OPT STEM EXTENSION UPDATE

New Rule

On March 11, 2016, the Department of Homeland Security published a final rule allowing certain F-1 students who receive science, technology, engineering, and mathematics (STEM) degrees, and who meet other specified requirements, to apply for a 24-month extension of their post-completion OPT. The 24-month extension will replace the 17-month STEM OPT extension previously available to STEM students. Eligible students may begin applying for a 24-month STEM OPT extension on May 10, 2016.

STEM OPT Extension Qualifications

To qualify for a 24-month STEM OPT extension, an F-1 student participating in an initial period of regular post-completion OPT must:

- Have a degree in an eligible STEM field from a Student and Exchange Visitor Program-certified school that is accredited when the student submits their STEM OPT extension application to USCIS.
- Pursue their STEM OPT extension through an employer that is enrolled in USCIS's E-Verify employment eligibility verification program.
- Select a STEM OPT employer that provides the student with formal training and learning objectives.
- Work a minimum of 20 hours per week per employer.

For more information about STEM OPT extension eligibility requirements, please visit our eligibility pages for students and school officials. For more information about applying for STEM OPT, please visit the USCIS website.

Form I-983

The 24-month STEM OPT rule increases the educational benefits that F-1 students receive from their practical training experiences by requiring the submission of a formal training plan.

The formal training plan must clearly articulate the STEM OPT student’s learning objectives and affirm the employer’s commitment to helping the student achieve those objectives. To fulfill this requirement, a student and their employer must complete and sign Form I-983 and submit it to the student’s DSO.

STEM OPT students and their employers are subject to the terms and conditions of the 24-month STEM OPT extension regulations, the Form I-983 instructions and the completed Form I-983, effective as of the employment start date requested for the associated STEM OPT period, as indicated on the Form I-983.

STEM OPT students may participate in entrepreneurial ventures where the student is an employee. However, they may not act as their own employer or as the signatory for the employer for the purposes of the form.
17-month OPT STEM regulations remain in effect through May 9, 2016

- DHS continues to adjudicate 17-month OPT STEM applications
- Any 17-month STEM OPT EAD that is issued before May 10, 2016, will remain valid until the EAD card expires, is terminated, or revoked
- If a student requests an OPT STEM extension before May 10, it will be treated as a 17-month extension request and adjudicated according to 17-month extension rules

Students with 17-month STEM OPT applications pending on May 10, 2016

- DHS will apply the requirements of the 24-month STEM extension to pending 17-month STEM applications
- On May 10, 2016, USCIS will issue RFE’s to students whose applications are still pending. RFE’s will allow students to amend their application to show they are eligible for the 24-month extension
  - No additional fees
  - Do not have to refile application

- Newly Certified Forms I-20 in the RFE Process
  - During the transition process, Forms I-20 certified by DSOs after the initial submission of the STEM OPT extension request will be considered valid if the Form I-20 is submitted in response to a transition period RFE.

Students with Existing 17-Month STEM OPT EADs on May 10, 2016

- Any 17-month STEM OPT EAD that USCIS issued on or before May 9, 2016, will remain valid until the EAD expires, is terminated or revoked.
- From May 10, 2016-August 8, 2016, certain student with EADs will be able to apply for an additional 7 months
- Must have at least 150 calendar days remaining before the end of the 17-month extension
- Must meet all other requirements of 24-month OPT extension
- Timely filing of OPT Extension Requirements
  - Must file I-765 with USCIS, along with fees and supporting documentation before August 8, 2016 (90 days after 5/10/16) and within 60 days of DSO recommendation for 24-month extension
- If Approved, USCIS will issue an EAD with a validity period that starts on the day after the expiration date stated in the 17-month STEM OPT EAD.
  - New terms and conditions of the 24-month extension apply upon the date the student properly files the I-765 requesting the 7-month extension – not day of approval.
- If Denied, the student, the student’s employer and the student’s DSO must, subsequent to the denial, continue to follow all the terms and conditions that were in effect when their 17-month STEM OPT employment authorization was granted.
I-20 Request for 24 month OPT STEM Extension

- ISSS will have the updated OPT extension request eform for 24 month extension available in early May. In order for ISSS to create the 24 month OPT extension request, the I-983 will need to be uploaded with the application. The 24 month OPT STEM Extension request cannot be made any earlier than May 10, 2016.
- Once the request for the 24 month extension has been made, it must be received at the appropriate Service Center within 60 days.

Unemployment

- The 150-day unemployment limit that is applicable to students who are granted the 24-month STEM OPT extension is also applicable to students whose seven-month extension is approved under the transitional plan.

***Students who are eligible for a Cap-Gap extension of post-completion OPT employment and F1-status may apply for a STEM OPT extension during the Cap-Gap extension period.

However, such application may not be made once the Cap-Gap extension period is terminated (if the H-1B petition is rejected, denied, revoked, or withdrawn), and the student has entered the 60-day departure preparation period.

Links to information regarding the new OPT STEM Extension Rule:

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

https://www.uscis.gov/working-united-states/students-and-exchange-visitors/students-and-employment/stem-opt