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## U.S. Immigration and Customs Enforcement

April 23, 2010

**POLICY GUIDANCE FOR:** Student and Exchange Visitor Program and Designated School Officials of SEVP-Certified Schools with F-1 Students Eligible for or Pursuing Post-Completion Optional Practical Training

**FROM:** SEVP Policy

**SUBJECT:** Policy Guidance 1004-03 – Update to Optional Practical Training

**Authority:** 8 CFR 214.2(f)(5), (10), (11), and (12) and 247a.12(c)(6)(iv) and (v)

**Purpose:** On April 8, 2008, the Department of Homeland Security (DHS) published an Interim Final Rule (IFR) in the Federal Register titled, Extending Period of Optional Practical Training by 17 Months for F-1 Nonimmigrant Students With STEM Degrees and Expanding Cap gap Relief for All F-1 Students With Pending H-1B Petitions. The text of the rule can be read at <http://edocket.access.gpo.gov/2008/E8-7427.htm>.

Through that rulemaking, DHS made changes to post-completion optional practical training (OPT) that were effective immediately with publication. The IFR included explanation of the purpose for these changes and the reasons for its immediate implementation.

This Policy Guidance<sup>1</sup> supplements the IFR, providing more detailed guidance for designated school officials (DSOs). It supersedes the Student and Exchange Visitor Program (SEVP) Policy Guidance 0801-01 and 0801-02. This update does the following:

- Provides current dates related to H-1B petitioning for 2010 (and removes information related to previous years).
- Amends the text to past tense, as applicable.
- Replaces the term “OPT STEM extension” with “17-month extension.” Classification of Instructional Program (CIP) codes for all science, technology, engineering and math (STEM) are the universe for those CIPs that are approved

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<sup>1</sup> This guidance represents the SEVP administration’s current thinking on this topic. It is advisory in nature, informational in content and is intended to provide guidance to the SEVIS user community and to all SEVP personnel involved in the adjudication and review of petitions for SEVP certification and appeals.

It reflects the position on, or interpretation of, the applicable laws or regulations published by DHS as of the date of publication, which is shown on the first page of the policy guidance. This guidance does not, in any way, replace or supersede those laws or regulations. Only the latest official release of the applicable law or regulation is authoritative.

This guidance does not create or confer any rights for or on any person and does not operate to bind SEVP or the public.

by DHS for the 17-month extension. However, DHS does not approve all STEM CIPS for the extension.

- Deletes reference to the public comment period for the IFR, which has closed (section 1.2). Adds text related to school filing of courses of study for CIPs, for STEM designation of CIPS and for DHS approval of STEM CIPS for the 17-month extension of OPT (section 1.3). Adds text on other resources available related to the IFR (section 1.4)
- Refines procedures for filing for OPT after the program end date (section 5.2)
- Deletes 10 day exceptions to the time that counts for unemployment during OPT at the EAD start date and between jobs. SEVP will need approval for such exceptions through another proposed rulemaking. (sections 7.1.6 and 7.1.7)
- Removed restriction that employment during the 17-month extension must be paid employment. SEVP will need approval for such a restriction through another proposed rulemaking. (sections 7.2.2 and 7.2.3)
- Deletes dates for wait-listing for this year. SEVP has been notified by U.S. Citizenship and Immigration Services (USCIS) that there will not be a waitlist utilized as a part of the FY 2011 H1B Cap filing process (section 9.1.1);

**[NEW AND/OR REVISED]**

**Comments:** To comment on this Policy Guidance or suggest a change, please e-mail [sevis.source@dhs.gov](mailto:sevis.source@dhs.gov) with "Policy Guidance 1004-03 Comment" in the subject line.

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**1. GENERAL INFORMATION ABOUT THE OPTIONAL PRACTICAL TRAINING INTERIM FINAL RULE (IFR)**

**1.1. Where can I find a copy of the IFR?**

**Federal Register:** The IFR was published in the Federal Register on April 8, 2008. See 73 FR 18944. You can find the text of the [notice on-line](#) on the Federal Register Web site.

**Updated Text of the 8 CFR Selected Portions of Parts 214 and 274a**

The [Electronic Code of Federal Regulations \(e-CFR\)](#) is a currently updated version of the Code of Federal Regulations (CFR). It is not an official legal edition of the CFR. It is an editorial compilation of CFR material and Federal Register amendments produced by the Office of the Federal Register and the Government Printing Office. The e-CFR is updated daily. You can find the text of the 8 CFR by selecting Title 8 on the drop down list and following the links for the relevant paragraphs.

**1.2. Is DHS accepting comments on the IFR?**

No, DHS accepted comments to the rule through June 9, 2008. As always, SEVP welcomes comments on this guidance and any other program-related issues or concerns through [SEVIS.Source@dhs.gov](mailto:SEVIS.Source@dhs.gov)

**[NEW AND/OR REVISED]**

**1.3. What should a school do to have courses of study assigned CIPS, nominate CIPS for STEM designation, or nominate a STEM CIP to DHS for approval to receive the 17-month extension?**

Any school that develops a course of study new to its school should go to the website at [HTTP://NCES.ED.GOV/IPEDS/CIPCODE/DEFAULT.ASPX?Y=55](http://nces.ed.gov/ipeds/cipcode/default.aspx?y=55) . Here they can find the answer to almost any CIP related question. In all likelihood, the course of study will fit in an existing CIP designation. If the school is unclear or believes they have a course of study for which there is no CIP, the website includes email or phone contact information to get direct access with a Department of Education official.

When the school has an assigned CIP for its course of study, if they believe it should be recognized as STEM, they should contact Jeri Mulrow, Senior Mathematical Statistician, Division of Science Resources Statistics, National Science Foundation (NSF), 703-292-4784, [JMULROW@NSF.GOV](mailto:JMULROW@NSF.GOV) and make their recommendation.

To suggest a change to the list of STEM designated CIPs approved by DHS, write to [SEVIS.SOURCE@DHS.GOV](mailto:SEVIS.SOURCE@DHS.GOV), with “STEM CIP Code Change Request” in the subject line. Please include your name, phone number, organizational affiliation, the code(s) you would like to see added and the rationale for the addition. Change requests will be reviewed by ICE in conjunction with the Department of Education and other advisors.

[NEW AND/OR REVISED]

1.4. **Where can I find other guidance related to the IFR?**

USCIS has published guidance on the IFR titled [Extension of Post-Completion Optional Practical Training \(OPT\) and F-1 Status for Eligible Students under the H-1B Cap-Gap Regulations](#)

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2. **MAJOR PROVISIONS OF THE RULE**

2.1. **Provisions applicable to all F-1 students eligible for OPT**

Through this rule, DHS established two new provisions that apply to all F-1 students eligible for post-completion OPT. DHS:

- Extended the period in which a student may apply for post-completion OPT to 60 days after the student's program end date. See the section of the rule on the [deadline for filing for post-completion OPT](#) for details.
- Established a limit on the number of days students in a period of post-completion OPT can be unemployed and still maintain F-1 status. For students on regular post-completion OPT or an automatic extension due to the cap gap provisions, the limit is 90 days. Students with an approved 17-month extension will receive another 30 days of unemployment time for a total of 120 days over the entire period of post-completion OPT. See the section on [limits on the periods of unemployment](#) for details.

2.2. **Provisions applicable to F-1 students who are the beneficiaries of a properly filed H-1B petition**

These provisions apply to F-1 students who are the beneficiaries of an H-1B petition and who (due to the cap on the number of H-1B petitions accepted in a given year) cannot begin employment until the beginning of the fiscal year following the fiscal year in which the H-1B petition was filed. Before this rulemaking, the F-1 status for these students often expired before their H-1B status began — a period known as the [cap gap](#).

Through this provision of the rule, DHS automatically extends the F-1 status and, for students on post-completion OPT, the employment authorization for students formerly subject to the cap gap. See the section on the [cap gap provisions](#) for details.

2.3. **Provisions applicable to F-1 students with a STEM CIP approved by DHS for a 17-month extension of OPT**

Through this rule, DHS allows F-1 students who meet the following criteria to apply for the 17-month extension:

- On a period of post-completion OPT approved after earning a bachelor's, master's, or doctoral degree;



- In a course of study recognized by the NSF as a STEM CIP; and
- On the list of designated CIPs accepted by DHS for the 17-month extension

See the section on [17-month extension](#) for details.

**[NEW AND/OR REVISED]**

**2.4. Where is the list of STEM designated CIPS accepted by DHS for the 17-month extension?**

The list of [STEM](#) CIPS accepted for the 17-month extension by DHS was in the preamble to the IFR (see 73 CFR 18948). Updates to the list have been posted on the Immigration and Customs Enforcement (ICE) Web site at <http://www.ice.gov/sevis/>.

**[NEW AND/OR REVISED]**

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**3. GENERAL INFORMATION ABOUT OPT AND THE CAP GAP**

**3.1. What is OPT?**

OPT is training that is directly related to an F-1 student's major area of study. It is intended to provide a student with practical experience in his or her field of study during or upon completion of a degree program.

**3.2. Who is eligible for OPT?**

An F-1 student who has attended an SEVP-certified college, university, conservatory, or seminary on a full-time basis for at least one academic year may be authorized for up to 12 months of OPT per education level. However, F-1 students who have one year or more of full-time curricular practical training are not eligible for OPT for that degree.

**3.2.1. Pre-completion OPT**

Pre-completion OPT is OPT authorized to be engaged in before the student's program end date. Students with approved pre-completion OPT may work up to 20 hours per week while school is in session. Students who are eligible to register for the next term and who plan to do so may have approval to work full time when school is not in session.

**3.2.2. Post-completion OPT**

Post-completion OPT is OPT authorized to be engaged in after the student's program end date.

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**4. KEY TERMS**

Other terms are amplified and/or defined in the SEVP glossary (link above).

**4.1. H-1B Cap**

The H-1B cap is the Congressionally-mandated limit on the number of individuals who may be granted H-1B status during each fiscal year. For FY11, the cap remains 65,000 (with certain statutory exemptions).

**4.2. Cap gap**

Many employers file H-1B petitions on behalf of F-1 students after their post-completion OPT expires. By regulation, an employer cannot file and USCIS can not approve an H-1B petition submitted earlier than six months before the date of actual need for the beneficiary's services or training.

As a result, the earliest date that an employer can file an H-1B petition for consideration under the next fiscal year cap is April 1 for an October 1 employment start date. If that H-1B petition and the accompanying change of status request are approved, the earliest date that the student may start approved H-1B employment is October 1.

Consequently, prior to this IFR, F-1 students who were the beneficiaries of approved H-1B petitions, but whose periods of authorized stay (including authorized periods of post-completion OPT and their [grace period](#) expired before October 1, had to leave the United States, apply for an H-1B visa at a consular post abroad and then seek readmission to the United States in H-1B status.

The term "cap gap" refers to the period of time between the time an F-1 student's status would ordinarily end and his or her H-1B status begins.

Before publication of this IFR, the cap gap occurred when an F-1 student was the beneficiary of a successful H-1B petition, but his or her F-1 status ended before his or her H-1B status began. The time between the end of the F-1 status and beginning of H-1B employment was referred to as the cap gap.

The most common situation occurred when the student's OPT ended in the spring or early summer, and his or her F-1 status expired 60 days after that, leaving a gap of several months before the individual's H-1B status began on October 1.

Before publication of this IFR, DHS could remedy this problem by publishing a Federal Register notice allowing students to remain in status in order to span the cap gap. However, this remedy was not automatic and did not allow the student to continue OPT during the gap period.

**[NEW AND/OR REVISED]**

**4.3. Cap gap extension**

Through this rulemaking, DHS automatically extended the student's F-1 status and work authorization, the "cap gap extension" – a period in which an eligible F-1 student's status is automatically extended to bridge the gap between the end of F-1 status and start of H-1B status. If the student is in

a period of authorized post-completion OPT on or after the date the student becomes eligible for the extension, the student's post-completion OPT is also automatically extended.

**[NEW AND/OR REVISED]**

**4.4. Cap gap OPT**

A period of OPT that has been extended beyond the date on the F-1 student's employment authorization document during an authorized cap gap extension.

**4.5. STEM CIP 17-month extension of OPT for courses of study approved by DHS**

An additional 17-month period of OPT granted to a student on post-completion OPT whose course of study is recognized as STEM and that is approved by DHS. The student must meet the qualifications in 8 CFR 214.2(10)(ii)(C).

**[NEW AND/OR REVISED]**

**4.6. E-Verify employer**

An E-Verify employer is an employer registered and in good standing with the [USCIS E-Verify program](#).

**4.7. CIP Code**

Classification of Instructional Programs (CIP) codes are published by the National Center for Education Statistics (NCES) and are used in SEVIS to designate a student's major, secondary major and minor. Certain CIP codes have been designated by DHS as [STEM designated](#) CIPS and courses of study that are eligible for the 17-month extension of OPT. More information on NCES CIP codes is available at: <http://nces.ed.gov/Pubsearch/pubsinfo.asp?pubid=2002165>.

**4.8. Grace period**

The 60-day period of time given to an F-1 student after the completion of a course of study or an authorized period of post-completion OPT, allowing the student time to prepare for departure from the United States, apply for a transfer to another SEVP-certified school, request a change of education level at the current school or take steps to otherwise maintain legal status.

**4.9. Unemployment time**

The total time spent without a qualifying job during post-completion OPT. Except as noted in the section on [what counts as time unemployed](#), each day that the student is not employed in a qualifying job is counted toward the limit on unemployment time. The limit is 90 days for students on post-completion OPT, including those with a cap gap extension, except that students with an approved 17-month extension are given an additional 30 days of unemployment time for a maximum of 120 days.

**4.10. Data fix**

A change or correction made to a student's SEVIS record by authorized SEVP staff, usually at the request of a DSO. Some data fixes may be requested through the correction function in SEVIS. If a correction function is not available to the DSO, the data fix must be requested from the SEVIS help desk at (800) 892-4829.

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**5. DEADLINE FOR APPLYING FOR OPT**

**5.1. What is the deadline for applying for post-completion OPT?**

An F-1 student may apply for post-completion OPT up to 90 days before the student's program end date and up to 60 days after his or her program end date. The application must be properly filed with the correct USCIS Service Center. In addition, the application must be properly filed within 30 days of the date the student's DSO recommends OPT in SEVIS.

**5.2. How can a DSO recommend OPT after a student's program end date?**

SEVIS will be (but has not yet been) updated to allow DSOs to recommend OPT after the student's program end date (other than for a 17-month extension). Until SEVIS is updated, DSOs should request a data fix by calling the SEVIS help desk at (800) 892-4829.

If the student needs to file immediately (i.e., is approaching the end of the 60-day grace period), the student should file the Form I-765 Application for Employment Authorization with USCIS without waiting for the Form I-20 Certificate of Nonimmigrant Student Eligibility. The student should include a statement indicating that a data fix is pending, and the Form I-20 will be furnished later. SEVP recommends including the SEVIS help desk ticket number in this statement.

When SEVP processes the data fix, the DSO will be able to print a Form I-20 recommending post-completion OPT and provide it to the student. If a student is unable to submit the Form I-20 with the Form I-765 application, USCIS requests that student wait until the USCIS Service Center sends a Request for Evidence (RFE) to send the Form I-20. This will help the USCIS Service Center ensure the Form I-20 is matched to the correct application.

**[NEW AND/OR REVISED]**

**5.3. When should a student request that his or her DSO recommend post-completion OPT?**

A student should ask his or her DSO to recommend post-completion OPT within 30 days of the date the student expects the application to arrive at the USCIS Service Center. If the OPT recommendation in SEVIS is dated more than 30 days prior to the receipt date, the application may be denied.

**5.4. What is the earliest date a student can file a request for post-completion OPT with USCIS?**

A student may file the request for post-completion OPT no more than 90 days prior to the student's program end date.

**5.5. What is the earliest a student can apply for pre-completion OPT?**

A student may file for OPT up to 90 days before he or she completes a full academic year. If the student has already completed a full academic year, he or she may apply for OPT up to 90 days in advance of the requested employment start date.

**5.6. What is the earliest a student can apply for the 17-month extension of OPT?**

A student may file for the 17-month extension up to 120 days prior to the end of his or her post-completion OPT.

**5.7. Can a student file for combined pre-completion OPT and post-completion OPT?**

No, the regulatory provisions differentiate between pre-and post-completion OPT in the application process and in the requirements for maintaining employment.

SEVIS has been updated to support this revision. DSOs should ensure that the employment end date for pre-completion OPT is on or before the student's program end date.

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**6. BEGINNING AND ENDING DATES OF POST-COMPLETION OPT**

**6.1. What are the restrictions on the requested start date for post-completion OPT?**

A student cannot have a requested start date that is more than 60 days past the student's program end date.

**6.2. What are the restrictions on the requested end date for post-completion OPT?**

The requested end date cannot be more than 12 months after the requested start date. The end date may be sooner if the student has less than 12 months of OPT left at the current education level or the student wishes to retain a period of OPT for pre-or post-completion OPT for another degree at the same education level.

**6.3. What employment dates will be authorized for post-completion OPT?**

The start date will be the requested start date or the date of approval, whichever is later. (A start date more than 60 days after the program end date is treated as a request to start on the 60th day after the program end date.)

The end date will be the earliest of:

- The requested end date. (If USCIS adjudicates the Form I-765 after the requested start date, the end date will be extended to reflect the later start date.)
- The date on which the student's remaining allotment of OPT expires – for example, a student who previously used three months of full-time pre-completion OPT – will have only nine months of OPT time remaining.
- 14 months after the student's program end date.

**6.4. Can a student apply for OPT prior to his or her program end date and continue that employment after the program end date?**

No. See the question on [filing for both pre- and post-completion OPT](#).

**6.5. In SEVIS, what distinguishes pre-completion OPT from post-completion OPT?**

The program end date distinguishes the two types of OPT. All pre-completion OPT takes place prior to the program end date in SEVIS. Post-completion OPT begins after the program end date.

**6.6. If a student receives an EAD for 12 months of pre-completion OPT but finishes his or her course of study early, can the student continue to use the EAD issued for pre-completion OPT after the program end date?**

No. The EAD was issued for pre-completion OPT. Accordingly, the EAD is only valid for OPT prior to the program end date. The student would have to stop working on or before the program end date and file a separate application for post-completion OPT.

A student will not lose any unused OPT from the original EAD. The student will only lose the OPT completed prior to the program end date. So, if a student applied for part-time pre-completion OPT from January 02, 2008, to January 01, 2009, but finished the course of study on June 1, 2008, the student would still have nine months of OPT available (the six months of part-time OPT used by the student would account for three months of the total amount available at that education level).

**6.7. Can a student in a graduate-level program who has completed all program requirements, aside from thesis or equivalent, apply for either pre-completion OPT or post-completion OPT?**

Yes, a student who only has the thesis or equivalent remaining may either apply for pre-completion OPT or post-completion OPT while completing the thesis/dissertation.

If a student in this situation applies for pre-completion OPT, he or she:

- May work full time.

- Is not subject to the unemployment provisions, and may receive a program extension.
- May not apply for the 17-month extension from a period of pre-completion OPT.
- Would not be eligible for the cap gap extension of OPT.

Alternatively, if a student in this situation applies for post-completion OPT, he or she:

- May work full time.
- Would be eligible for the cap gap extension.
- May apply for the 17-month extension if otherwise eligible.
- Would be subject to the unemployment provisions.
- Would be unable to receive an extension of his or her course of study.

**6.8. If a student does not complete his or her thesis/dissertation during the 12 months of post-completion OPT, what steps must he or she take?**

The student should prepare to change status, change education level and/or transfer, or depart the country prior to the end of the 60-day grace period.

**6.9. What happens if a student (excluding those students who have completed all program requirements aside from thesis or equivalent) applies for post-completion OPT before his or her program end date and subsequently fails to complete the requirements for his or her program?**

The student should contact his or her DSO immediately for guidance.

If the employment authorization application has not been adjudicated by USCIS, the student may withdraw the application by notifying the Service Center where the application was filed. The DSO should also withdraw the recommendation for OPT in SEVIS.

If the employment authorization application has already been approved, the DSO should extend the student's program end date to the appropriate date. The student may work part time while enrolled in courses to complete the requirements for his or her program and full time during breaks and vacations. After successful completion of all the program requirements, the student may work full time.

However, even though the student's program end date was extended, because the OPT was granted as post-completion OPT, the student is subject to the 90-day limitation on unemployment.

SEVP strongly recommends that a student who may not be able to successfully complete all program requirements on time defer applying for post-completion OPT until after his or her program ends.

**6.10. How does a transfer or change of education level impact the period of OPT?**

Any OPT authorization ends on the transfer release date for a student who requests a transfer to another SEVP-certified school or a change of education level to continue at the same school.

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**7. LIMITS ON PERIODS OF UNEMPLOYMENT DURING A PERIOD OF AUTHORIZED OPT**

**7.1. Limits on periods of unemployment**

**7.1.1. What are the limits on periods of unemployment?**

Students on post-completion OPT may have up to 90 days of unemployment.

Students who have OPT extended due to the cap gap provisions continue to accrue unemployment time and are subject to the 90-day limit on unemployment.

Students who receive a 17-month extension are given an additional 30 days of unemployment for a total of 120 days over their entire post-completion OPT period.

**7.1.2. Do the limits on unemployment apply to any periods of unemployment prior to April 8, 2008?**

No, the limits on unemployment do not apply retroactively.

**7.1.3. Do the limits apply to students who had post-completion OPT approved before April 8, 2008?**

For students who started post-completion OPT prior to April 8, 2008, unemployment time accrues only for time spent unemployed after April 8, 2008. Time unemployed prior to April 8, 2008, will not be counted.

**7.1.4. Is a student who splits OPT between two degrees at the same education level limited to a total of 90 days of unemployment?**

No, the student is not limited to a total of 90 days of unemployment in this case. For each new period of post-completion OPT, the student will have the full 90-day period of unemployment.



**7.1.5. How many hours does a student need to work per week during post-completion OPT (including the 17-month extension) to be considered employed?**

A student must work at least 20 hours per week in a qualifying position to be considered employed. If a student has a variable schedule, within a month, it should average out to at least 20 hours per week.

**7.1.6. What counts as time unemployed?**

Each day (including weekends) during the period when OPT authorization begins and ends that the student does not have qualifying employment counts as a day of unemployment. OPT authorization begins on the employment start date shown on the student's EAD.

**[NEW AND/OR REVISED]**

**7.1.7. If a student does not receive the approved EAD, the missing EAD is not returned to the USCIS Service Center, and the student applies for a replacement EAD, when does the student begin accruing unemployment?**

The "clock" for unemployment starts after issuance of the replacement EAD by USCIS.

**[NEW AND/OR REVISED]**

**7.1.8. How does travel outside the United States impact the period of unemployment?**

Time spent outside the United States during an approved period of post-completion OPT counts as unemployment against the 90/120-day limits, unless the student is either:

- Employed during a period of leave authorized by an employer; or
- Traveling as part of his or her employment.

**7.2. Employment allowed while on OPT**

**7.2.1. What types of employment are allowed for regular pre- and post-completion OPT?**

All OPT employment, including post-completion OPT, must be in a job that is [related to the student's degree program](#).

For students who are not on a 17-month extension, this employment may include:

- Multiple employers. A student may work for more than one employer, but all employment must be related to the student's degree program and, for pre-completion OPT, can not exceed the allowed per week cumulative hours.
- Short-term multiple employers (performing artists). A student, such as a musician or other type of performing artist, may work for

multiple short term employers (gigs). The student should maintain a list of all gigs, the dates and duration.

- Work for hire. 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, the student must be prepared to provide evidence showing the duration of the contract period and the name and address of the contracting company.
- Self-employed business owner. A student on OPT may start a business and be self-employed. The student must be able to prove that he or she has the proper business licenses and is actively engaged in a business related to the student's degree program.
- Employment through an agency or consulting firm. A student on post-completion OPT must be able to provide evidence showing he or she worked an average of at least 20 hours per week while employed by the agency.
- Paid employment. A student may work part time (at least 20 hours per week when on post-completion OPT) or full time.
- Unpaid employment. A student may work as a volunteer or unpaid intern, where this practice does not violate any labor laws. The work must be at least 20 hours per week for a student on post-completion OPT. A student must be able to provide evidence acquired from the student's employer to verify that the student worked at least 20 hours per week during the period of employment.

**[NEW AND/OR REVISED]**

**7.2.2. What types of employment are allowed for students during a 17-month extension of OPT?**

A student authorized for a 17-month extension must work at least 20 hours per week for an E-Verify employer in a position directly related to his or her DHS-approved STEM CIP.

For a student who is on a 17-month extension, this employment may include

- Multiple employers. A student may work for more than one employer, but all employment must be related to his or her degree program and all employers must be enrolled in E-Verify.
- Work for hire. 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. The company for whom the student is providing services must be registered with E-Verify. If requested by DHS, the student must be prepared to provide evidence showing the duration of the contract period and the name and address of the contracting company.

- Self-employed business owner. A student on a 17-month extension can start a business and be self-employed. In this situation, the student must register his or her business with E-Verify and work full time. The student must 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 or consulting firm. A student on a 17-month extension may be employed by an employment agency or consulting firm. The employment agency or consulting firm must be registered with E-Verify, but the third parties contracting with the agency or firm (for which the student is providing services) need not be.

**[NEW AND/OR REVISED]**

**7.2.3. Can a student work multiple jobs during a 17-month extension of OPT?**

Yes, but all the employers must be enrolled in E-Verify.

**7.2.4. How does a student show that employment is directly related to his or her degree program?**

SEVP recommends that the student maintain evidence for each job documenting the position held, proof of the duration of that position, the job title, contact information for the student's supervisor or manager, 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.

**7.3. Reporting employment and unemployment (other than students with a 17-month extension)**

**7.3.1. What should a student report to ensure that his or her status does not expire due to excessive unemployment time?**

The student should report changes in employment to his or her DSO as soon as possible. SEVP recommends that the student report any change within 10 business days of the change to avoid situations where a DHS official may determine the student is out of status.

The following table suggests the best way to report employment or a change in employment.

Situation	Report
New job	<ul style="list-style-type: none"> <li>• Name of the employer</li> <li>• Start date of employment</li> <li>• Mailing address for the employer</li> </ul>
Change to a new job	<ul style="list-style-type: none"> <li>• Name of the previous employer</li> <li>• Ending date of the employment with the previous employer</li> <li>• Name of the employer</li> <li>• Start date of employment</li> <li>• Mailing address for the employer</li> </ul>
<a href="#">Multiple short-term gigs</a> in one period with less than 10 days between gigs	<ul style="list-style-type: none"> <li>• Report at the beginning of the first gig and indicate “Multiple short term gigs”</li> </ul>
<a href="#">Work for hire</a> (start)	<ul style="list-style-type: none"> <li>• Indicate “Self-employed work for hire”</li> <li>• Indicate the start date of the contract</li> </ul>
Work for hire (ending more than 10 days between the end of one contract and the beginning of another contract or a new job)	<ul style="list-style-type: none"> <li>• Indicate “Self-employed work for hire”</li> <li>• Indicate you have no current contract</li> <li>• Ending date of the last contract worked</li> </ul>
More than 10 days of unemployment	<ul style="list-style-type: none"> <li>• Indicate “unemployed”</li> <li>• Ending date of last job</li> </ul>
<a href="#">Self-employed business owner</a> (start)	<ul style="list-style-type: none"> <li>• Indicate “Self-employed business owner”</li> <li>• Indicated date went into business</li> </ul>
Self-employed business owner (end)	<ul style="list-style-type: none"> <li>• Indicate “Self-employed business owner”</li> <li>• Indicate date business closed or student no longer worked for the business full time</li> </ul>

Situation	Report
Student decides to exit the United States and complete his or her F-1 status prior to the end date of OPT	<ul style="list-style-type: none"> <li>• Indicate “Completing OPT and exiting the United States”</li> <li>• Date of exit</li> </ul>

**7.3.2. How should a student report employment/unemployment information and changes to that information to his or her DSO?**

The student should consult with his or her DSO about the preferred method of reporting changes. SEVP recommends using e-mail, as it provides both evidence of reporting and the date reported. Some schools may provide other electronic means (such as a Web page) to accept reports.

The student should keep a record of all reports made to the DSO and the method by which the reports are made.

**7.3.3. How should DSOs report periods of employment in SEVIS?**

From the Student Information screen in SEVIS, click the OPT Request link to display the OPT Employment screen. On this screen, click the Edit link. This will allow DSOs to update employer information.

Situation	Employer Name Field	Employer Address Field
New job	Name of the employer [start date mm/dd/yyyy] Example: ABC Inc. [04/15/2010]	Employer address supplied by student
Change to a new job (less than 10 days between jobs)	Name of the new employer [start date mm/dd/yyyy] Example: A New Job, Inc. [06/15/2010]	New employer’s address supplied by student
More than 10 days of unemployment	Unemployed [ending date of last job mm/dd/yyyy] Example: Unemployed [07/12/2010]	Leave blank
Multiple short-term gigs in one period	Multiple gigs [start date]	Leave blank

Situation	Employer Name Field	Employer Address Field
<a href="#">Work for hire</a> (start)	Work for hire [start date mm/dd/yyyy]	Leave blank
Work for hire (end)	Unemployed [end date of last contract mm/dd/yyyy]	Leave blank
<a href="#">Self-employed business owner</a> (start)	Self-employed business owner [date started business mm/dd/yyyy]	Business address
Self-employed business owner (end)	Unemployed [date business closed or student no longer worked for business full time mm/dd/yyyy]	Leave blank
Student decides to exit the United States and complete his or her F-1 status prior to the end date of OPT	No change  Complete the student's record — this will stop the accrual of unemployment time	No change

**7.4. Consequences of exceeding the period of unemployment**

**7.4.1. How should a DSO advise a student who is close to reaching the limit on authorized unemployment?**

The DSO should advise the student of the options available upon reaching the limit and on the potential problems associated with violating status by exceeding the period of authorized unemployment. To avoid violating status, prior to reaching the limit on authorized unemployment the student should prepare to transfer to another SEVP-certified school, change education level, depart the United States, or take action to otherwise maintain status in the United States.

**7.4.2. What is the effect on a student's status if the student exceeds the period of unemployment?**

A student who has exceeded the period of unemployment while on post-completion OPT has violated his or her status unless he or she has taken one of the following actions:

- Applied to continue his or her education by a change of education level or transferring to another SEVP-certified school
- Departed the United States

- Taken action to otherwise maintain legal status

**7.4.3. Is a DSO responsible for determining if a student has exceeded the limit of unemployment time while on OPT?**

No, a DSO is not responsible for calculating unemployment time or taking action in SEVIS based on unemployment time. If a student's SEVIS record remains in *Active* status and the student has otherwise maintained F-1 status, the DSO should consider the student in status and act accordingly.

DHS maintains responsibility for determining whether a student has violated his or her status by exceeding the permissible limit on authorized unemployment.

**7.4.4. How will DHS enforce this provision?**

A student may be denied future immigration benefits that rely on the student's valid F-1 status if DHS determines that the student exceeded the limitations on unemployment.

Additionally, ICE/SEVP may examine SEVIS data for an individual, a selected group or all students on post-completion OPT and terminate a student's record if it fails to show that the student maintained the proper period of employment. In such cases, the student will be given an opportunity to show that he or she complied with all OPT requirements, including maintaining employment.

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**8. 17-MONTH EXTENSION OF OPT FOR F-1 STUDENTS WITH A STEM CIP APPROVED BY DHS**

**8.1. Eligibility**

**8.1.1. Who is eligible for the 17-month extension?**

An F-1 student who has completed a bachelor's, master's, or doctoral degree in a STEM CIP that is approved by DHS for the 17-month extension and is currently engaged in post-completion OPT may apply for the 17-month extension if he or she has a job or job offer from an [E-Verify employer](#).

**8.1.2. How does a student or DSO know which CIPS are designated as STEM CIPs approved by DHS for the 17-month extension?**

The list of [STEM](#) CIPS accepted for the 17-month extension by DHS was in the preamble to the IFR (see 73 CFR 18948). Updates to the list have been posted on the Immigration and Customs Enforcement (ICE) Web site at <http://www.ice.gov/sevis/>.

**8.1.3. Can a student with a dual major qualify for the 17-month extension based on one of the degree programs?**

Yes, if the student's course of study is listed as one of the approved CIP codes on the [STEM Designated CIP List](#) approved by DHS for the 17-month extension and any job worked while on the 17-month extension is related to the student's STEM CIP. However, the CIP Code for the student's secondary major will not print on the Form I-20 recommending the 17-month extension. The DSO must annotate the Form I-20 with the proper [CIP Code](#) of the secondary major. The post-completion OPT that the student seeks to extend must be based on a bachelor's, master's or doctorate degree that is on the STEM CIP List approved by DHS for the 17-month extension and which is documented on the student's current Form I-20 with an appropriate CIP code. If a student has a double major and obtained regular post-completion OPT on the non-STEM CIP or a STEM CIP that is not approved by DHS, the student is ineligible for the 17-month extension.

**8.1.4. Can a student qualify for the 17-month extension based on the student's minor?**

No.

**8.1.5. Can a student who has previously earned a degree in a STEM CIP approved by DHS for the 17-month extension and has now earned a non-STEM CIP or a STEM CIP not approved by DHS for the 17-month extension apply for the extension?**

No, the 17-month extension must be based on the same degree as the post-completion OPT.

**8.1.6. Are programs of study with CIP codes ending in "99" eligible for the 17-month extension?**

No, as indicated in the IFR, they are not considered STEM CIPs.

**8.1.7. What can a student do if his or her course of study has a CIP code ending in "99" thus making the student ineligible for the 17-month extension?**

A student enrolled in a course ending in "99" should contact the DSO and present clear arguments, with supporting evidence, requesting the institution change the course of study CIP code from "99" to a CIP code listed on NCES Web site at <http://nces.ed.gov/pubs2002/cip2000/ciplist.asp> and approved by DHS for the 17-month extension.

The DSO should review the student's request and handle the request in accordance with the school's standard procedure. If a school official wishes to pursue the change, then he or she must work with NCES to reclassify the program or create a new CIP code for the course of study.



If NCES approves the CIP code change, a student may apply for the 17-month extension based on the new CIP code.

**8.1.8. How can someone suggest a change to the STEM CIPS approved by DHS for the 17-month extension?**

To suggest a change to the list of STEM CIPS approved by DHS for 17-month extension, write to [sevis.source@dhs.gov](mailto:sevis.source@dhs.gov), with STEM Code Change Request in the subject line. Please include your name, phone number, organizational affiliation, the code(s) you would like to see added and the rationale for the addition. Change requests will be reviewed by DHS in conjunction with the Department of Education, the National Science Foundation and other interested government agencies.

**[NEW AND/OR REVISED]**

**8.2. Filing for the 17-month extension of OPT**

**8.2.1. What are the DSO's responsibilities when recommending a 17-month extension for a student?**

Before recommending a 17-month extension in SEVIS, a DSO must confirm that

- The student's education level shown in SEVIS is bachelor's, master's, or doctoral.
- The name of the student's major shown in SEVIS is on the [STEM CIP List](#) approved by DHS for a 17-month extension.
- SEVIS shows the student is on an approved period of OPT that has not expired.
- The employer name and address entered into SEVIS are entered exactly as provided by the student.

While the DSO must ensure that the student knows that he or she must work for an [E-Verify employer](#), the DSO is not responsible for verifying an employer's registration with E-Verify.

Note that the extension application of a student who is ineligible for an extension will be denied and the application fee will not be refunded.

**8.2.2. When does the student need to file for the extension?**

The student must ensure that the Form I-765, supporting evidence and fee payment reach the proper USCIS Service Center before his or her current OPT expires. USCIS recommends that students file within 90 and 120 days of the expiration date of the current OPT.

**8.2.3. Can a student apply for the 17-month extension when he or she is within a period of cap gap extension?**

Yes, a student can apply for the 17-month extension during the cap gap extension of OPT. The student will need to have his or her employer request the withdrawal of the approved or pending H-1B petition in time for

USCIS to effectively accept the withdrawal prior to the October 1 start date in order to avoid changing status to H-1B on that date.

To avoid a denial based on the scheduled expiration of post-completion OPT, the student should include mention (and supporting evidence) of his or her cap gap 17-month extension when filing during the cap gap period.

**8.2.4. What are the DSO's responsibilities for assisting a student who is filing for a 17-month extension?**

The DSO must [verify the student's eligibility for the extension](#), make the recommendation in SEVIS (if the school supports the student's request) and print a Form I-20 showing the recommendation.

**8.2.5. How and where does the student for file the extension?**

The student should follow the directions published on the USCIS Web site for [filing a Form I-765, Application for Employment Authorization](#). The student should file with the USCIS Service Center serving the area of the student's current residence.

**8.2.6. What is the fee for the application for the 17-month extension?**

The fee is the current amount for [filing a Form I-765, Application for Employment Authorization](#), as listed on the USCIS Web site. At the time this guidance was published, the fee was \$340.

**8.2.7. What if the DSO believes the student is eligible for the extension but SEVIS does not show the link needed to request the extension?**

The DSO should contact the SEVIS help desk at (800) 892-4829 and request a data fix.

**8.2.8. If a student requests a recommendation from a DSO for the 17-month extension, and that request requires a data fix because the student originally applied for pre-completion OPT prior to the April 2008 rule, will SEVP still process the data fix if it has not been completed by the time the original 12-month OPT authorization ends?**

Yes. SEVP will process the data fix. We recommend that the student file the Form I-765 with USCIS before the end of the original OPT with an explanation of the circumstances if the data fix has not been completed. When the data fix is completed, the DSO can make the recommendation for the 17-month extension and provide the student with the updated Form I-20. The student can submit the updated Form I-20 with a copy of the USCIS receipt notice for the Form I-765 so that the USCIS Service Center can add the Form I-20 to the pending application.

**8.2.9. If the extension link shows in SEVIS, does this indicate the student is eligible for the 17-month extension?**

No, the link is available for all students currently participating in post-completion OPT. The DSO must verify the [individual student's eligibility](#) for the 17-month extension.

**8.2.10. What documents will meet the USCIS requirements on the Form I-765 for a copy of the student's degree?**

The student may provide one of the following documents in order to meet these requirements:

- Official transcripts
- Unofficial transcripts
- Copy of the diploma showing the education level and course of study

**8.2.11. In Item 17 of the Form I-765, what should the student list as the degree?**

The student should list degree type as it is shown on his or her Form I-20. In addition, the [CIP Code](#) for the student's course of study will be printed on page 3 of the Form I-20. The USCIS adjudicator will verify that the student's course of study is on the STEM CIP List approved by DHS for the 17-month extension.

If a student with a dual major has the DHS-approved STEM CIP listed as the secondary major in SEVIS, the DSO must annotate this on the Form I-20 that the student will submit to USCIS. The student should provide the CIP Code for the secondary major on the Form I-765.

**8.3. E-Verify**

**8.3.1. Is there a resource list of employers who are enrolled in the E-Verify program?**

No, there is no public list of employers enrolled in E-Verify.

**8.3.2. How do employers enroll in E-Verify?**

The USCIS Web site has information on E-Verify and the enrollment procedures at [www.uscis.gov/everify](http://www.uscis.gov/everify).

**8.3.3. What does the student need to know about the employer in order to complete the Form I-765 when applying for the 17-month extension?**

The student must have the employer's name as listed in E-Verify and the employer's E-Verify company identification number or a valid E-Verify client company identification number. This information must be listed in item 17 of the Form I-765.

**8.3.4. Is the DSO responsible for verifying that the student is working for an E-Verify employer?**

No, a USCIS adjudicator will make this determination by verifying the information in Item 17 of the student's Form I-765.

**8.4. Employment authorization while the 17-month extension application is pending**

**8.4.1. When does the student's period of 17-month extension start?**

If the student has properly filed, the student's period of 17-month extension starts the day after the expiration of the student's original period of OPT.

The student must comply with all the [requirements for students with a 17-month extension](#).

**8.4.2. Can the student work with an expired employment authorization document while a 17-month extension of OPT is pending?**

Yes. 8 CFR 214.2(f)(11)(i)(C) and 8 CFR 247a.12(c)(6)(iv) automatically extend the student's work authorization for up to 180 days while the student's 17-month extension application is pending.

**8.4.3. Can the student change employers while the 17-month extension application is pending?**

Yes. However, if the 17-month extension period has started, the employer must also be an E-Verify employer. The student must [report the change in employment](#) to his or her DSO. The DSO must update the student's employer information in SEVIS and the student should submit an amended Form I-765 to the appropriate USCIS Service Center, providing the new employer's E-Verify number and a copy of the USCIS receipt notice for the first Form I-765. A brief letter explaining the submission should also be included. There is no fee associated with submitting the amended Form I-765.

**8.4.4. Can the student travel outside of the United States if his or her employment authorization document expires and the 17-month extension request is pending?**

No, the student must wait to receive the new employment authorization document.

**8.5. Can a student change employers during the 17-month extension?**

Yes, however, the employer must also be an E-Verify employer. The student must [report the change in employment](#) to his or her DSO.

**8.6. How do employers report to a DSO that a 17-month extension student is no longer employed?**

The school must provide the student with information on how to report the end of the student's employment. The student must provide this information to the employer. If the school does not provide alternative instructions, the employer may send the report to the school address listed on the student's Form I-20.

The employer should provide the student's name, SEVIS ID number (if available), and the date that the student's employment ended.

**8.7. Student responsibilities while on 17-month extension**

A student pursuing a period of 17-month extension must

- Work in a paid position for an E-Verify employer at least 20 hours per week
- Work in a position related to the STEM CIP approved by DHS for the 17-month extension
- Report to his or her DSO within 10 days of:
  - Legal name changes
  - A change in residential or mailing address
  - Changes in employer, giving the employer name and employer address
  - Loss of employment
- Send the DSO a validation report every six months, starting from the date the 17-month extension starts and ending when the student's F-1 status ends or the 17-month extension ends, whichever is first. The validation report must include the student's
  - Full legal name
  - SEVIS identification number (if requested by the school)
  - Current mailing and residential address
  - Name and address of the current employer
  - Date the student began working for the current employer

A student pursuing a period of 17-month extension must not

- Work in a paid position for any employer that is not an E-Verify employer
- Have more than 120 days of unemployment time during the entire period of post-completion OPT (regular post-completion OPT and 17-month extension).

**8.8. DSO responsibilities relating to a student granted a 17-month extension of OPT**

The DSO must update SEVIS with information on changes to the student's name and address, and changes in the student's employer (including name changes) and address.

This chart shows how to enter the reported information into SEVIS.

Situation	Employer Name Field	Employer Address Field
New job	Name of the employer [start date mm/dd/yyyy] Example: ABC Inc. [04/15/2010]	Employer address supplied by student
Change to a new job (less than 10 days between jobs)	Name of the new employer [start date mm/dd/yyyy] Example: A New Job, Inc. [06/15/2010]	New employer's address supplied by student
More than 10 days of unemployment	Unemployed [ending date of last job mm/dd/yyyy] Example: Unemployed [07/12/2010]	Leave blank

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## 9. CAP GAP AUTOMATIC EXTENSION FOR F-1 STUDENTS WHO ARE THE SUBJECT OF AN H-1B PETITION

### 9.1. Basic provisions

The eligibility date is the date a USCIS Service Center receives a properly filed Form I-129 Petition for a Nonimmigrant Worker naming the student as a beneficiary of the petition from the prospective employer.

The cap gap extension starts when a student's current period of F-1 status ends, regardless of whether the student was in a period of OPT. However, if the student was not in a period of authorized post-completion OPT on the eligibility date, the extension of status starts on the day after the student's initial grace period expires.

#### 9.1.1. What determines the length of the cap gap extension?

The following chart shows how the length of the cap gap extension is determined.

#### Events Impacting the Length of the Cap Gap Extension

The Petition Naming the Student:	Impact on Cap gap OPT	Impact on F-1 Status	Extension Request Needed	Action Required by Student	Action Required by DSO

The Petition Naming the Student:	Impact on Cap gap OPT	Impact on F-1 Status	Extension Request Needed	Action Required by Student	Action Required by DSO
Is properly filed	OPT extended to the June 1, 2010, (beyond the date announced by USCIS as the likely date for the end of the initial receipting period)	F-1 status extended to August 2, 2010	Yes	Must send a request for the extension to DSO with proof of proper filing ( <a href="#">see note 1</a> )	Request a data fix from the SEVIS help desk in response to student's request ( <a href="#">see note 1</a> )
Is not selected for receipting	No additional extension	No additional extension	N/A	None	None
Is selected for <a href="#">wait-listing</a> – <b>There will not be a waitlist utilized as a part of the FY 2011 H1B Cap filing process</b>	OPT authorization is extended to XXX XX, XXXX (allowing the 8 weeks USCIS expects to need before receipting or returning the application)	F-1 status is extended to XXX XX, XXXX	Yes	Must send a request for the extension to DSO with proof that the petition was wait-listed ( <a href="#">see note 2</a> )	Update student's SEVIS record under the Cap Gap Extension link to indicate an H-1B petition has been waitlisted ( <a href="#">see note 2</a> )
Is selected for receipting	OPT authorization is extended to September 30	The student's record completes on September 30, ending the nonimmigrant's F-1 status	No, SEVIS will use the data from CLAIMS	Student may request the DSO print a Form I-20 showing the extension	Print updated Form I-20 as requested
Is withdrawn or denied	OPT authorization ends 10 days after the date of the withdrawal or denial	Grace period ends 60 days after the date of the withdrawal or denial	No, SEVIS will use the data from CLAIMS	Student must terminate OPT on the proper date and either leave the United States upon expiration of the grace period or take other steps to maintain status	None

*Note 1: If a student's regular period of OPT extends to June 1, the student does not need to make the request.*

*Note 2: If a student's regular period of OPT extends to July 27, the student does not need to make the request.*

**9.1.2. If a student was not in an authorized period of OPT on the eligibility date, can the student work during the cap gap extension?**

No, in order for a student to have employment authorization during the cap gap extension, the student must be in an approved period of OPT on the eligibility date.

**9.1.3. Does a student need to file an application or pay a fee to receive a cap gap extension?**

No, the extension is granted automatically at no cost. However, as noted on the [chart of events impacting the length of the cap gap extension](#), the student may need to notify the DSO of his or her eligibility for extensions prior to the date USCIS issues a receipt for the H-1B petition listing the student as a beneficiary.

It is important to note that, although the extension is automatically granted, SEVIS may not be automatically updated to show the extension. A student is responsible for checking with his or her DSO and verifying that his or her SEVIS record has been updated with the extension. See the [section on how students will know they have a cap gap extension](#).

**9.1.4. What is the length of the cap gap extension?**

For a student with active post-completion OPT, the cap gap extension for both employment and F-1 status starts the date the student's original OPT expires and ends September 30 unless the H-1B petition for the student is rejected, denied, or withdrawn. In that case, the employment authorization ends and the grace period begins.

For a student whose post-completion OPT expired prior to the filing date of the H-1B petition, the cap gap extension starts at the end of his or her grace period and ends September 30 unless the H-1B petition for the student is rejected, denied, or withdrawn. However, the student will not have work authorization.

Due to the complexities involved, a student will receive cap gap extensions in increments, as the petition goes through the steps of filing, receipting, and adjudication.

**9.1.5. Can the cap gap extension of OPT be extended beyond September 30 if the H-1B petition filed on the student's behalf has not been adjudicated by USCIS?**

No, pursuant to 8 CFR 214.2(f)(5)(vi)(A), the duration of status and any employment authorization granted under 8 CFR 274a.12(c)(3)(i)(B) and (C) of an F-1 student who is the beneficiary of an H-1B petition and request for change of status can only be extended until October 1.

If the H-1B petition is pending beyond October 1, a student can remain in the United States based on the pending change of status petition. However, a student with OPT employment authorization extended through the cap gap period must stop working until the H-1B petition is approved.



**9.1.6. Will a student receive personal notification when he or she has a cap gap extension?**

A student will not automatically receive notification when he or she has a cap gap extension. The student must request a Form I-20 from his or her DSO showing the period of the extension. In some cases, the student may need to notify his or her DSO that he or she is eligible for the extension.

**9.1.7. How will a student know he or she has a cap gap extension?**

The student must remain in contact with the employer that filed the Form I-129 Petition for a Nonimmigrant Worker on his or her behalf and with his or her DSO.

Until USCIS issues receipt notices, only the petitioning employer will know when the application was properly filed or wait listed. The student may obtain evidence from the employer for either of these two events and ask the DSO to request a data fix from SEVP.

When USCIS has receipted an H-1B petition, the information is entered into the Computer Linked Application Information Management System (CLAIMS, the system used by the USCIS Service Centers) and will be used to update SEVIS. However, there are some cases where the data from the interface does not properly update SEVIS. A student is responsible for checking with his or her DSO and verifying that his or her SEVIS record has been updated with the extension.

**9.1.8. How will a student know if his or her cap extension is terminated before September 30 due to a withdrawn or denied H-1B petition?**

A student will not be personally notified by DHS of a withdrawn or denied H-1B petition. He or she must remain in contact with the sponsoring employer and with his or her DSO. It is the student's responsibility to check regularly on his or her status.

**9.2. Proof of the extension of status and work authorization**

**9.2.1. What proof will a student have that he or she is entitled to the extension of work authorization and status?**

Using SEVIS, DSOs can print a Form I-20, which shows the dates of continued F-1 status and employment authorization.

This functionality was introduced in SEVIS 5.10, which SEVP released in August 2008. This upgrade allows the system to automatically update a student's SEVIS record with the F-1 status and employment authorization information.

**9.2.2. What information appears on the Form I-20 if an F-1 student is eligible for the cap gap extension of F-1 status and OPT?**

If the F-1 student has an approved current or future post-completion OPT on the date the pending or approved change of status request to H-1B is received from CLAIMS, SEVIS will be updated with the following:

F-1 status and employment authorization for this student have been automatically extended to September 30, [current year]. The student is authorized to remain in the United States and continue employment with an expired employment authorization document. This is pursuant to 8 CFR 214.2(f)(5)(iv) and 8 CFR 274a.12(b)(6)(iv), as updated April 8, 2008, in a rule published in the Federal Register (73 FR 18944). Additional information about the automatic extension can be found on the Student and Exchange Visitor Program Web site at [www.ice.gov/sevis](http://www.ice.gov/sevis).

Also, the Employment End Date of the approved current or future post-completion OPT will be updated to September 30, [current year].

**9.2.3. What appears on the Form I-20 if an F-1 student is eligible for the cap gap extension of F-1 status but not OPT?**

If an F-1 student does not have an Approved current or future post-completion OPT on the date the pending or approved change of status request to H-1B is received from CLAIMS, SEVIS will be updated with the following:

F-1 status for this student has been automatically extended to September 30, [current year]. The student is authorized to remain in the United States. This is pursuant to 8 CFR 214.2(f)(5)(iv) and 8 CFR 274a.12(b)(6)(iv), as updated April 8, 2008, in a rule published in the Federal Register (73 FR 18944). Additional information about the automatic extension can be found on the Student and Exchange Visitor Program Web site at [www.ice.gov/sevis](http://www.ice.gov/sevis).

**9.3. Issues with SEVIS and the cap gap extension**

**9.3.1. What if SEVIS does not show that an eligible student's work authorization and status have been extended?**

A student is responsible for checking with his or her DSO and verifying that his or her SEVIS record has been updated with the extension. SEVIS Release 6.0 allows a DSO to add the cap gap extension if a student is the beneficiary of a properly filed (prior to receipting by USCIS) or waitlisted H-1B petition. If a student is the beneficiary of a receipted or approved H-1B petition, and the student's SEVIS record does not properly reflect his or her status, the student should ask the DSO to request a data fix and provide the DSO with a copy of the receipt (Form I-797) and/or the receipt number.

**9.3.2. What are the responsibilities of the DSO for ensuring that SEVIS properly shows the student has a cap gap extension?**

DSOs are responsible for

- Providing status information in response to a student's request
- Requesting a data fix by calling SEVIS help desk at (800) 892-4829 and forwarding evidence provided by the student

DSOs are not responsible for initiating any actions in connection with the cap gap extensions.

**9.4. Student responsibilities during the cap gap extension**

**9.4.1. If a student is eligible for the cap gap extension, can he or she continue to work while SEVP is updating the student's SEVIS record with the extension?**

Yes, if a student is eligible for the cap gap extension, he or she can continue to work while the update is being processed by SEVP. The updated Form I-20 is only intended to provide a student with proof of the cap gap extension. The extension itself is automatic, based on the pending or approved H-1B petition.

**9.4.2. Can a student travel outside the United States during a cap gap extension period and return in F-1 status?**

Yes, provided the student has a valid EAD. See 8 CFR 214.2(f)(13). A student may choose to leave the United States and obtain an H-1B visa to return to the United States to assume H-1B employment.

SEVP recommends that a student not travel outside the United States during the cap gap extension, if possible, as USCIS will consider a change-of-status application to be abandoned if the applicant leaves the country while the application remains pending. Thus, a change-of-status petition from F-1 to H-1B filed on behalf of a student with a cap gap extension who departs the United States before the application is adjudicated could be denied.

**9.4.3. Do the limits on unemployment time apply to a student with a cap gap extension?**

Yes, the 90 day limitation on unemployment continues during the cap gap extension.

**9.4.4. What does a student on a cap gap extension need to report to his or her DSO?**

As with all students on post-completion OPT, the student must report any change of address within 10 days, any legal name change and interruptions of employment. See [8 CFR 214.2\(f\)\(12\),\(17\)](#).

In addition the student should follow directions in the [section on what students should report](#) to ensure that his or her status does not expire due to excessive unemployment time.

**9.4.5. What are the restrictions on the type of employment for a student with a cap gap OPT?**

See the section on [acceptable post-completion OPT employment](#).

**10. REPORTING FOR A STUDENT ON POST-COMPLETION OPT**

Students on all types of post-completion OPT — regular, cap gap extension or 17-month extension — have reporting obligations.

All must report any change of address within 10 days, any legal name change and interruptions of employment.

A student with regular OPT or a cap gap extension should see directions in the [section on what students should report](#) to ensure that his or her status does not expire due to excessive unemployment time.

A student with a 17-month extension should follow the directions in the section on [responsibilities for students with a 17-month extension](#).