Post-Completion OPT Application Period

(Information Updated April 10, 2008)

The new regulations have changed the time during which your Application for Employment Authorization (Form I-765) must be received by the appropriate U.S. Citizenship and Immigration Services (CIS) Service Center.

Applicable to: All F-1 students who apply for 12 months of post-completion OPT

Old Regulations: The appropriate CIS Service Center must receive Form I-765 before completion of all requirements for the program of study.

New Regulations: The appropriate CIS Service Center must receive your application sometime during the period that begins 90 days before the date you officially complete your study program and ends 60 days after you complete your studies, but within 30 days of the date your ISO Advisor recommends you for OPT authorization in the Student and Exchange Visitor Information System (SEVIS).

Eligibility: You must be in lawful F-1 student status.

ISO Evaluation: The addition of the 60 days after completion of studies to the application filing period will not be important to most students, as they will want to file their applications a month or two before completion of studies so they can receive the Employment Authorization Card (Form I-766) and begin work shortly after completion of studies. The few students who may benefit from this change will be those who are uncertain if they will actually complete all degree requirements by the end of the term, usually because of academic reasons. The change will allow these students to wait until final grades are posted before making a decision about applying for OPT.

The new requirement that the Application for Employment Authorization must be received by the appropriate CIS Service Center within 30 days of the date your ISO Advisor recommends you for post-completion OPT in SEVIS simply means that you and your ISO Advisor will need to communicate and coordinate your actions a little more precisely than in the past.
**Automatic Extension of Post-Completion OPT Authorization and D/S**

(Information Updated April 10, 2008)

This is the H-1B “cap-gap” provision. The new regulations provide for an automatic extension of post-completion OPT authorization from the date the Employment Authorization Card (Form I-766) expires to the following October 1, provided the student meets specific eligibility requirements.

**Applicable to:**
- All F-1 students who are currently authorized for post-completion OPT, provided they meet specific eligibility requirements
- All F-1 students who will be authorized for post-completion OPT in the future, provided they meet specific eligibility requirements

**Old Regulations:**
This is a new benefit that did not exist in the old F-1 regulations.

**New Regulations:**
Automatic extension of both the OPT employment authorization and the student’s F-1 status (D/S)

**Eligibility Requirements:**
You must be in and must maintain lawful F-1 student status until your status is officially changed from F-1 to H-1B.

An employer must have filed a petition with CIS seeking to employ you in H-1B status, and that petition:

a. Must be filed in a timely manner (Timely meant the petition must have been filed April 1-7 this year!)

b. Must request that your status be changed from F-1 to H-1B

c. Must request an H-1B employment start date of October 1 of that year

**ISO Evaluation:**
This new provision will be of great benefit to many F-1 students, as it allows them to continue employment after the OPT Employment Authorization Card expires. You will still have to wait to see if your H-1B petition is selected as one of those that will be processed within the cap limitation (78,200 for the fiscal year that begins October 01, 2008), and you will still have to wait to see if your H-1B petition, if selected, is approved. But you can continue employment after your OPT authorization expires and you will be considered to still be in F-1 student status with Duration of Status (D/S).

If your H-1B petition is selected and approved, you will be automatically eligible to continue your F-1 OPT until the next October 01, when your H-1B becomes effective. If your H-1B petition is not selected or is “rejected, denied, or revoked”, the new regulations state that the automatic extension of your OPT employment authorization and your F-1 status is automatically terminated, and you are expected to leave the U.S. within 60 days unless you change your status from F-1 to another lawful status (e.g., from F-1 to B-2 visitor) or legally extend your stay in the U.S. (e.g., return to school for another degree program).
Special Provisions for Science, Technology, Engineering, and Mathematics (STEM)

(Information Updated April 10, 2008)

The new regulations permit students whose most recent degrees are in certain STEM fields to apply for an OPT extension beyond the initial 12 months. The regulations also limit the time a student may be unemployed and place new reporting requirements on the student, the employer, and the school.

Applicable to: Students who are authorized for post-completion OPT whose degree is in a designated STEM field, provided their employment meets certain requirements
Students who will be authorized for post-completion OPT in the future whose degree will be in a STEM field, provided their employment meets certain requirements

Old Regulations: There were no special provisions in the old regulations for students in STEM fields.

New Regulations: Eligible students may request special STEM extensions for an additional 17 months, making it possible for some students to engage in post-completion OPT for up to 29 months (12-month initial authorization + 17-month STEM extension).

Eligibility Requirements:
- Your major field of study on your current Form I-20 must appear on the STEM Designated Degree Program List on the SEVIS Website.
- Your employer must be registered for and in good standing with the E-Verify Program, a free internet-based system operated by U.S. Citizenship and Immigration Services (CIS) in partnership with the Social Security Administration (SSA) that allows participating employers to verify the employment eligibility of their new employees.
- Your employer must agree to report the termination of your employment or your departure if the termination or departure occurs before your OPT Employment Authorization Card expires.
- You must not have had a previous 17-month STEM extension (i.e., you are eligible for only one during your lifetime).

Application Period: You must apply for this special extension while your current post-completion Employment Authorization Card is valid.

Periods of Unemployment: You may not be unemployed for more than 120 days, counting both the days during your initial 12 months of OPT and the days during the additional 17 months gained under this STEM extension provision.

Reporting Requirements: You must, within 10 days, report to the ISO any change in your name, mailing or residential address, employer name, work address, or interruption in employment. You must provide a "validation report" to the ISO every 6 months starting from the date the 17-month STEM extension begins and ending when you cease OPT employment, with the report due within 10 business days of each 6-month period.

ISO Evaluation: While a few students who are now in post-completion OPT and a few students who will graduate later this year may benefit from this provision, it will primarily benefit students who complete their studies in future years. The reasons for this are (1) very few U.S. employers currently participate in E-Verify and (2) the number of employers participating is expected to increase, perhaps significantly, in the coming years.

It is possible that some employers will decide to participate in E-Verify so that they can employ F-1 students for longer periods of time. The 17-month STEM extensions also increase the probability that employers can get H-1B petitions approved for F-1 students despite the H-1B cap. There are many other important factors an employer will likely want to consider in making a decision about possible participation, though.
Periods of Unemployment
During Any Initial 12-Month Period of Post-Completion OPT

(Information Updated April 10, 2008)

The new regulations create two periods of post-completion Optional Practical Training (OPT): (1) an initial 12-month period that is available to almost all F-1 students after completion of a program of study and (2) an additional 17-month period that is available only to F-1 students in STEM fields who work for employers who participate in the federal E-Verify Program. The information on this page applies only to the initial 12-month period of post-completion OPT.

The regulations place a limit on the number of days students can be unemployed during initial periods of post-completion OPT. This affects not only students who may become unemployed at some time after beginning employment but also how long students may search for an OPT job.

**Applicable to:**
- All F-1 students who are currently authorized for an initial 12-month period of post-completion OPT
- All F-1 students who will be authorized for an initial 12-month period of post-completion OPT in the future

**Old Regulations:**
This topic was not addressed in previous regulations.

**New Regulations:**
Students may not be unemployed for a total of more than 90 days during any initial 12-month period of post-completion OPT.

**Reporting Requirement:**
Students authorized to engage in post-completion OPT must report to the GW International Services Office (ISO) any (1) change in legal name, (2) change in address, or (3) interruption in employment. The ISO must report this information to the Student and Exchange Visitor Information System (SEVIS). [Note: These reporting requirements were in the previous regulations and continue to be in the current regulations. They are therefore not new. What is new is the 90-day limit on unemployment.]

**ISO Evaluation:**
This means that you must add together the number of days you are unemployed during the time your Employment Authorization Card (Form I-766) indicates you can work. If the number of days of unemployment ever reaches 90, the regulations indicate that you will not be considered to be in lawful F-1 status and will therefore not be eligible to work on OPT even if you later find a job.

This is probably most significant to students who do not have an OPT job when their cards indicate they may legally begin work. If you find yourself in that situation, it means that you must find a job that qualifies for OPT and begin work in that job within 90 days or you will not be in lawful F-1 status.