the EAD and the employment start date listed on the EAD is reached. Working before receiving the EAD or the start date is considered illegal employment by USCIS and USCIS will render the work as a violation of F-1 status.**

### **If your receipt does not arrive**

If it has been more than 30 days since you mailed your application to a Lockbox and have not received a receipt notice, please email [LockboxSupport@uscis.dhs.gov](mailto:LockboxSupport@uscis.dhs.gov) (and OGI) Please include the form number, receipt number (this is where G-1145 is a lifesaver), petitioner and/or applicant name, and mailing address with the email. **Never include social security numbers in emails.** You may also call the National Customer Service Center (NCSC) on (800) 375-5283.

### **If your EAD does not arrive**

USCIS will send the EAD using regular, first class US Postal mail. From the time Case Status Online indicates your request was approved, you should expect to wait a week or more for delivery of the EAD.:

If you are unable to locate or verify the delivery of your card. Call the USCIS customer service number 1 (800) 375-5283 and ask if your EAD was "returned undeliverable," or sent back to USCIS. Make detailed records of your conversation with the customer service agent, including the name of the agent, the date you called, any other information or advice provided.

Please be aware that there is rarely much OGI do to intervene when an EAD goes missing. You may ultimately need to apply for a replacement of the lost card and pay the fee again. If you have a job offer, contact your employer to make arrangements for delaying your start date. Remember, even if the Case Status Online shows your case was approved and the card was issued, you may not work until you have the EAD in hand, and have reached the authorization dates. You may not "volunteer" for a normally paid position while in the process of replacing your card.

### **If you lose your EAD**

You will need to file for a replacement at the same cost as your original application.

### **If there is an error on your EAD**

If there is any problem on your EAD, email a scanned copy of the card with a description of the exact problem (name misspelled, wrong dates, etc.) to your immigration advisor. Your advisor will provide the best advice available at the time.

It is important to remember, the dates on the card determine when you are authorized to work, even if they are not the dates for which you intended to apply or requested.

If USCIS approves the I-765 after the OPT start date you requested, the start date will be set as the date the application was approved. USCIS is unlikely to adjust the end date; therefore, your OPT period may be less than 12 months, particularly if you applied late. It is not possible to extend the period of employment based on the later start date.

### **If Your Application is Denied**

If your OPT application is denied, the duration of your legal F-1 status returns to the end of your studies or I-20 end date (whichever is sooner) plus 60 day grace period.

If your grace period has not started or you are still in the grace period, you may stay in the U.S. for the remainder of the 60 days. However, if your grace period has already ended, you should depart the U.S. immediately.

Denial appeals are rarely approved. If you believe you were denied in error, contact your DSO or private immigration attorney immediately.

### **APPLICATION TIPS**

- All application documents are scanned to an imaging system. All document copies included in the application should be clear enough to be legible after scanning.
- Type information into PDF Forms I-765 and G-1145. Never hand write your information – with the exception of your signature. If you make/notice a mistake after printing, correct the PDF version and reprint.
- Students who can prove potential financial hardship for an American company or job loss at the time of application may be able to request expedited processing. There is no guarantee that the application will be expedited.
- A delay in mailing your application for any reason could result in your OPT I-20 being “too old” to be accepted. OGI can “update” the OPT request and issue an I-20 if necessary when the delay in mailing was beyond the student’s control.
- Filing your application for post-completion OPT more than 90 days prior to your program end date will result in denial.
- Pay attention to your Form, I-797C, Notice of Action, receipt notice when it comes. It will show your receipt number and the office processing your case. Is everything spelled correctly?
- Choose your requested start date carefully. You may begin to work ONLY after you receive the EAD and no earlier than the start date on the EAD. Accumulation of unemployment days starts accumulating immediately if you do not start employment on the start date.
- Be sure to make a clear PDF copy for yourself and OGI. If you receive an RFE (Request for Further Evidence), you can include all of your previously submitted materials along with the requested documents (which are sometimes IN the material you already sent).
- Change of address while your application is pending? Be sure to either change your address online with USCIS at <https://egov.uscis.gov/coa/displayCOAForm.do> or immediately mail a form AR-11 <https://www.uscis.gov/ar-11> to USCIS (don’t do both!).
- Most frequent causes of RFEs (and thus a delay in an EAD being issued):
  - filing fee incorrect or missing
  - improper photos (too old, too dark, wrong size, missing, etc.)
  - prior employment – CPT or OPT (appropriateness, length, curricular nature)

- received more than 30 days after OPT recommendation in SEVIS system
- unsigned documents, particularly checks & Forms I-765

## **H-1B AND THE CAP GAP FOR STUDENTS WITH APPROVED OPT**

Congress set an annual fiscal year limit on the number of new H-1B numbers available to most H-1B petitioners [INA § 214(g)(1)(A)]. Usually this number is 65,000, with an additional 20,000 available for foreign nationals holding a master's or higher degree from a US university (a few employers such as institutions of higher education or some research institutions are not subject to the cap, it is worth giving extra consideration to these entities as employers). This limit is frequently referred to as "the H-1B cap." In most years the cap is reached quickly, sometimes in a matter of a few days of the numbers becoming available. Because of this, employers who need an H-1B employee usually apply as early as possible.

October 1 (the beginning of the federal fiscal year) is the day the limited annual supply of H-1B numbers become available, so October 1 is the employment start date used by employers to request a number for a cap-subject individual. The earliest that an employer can file an H-1B petition is 6 months before the requested start date, so April 1 (or the first business day in April), six months before the start of the fiscal year, has become the first day of the "H-1B filing season."

The "cap-gap" has become the common term to refer to the "gap" in nonimmigrant status that occurs in a change of status to H-1B, when the student's current nonimmigrant status expires before the requested H-1B start date. For example, if your OPT end date is July 15, the regulatory grace period extends your duration of status for 60 days beyond that, until September 13. The period between September 13 and October 1 is your "cap-gap."

A new rule, effective April 8, 2008 filled in this gap, so that duration of status (D/S), and any post-completion OPT work authorization are automatically extended for an F-1 student who is the beneficiary of a properly filed, timely H-1B petition which also requests a change of status and an employment start date of October 1 (the first day of the following fiscal year). This applies to all qualified students on post-completion OPT and their dependents. Even though the extension is automatic for those who qualify, you may wish to request a new I-20 that shows cap-gap information to document those benefits. If you request a cap-gap I-20, you should be prepared with proof that your employer has filed a proper and timely H-1B petition on your behalf and that a change of status petition was filed at the same time. Sometimes the information is available to your DSO in SEVIS, sometimes it is not. Remember that your employer must file a timely H-1B petition and request a change of status, and your H-1B start date must be October 1 for you to qualify for the cap gap extension. If they request a consular notification instead (for you to get an H-1B visa outside the US and return in H-1B status) you will NOT qualify. If your employer's H-1B petition for you is rejected, denied or revoked, the cap gap extension of your status and employment authorization TERMINATES immediately.

It is also important to note that if you are not still in authorized OPT on the eligibility date (the date the I-129 petition from your employer is received by USCIS), you are eligible for an extension of your status (eligibility to remain in the U.S.), but you are NOT eligible for an extension of *employment authorization*. Your employer must file your I-129 while you are still on authorized OPT for your work permission to be extended along with your status. Otherwise, you may remain in the U.S. but you may not continue your employment activities.

## **24 MONTH STEM EXTENSION**

Students who have earned a degree or completed all requirements towards a degree (other than a thesis or similar requirement) from an accredited U.S. institution in specific fields of study may be eligible for a 24 month extension of OPT. The extension must be directly related to the STEM OPT employment opportunity in a field that appears on STEM Designated Program List from Immigration & Customs

Enforcement (ICE). Eligible degree fields are listed by their Classification of Instructional Programs (CIP) code as designated by the US Department of Education. Please note, not all STEM programs qualify for the extension; see <https://www.ice.gov/sites/default/files/documents/Document/2016/stem-list.pdf> for details

You are eligible to apply for a 24-month OPT extension, beyond the initial 12 months of OPT, if you have all of the following:

- Qualifying degree and school. CIP code of degree's major field of study must appear on the DHS STEM Designated Degree Program List. Degree must be from an accredited, SEVP-certified, U.S. institution of higher education.
- Qualifying job. Working conditions for the applicant must be similar or equal to terms and conditions applicable to the employer's similarly situated U.S. workers in the area of employment; paid, 20 hours per week minimum, cannot replace a US worker
- Qualifying employer Enrolled in E-Verify; has an IRS Employer Identification Number (EIN); sufficient resources and personnel available to provide the training specified in the Form I-983 ( 8 CFR 214.2(f)(10)(ii)(C)(10)(i) ); signs the Form I-983 Training Plan, agreeing to the wage, working conditions, supervision, site visit, and reporting obligations set forth on the form and in the regulations; attests that training conducted pursuant to the OPT extension complies with all applicable Federal and State requirements relating to employment
- Form I-983 training plan. The student and employer must complete a Form I-983 Training Plan, and the student must present the completed I-983 to the DSO before the DSO recommends STEM OPT in SEVIS

### **STEM Reporting Requirements**

- Contact information. Report new contact information within 10 days of any change, including residential address, email and phone number.
- Employment information. Report employer information within 10 days of any change (examples: new employer, adding second employer, leaving employment, etc.). Submit new completed I-983, signed by your new employer must to OGI within TEN days starting new employment. If you decide to leave the US and abandon your OPT, you must notify OGI. You may not be unemployed for a cumulative period of more than 150 days total for post-completion and OPT Extension.
- Updates. Provide your 6-month update to OGI within 10 days of the end of 6th, 12th, and 18th month of STEM OPT Extension. SEVIS tracks these 6-month updates and will terminate the SEVIS record/immigration status deadlines are not met. You are responsible for tracking your reporting dates.
- Report changes to your Training Plan. Within 10 days by submitting new Form I-983, you must report any material changes or deviations from your initial Form I-983 formal training plan to OGI. These changes may include, but are not limited to: employer's EIN, reduction in student pay that is not tied to a reduction in hours worked, significant decrease in working hours per week; updates to the employer's commitments or student's learning objectives;
- Change of status. Report any change of immigration status (category) immediately. If you receive a change of status approval notice (US permanent resident, H-1B, etc) please email a copy of the approval notice to OGI so that your F1 SEVIS record can be ended properly.