Optional Practical Training Extension

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Find Info at:
www.uwyo.edu/iss

Click here for all of the most current OPT information and live Reporting Survey Links
OPT Information Online
www.uwyo.edu/iss/opt

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OPT Extension: A Quick History & Basics

- Created in 2008 by the US Department of Homeland Security
- Also called STEM Extension or 17-month Extension
- Allows those with majors in designated “STEM fields” to apply for a 17-month extension of their OPT
- Requires that all employers during the extension period participate in the federal E-verify program
- Does not allow unpaid or volunteer employment
- Was challenged by the Washington Alliance of Technology Workers in March 2014. Judge vacated the 2008 regulation, but stayed its order until February 12, 2016.
- DHS has proposed new regulation to improve and expand “training opportunities”
- Public comment period on the new proposal ended on November 18, 2015
- In December 2015 DHS petitioned the judge to extend the stay of the order until May 10, 2016 to allow for proper review of more than 47,000 comments, updates to the proposal, and training for all agencies and schools. The stay has been approved and it will probably take until May to get the new proposal reviewed.
Timeline for OPT Extension Application and Processing

Those who plan to apply for OPT Extension must have studied in a designated STEM field and must be working for an employer registered with the federal E-Verify program. A list of designated STEM fields can be found on the ISS website. Students should ask their employer if they are registered with E-Verify.

Use the following timeline to help plan your OPT Extension application process and be aware of the typical processing times:

- **120 days before OPT EAD expiration:**
  Students who are eligible for OPT extension (STEM degree and working for an e-verify employer) and would like to extend their OPT should get the OPT extension application from the ISS website and begin gathering their application materials. Contact ISS with any questions. The OPT extension application will be processed by ISS similarly to how the original OPT application was processed. Students may apply for the OPT extension up to 120 days before the end of the OPT EAD.

- **90 days before OPT EAD expiration:**
  Those eligible for the OPT extension should meet with ISS staff or send application materials to ISS for processing. It may take up to 90 days for the OPT extension to be processed and it is advised that the student not wait to get this process started. OPT extension applications MUST be received by USCIS no later than the last day of the OPT EAD. Any applications received by USCIS after that date will not be accepted and the student must pursue alternate status to remain in the US. ISS must mail the completed application at least three business days before the last day of the OPT EAD to guarantee on-time delivery to USCIS.
Timeline for OPT Extension Application and Processing

- **Approximately two weeks after OPT Extension application is submitted:**
  ISS will receive official receipt notice (I-797) from USCIS and will email it to the student for their records. This means that USCIS has received the application only. Also, check/money order should be cashed by this date. Application status may be checked by going to www.uscis.gov and clicking on Check Case Status.

- **During processing:**
  If there are any missing documents or if more information is required to adjudicate the application, USCIS will send a Request for Evidence (RFE) to ISS. ISS will notify the student immediately if an RFE is received. It is unlikely, but a possibility.

- **Approximately 60-90 days after OPT Extension application receipt date:**
  OPT Extension should be approved no more than 90 days after receipt date. Processing times may vary and may be shorter than 90 days, or may be up to or beyond 90 days. Remember, student may continue working for up to 180 days while the OPT Extension application is being processed.

- **Within ten (10) days of any change of address, email, phone:**
  Complete the online survey on the OPT Information page of the ISS website to report any change of contact information within ten (10) days of that change.
Immediately with any new employment/change of employment:
Complete the online survey on the OPT Information page of the ISS website to report any change in employment. This includes first employment, end of employment, additional employment, or change of employment. If this information is not entered into SEVIS in a timely manner, the student's SEVIS record can be automatically terminated by the SEVIS system and they will be out of status. Remember, students on OPT may not be unemployed for more than 90 cumulative days during their one year of OPT.

Every Six (6) months after the start date of the OPT EAD:
Complete the online survey on the OPT Information page of the ISS website to give the required comprehensive 6-month update. This update is tracked by the SEVIS system and students who do not provide the update on time will have their SEVIS record terminated automatically by the SEVIS system. ISS will not be able to remind individual students to complete their 6-month report.

Immediately upon change of status:
Report any change status from F-1 on OPT to H1-B, US Permanent Resident, etc to ISS immediately and email a copy of change of status approval notice to ISS staff so that the SEVIS record can be properly updated/ended.

Completion date of the OPT EAD:
Student must stop working on the last day of the OPT Extension EAD. Please ask ISS staff if you have questions about the process at the end of your OPT Extension EAD. You should notify ISS of your plans to leave the US. If student on OPT Extension chooses to abandon the OPT and leave the US early, they should notify ISS so that the SEVIS record can be properly noted.

Timeline for OPT Extension Application and Processing
Recipients of a degree in designated STEM fields can apply to USCIS for an OPT extension. If the degree and code as listed on the UW record AND I-20 are not on the STEM list, OPT Extension is not allowed. STEM list can be found on the ISS OPT Information website or at http://www.ice.gov/sevis/stemlist.htm.

OPT Extension is only allowed once per lifetime, regardless of additional degrees earned.

Application for OPT extension may be filed up to 120 days before the end of the post-completion OPT and up to the OPT expiration date. It is recommended that the application be submitted 90 days before the post-completion OPT end date.

Student may continue working (up to 180 days) after the post-completion OPT end date while the OPT extension application is being adjudicated.

Students must currently have post-completion OPT based upon a STEM major and have employment or a job offer from an employer registered with the federal E-Verify program. E-Verify information can be found at www.uscis.gov.

Volunteer or unpaid employment is not allowed while on OPT Extension. Students may volunteer for personal reasons only and may not count that activity toward their employment.
OPT Extension in Detail

- The employer must agree to report to the DSO when the student is terminated or leaves employment, and to all regulations regarding employing a person on OPT Extension.

- Student must agree to continue to update their records with ISS, including a complete update every six months while on OPT Extension.

- A student may change employers and have multiple employers during the OPT Extension but all employers must participate in the E-Verify program.

- Documentation may be required to prove that the 90 day unemployment limit was not violated during the post-completion OPT.

- If a student receives an OPT extension, the limit on unemployment is raised to an aggregate of no more than 120 days, applied to the entire period of post-completion OPT and OPT Extension.

- When a student has gathered all required documentation for the OPT Extension application, they should contact ISS to make an appointment, or send their materials to ISS if living outside of Laramie, for processing. Remember that application must be received by USCIS BEFORE the OPT expiration date and extra time must be allowed when mailing application to ISS.
Reporting Requirements and Deadlines

- **Contact/Personal Info** – Report within 10 days of any change
  - Physical address – not a PO or mail box, email address, phone number
  - Admission to start a new academic program, change of status, leaving the US before the end of the EAD with no intention of returning to the US (abandoning the OPT)

- **Employment Info** – Report within 10 days of any change (immediate reporting is recommended)
  - Employment dates – start and end dates that match employer’s human resources record
  - Employer information
    - Name, Address, Employer ID Number (EIN), E-Verify number, Job Title
  - Supervisor Information
    - Name, phone number, email address
  - How is the employment related to your major field of study?
    - No more than two sentences that explain how the work is related to your major field of study. This will be entered directly into the SEVIS system.

- **6-month Update** – Report by the end of every 6 months
  - Provide a complete update at 12 months, 18 months and 24 months after the original OPT start date. During the extension period, the SEVIS system does track the 6-month update and will terminate a record that is not updated on each 6-month deadline.
  - ISS will not be able to remind individual students of their report dates
How to Report Updates to ISS

 반드시 온라인 설문지에 자신의 정보를 전달할 수 있도록 합니다.

 설문지에는 특정 정보가 필요하여 모든 SEVIS 필드가 ISS 직원이 완료할 수 있도록 합니다.

 학생들은 정보가 성공적으로 제출되 moment에 확인 이메일을 받습니다. 정보가 업데이트된 후에는 확인 이메일을 받지 않지만, ISS 직원은 정보를 수신한 후 1일 이내에 업데이트를 완료하려고 노력합니다.

 정보는 여전히 iss의 이메일 또는 사무실을 통해 제공할 수 있지만, 설문지를 이용하는 것이 선호됩니다.
SEVIS requires accurate information such as multiple employers and employment dates be entered into the system. This allows for better tracking for audit purposes. The SEVIS system tracks the employment dates for each job entered into SEVIS by ISS staff.

If a student record shows 90 consecutive* days of unemployment, SEVIS will automatically terminate the record for failing to maintain status.

*It is assumed that SEVIS will eventually track not just consecutive unemployment days, but cumulative days, per the regulations (120 cumulative days on OPT Extension)

If a student on OPT Extension fails to report their employer to ISS, their SEVIS record will be automatically terminated, the OPT cancelled, and they will be considered out of status. There is no regulation guaranteeing that this can be fixed after the fact.

SEVIS also tracks the 6-month OPT update on OPT Extension and will terminate the record if the employment is not verified by the ISS staff by the end of every six month.
Completing the OPT Extension Application

Checklist for OPT Extension Application

1. Complete USCIS Form I-765 – Question #16 is (c)(3)(C)

2. Complete the OPT Extension Information form

3. Employer’s letter acknowledging responsibility to report termination or departure of an OPT employee. Sample can be found on ISS OPT Information Website under Resources for Employers and Academic Advisors.

4. Official transcript documenting completion of your degree. Graduate students - If degree has not been awarded, provide a letter from your advisor confirming completion of all required coursework. Sample can be found on ISS OPT Information Website under Resources for Employers and Academic Advisors.

5. Complete Tips and SEVIS Requirements While on OPT form

6. Letter of recommendation from employer(s) also verifying your actual dates of employment during OPT, or a list all employers and actual dates of employment with each.

7. Copies of any new passport/extension, I-94, or visa since your original OPT application.

6. Two passport photos according to USCIS requirements, taken within the last 30 days. Make sure these are good quality photos that meet the requirements before you accept them!

7. Filing fee of $380.00. A check or money order made payable to “US Department of Homeland Security”. Cash or cards cannot be accepted as this must be mailed with the application to USCIS.
Form I-765

Sample

- Already completed
- Already completed
OPT Extension Information Form

OPT EXTENSION INFORMATION

Name: Cowboy Joe
SEVIS # N: 1234567891

Address: 1234 Any Street
Sometown St 12345

Phone Number: 307-555-5555

Major Code: 14.0701
Major: Chemical Engineering

OPT Receipt #: 1234567891

Job Title: Lab Technician

E-mail address: myemail@company.com

myemail@personal.com

Employer Name/Address:
Amazing Chem Labs
987 O2 Avenue
Sometown St 12345

Supervisor Contact Info:
Name: Smiley Supervisor
Title: Lab Director

Phone: 555-555-0000
Fax: 555-555-0001

E-mail address: supervisoremail@company.com

Revised 11/01/2015
ISS will fill in 6-month report dates in the blank based on OPT dates
Resources for Employers

Employers can find the following resources on the ISS OPT Information page:

✉ Documentation of OPT Approval and Tax Information for Employers – What documents should an F-1 with approved OPT be able to show the employer before being hired, and what are the tax codes that relate to employing a non-resident (for tax purposes).

✉ Sample – Employer’s Verification to Report Termination or Departure of Employee – Must be included with OPT Extension application.

✉ Continuation of Employment While Waiting for OPT Extension Approval – There is no document showing an official “extension” of the OPT status while waiting for approval, but the statutes allow the F-1 to continue working for up to 180 days while they wait. This document gives the USCIS regulation that allows this continued employment.

Please share this information with your employer for them to reference with regards to your OPT employment!
OPT Extension: Proposed Updates/Changes

Referenced in the OPT Extension History and Basics, DHS has proposed changes to the OPT Extension. The following is a summary of those proposed changes. NONE of these changes are official and all are subject to change as the process moves forward. Please read all emails from ISS regarding the changes and how those may/will be implemented.

- Change the length of extension from 17 months to 24 months
  - It is speculated that those on an approved 17 month extension may be able to petition to add 7 additional months of OPT to equal 24 months

- Allow extensions only to students with degrees from nationally accredited schools (recognized by the US Department of Education)

- Allow students who earn a higher degree in a STEM field to utilize an additional OPT extension period. Now, students are limited to one OPT extension per lifetime

- Allow student to use a prior degree in a STEM field as the basis for OPT Extension
  - Prior degree was in a STEM field and from an accredited institution
  - Employment must be directly related to the prior degree field

- Updated list of STEM majors to more clearly define which CIP/major codes qualify for OPT extension
OPT Extension: Proposed Updates/Changes

- Require formal mentoring and training plans by employer
  - DHS feels this will further enhance the academic benefit of OPT, supplement knowledge gained through their academic studies, and ensure that employers are committed to developing students’ knowledge and skills through practical experience.

- Add protections for students on OPT, as well as US workers
  - Prevent employers from discounting wages to those on OPT in order to avoid having to pay average salary to US workers protected by federal labor laws.
  - Prevents displacement of US workers or permanent residents in order to employ a student with OPT.
  - Clarifies DHS ability to perform site-visits to ensure employers are following proper procedure.

- Add 30 additional days of unemployment allowed if extension is approved. Would change total unemployment days allowed for OPT and Extension from 120 to 150.
OPT Extension: Retained Regulation

- Continue the reporting requirements with regards to employer and personal/contact info and the 6-month update

- Continue to require employer participation in the federal E-verify program for all employers during the OPT Extension period

- Continue the cap-gap extension for those with approved H-1B change of status to October 1\textsuperscript{st} of the current year
Bottom Line on OPT Extension

- There is nothing more that is official at this time
- DHS hopes that the final regulation will take effect by May 10, 2016 and that OPT extensions will continue, with some or all of the proposed updates
- It is unknown what would happen to those with active OPT extensions if the new regulations is not approved
- All official communication about the OPT Extension will come from the US Department of Homeland Security. Use caution when reading about the OPT Extension online, social media, etc
- ISS will continue to update students and those on OPT with any new information as soon as we receive it

Until a final decision is made, schools are instructed to continue processing OPT extension applications and reporting as usual
Official DHS Proposal

Federal Register: DHS Response and Proposed OPT Extension Regulation