

Regulatory Changes Affecting Optional Practical Training (OPT)

Effective 4/8/08

On 4/8/08 the USCIS published an “Interim Final Rule” on Optional Practical Training, an employment benefit for students in F-1 immigration status, which allows them to work in a position directly related to their major field of study. (See the OISS website for details about OPT.) All aspects of this rule/regulation are considered official until a “Final Rule” is published. Some aspects of the new rule apply to all current F-1 students; some aspects apply to Regent graduates on post-completion OPT (whose employers filed a timely H-1B petition); and some aspects of the rule will not apply to Regent University students or graduates. Please see the details below and call the OISS for any questions you might have.

- **Aspects of the new rule, which apply to all current F-1 students are as follows:**

- **Post-completion OPT (after degree completion)**

- A student who has maintained lawful F-1 immigration status can now apply for post-completion OPT no more than 90 days prior to his/her degree completion date.
- An application for post-completion OPT can now be received by the USCIS Service Center within 60 days after the degree completion date.
- An application for post-completion OPT must now be received by the USCIS Service Center within 30 days after the DSO/School Official recommends the student for the benefit in SEVIS (and prints the new I-20 with the OPT benefit).
- Students on post-completion OPT cannot accrue more than 90 days of unemployment.
- In addition to reporting any changes in one’s name and address, and any interruptions in employment, students on post-completion OPT are also required to report to the DSO/School Official the following information within 10 days: the employer’s name and address.

- **Pre-Completion OPT (before degree completion)**

- A student who has maintained lawful F-1 immigration status can only apply for pre-completion OPT up to 90 days prior to completing his/her first full academic year.
- A student who already completed one full academic year can only apply for pre-completion OPT up to 120 days in advance of the requested employment start date.

(--OVER--)

- **Aspects of the new rule which apply to students who completed their degrees, are currently on post-completion OPT, and whose employers filed a timely and proper H-1B petition are as follows:**
 - Students on post-completion OPT whose employers filed a timely and proper petition for H-1B status will now be eligible for a “Cap-Gap Extension” where their F-1 status and OPT authorization will automatically be extended until the start of the H-1B status on October 1. (In the past, students whose OPT expired before the H-1B status began had to depart the United States until the start of the H-1B status and reenter the U.S. with the H-1B visa. The Cap-Gap Extension now allows students with properly filed H-1B petitions to remain the U.S. until the H-1B status begins.)
 - Students in this situation are required to contact their schools to request an extension of the F-1 status and OPT authorization, and to make sure their SEVIS record has been updated. Students must send proof of the H-1B petition to the school before the school can respond to the extension request.
 - If your employer has filed an H-1B petition for you, and you think you qualify for the Cap-Gap Extension, it is important that you contact the OISS for details and guidance.

- **Aspects of the New OPT Rule that do NOT Apply to Regent University Students or Graduates but apply to graduates who are currently on post-completion OPT who have a bachelor’s, master’s or doctoral degree a “STEM” fields (Science, Technology, Engineering, Mathematics) are as follows:**
 - Students who have degrees in one of the four STEM fields can apply for an additional 17 months of OPT, but they must have a job or a job offer with an “E-verify employer” in order to qualify for this extension. Very few companies are E-verify employers.
 - STEM students who receive the 17 month OPT extension cannot accrue an aggregate of more than 120 days of unemployment.
 - STEM students who apply for the 17 month extension have special reporting requirements. In addition, their employers are required to report to the school when the student is terminated or leaves his/her employment.
 - According to the USCIS, STEM fields include the following major fields of study: Actuarial Science, Computer Science Applications, Engineering, Engineering Technologies, Biological and Biomedical Sciences, Mathematics and Statistics, Military Technologies, Physical Sciences, Science Technologies, Medical Scientist.

Special Notes:

- Those who were on post-completion OPT at the time this Interim Final Rule was published on 4/8/08 are subject to the new rules and requirements.
- This handout outlines the April, 2008 changes to the OPT rules only. Details regarding OPT can be found on the OISS website under the page called “Working in the U.S.”.
- For questions on the information contained in this handout, please contact the OISS.