

NEW F1 OPT REGULATIONS

Effective April 8, 2008, the Department of Homeland Security published new rules that directly impact all F-1 students who will apply for Optional Practical Training (OPT), have an application pending for OPT, or are currently engaged in OPT (See text of official, published federal regulations [HERE](#)).

OPT Application Process and Timeline:

The new rules allow all qualified F-1 students to apply for 12 months of OPT up to 90 days prior to their program end date **and within 60 days after their program end date**.

Effective April 8th, 2008, students applying for OPT must use the USCIS employment authorization application Form I-765 version dated 04/08/2008.* Please note that some of the instructions on this new version have changed:

- Students applying for **pre-completion OPT** (question 16) must use the eligibility code (c)(3)(A).
- Students applying for the 12-month **post-completion OPT** (question 16) must use the eligibility code (c)(3)(B).

*Please note that USCIS will not accept employment authorization applications using previous versions of the Form I-765 after 05/08/2008.

Maintaining Status on OPT:

All students are required to report to the OIS at JHMI within 10 days **any changes** to the following information:

- Name
- Residential address
- Phone and email address
- Employer name
- Employer address
- Employment status

The OIS has created an [EMPLOYMENT VERIFICATION FORM](#) to collect this information and posted it to the OIS website. You can complete the form and e-mail or fax to our office following the instructions on the form.

Students who fail to report this information as required will be in violation of their F-1 status and may jeopardize their legal status in the U.S.

Periods of Unemployment

- Students must maintain full-time employment while on OPT and cannot accumulate more than 90 days of unemployment during the 12 month OPT period.
- Students authorized for 29 months of OPT in total must have no more than 120 days of unemployment.

H-1B Cap-Gap Extension of Status and Employment

Previously, students who were approved for an H-1B effective October 1st and had an EAD card that expired prior to the H-1B start date had to stop working and leave the country until the H-1B start date arrived. The new rule remedies this situation by automatically

extending the duration of valid F-1 status and OPT employment authorization for students with H-1B petitions *and* change of status requests for an H-1B start date for the next October 1st. For 2008, this will apply to F-1 OPT students who had H-1B applications filed by their employer between April 1, 2008 and April 7, 2008. Please note the following:

- The extension of employment authorization automatically ends if the petition is denied, canceled, or revoked by USCIS. Effective on the date of such notification by USCIS, the student's 60-day grace period to leave the country, transfer programs, or file for a change of status begins.
- Travel abroad and re-entry to the U.S. during this automatic extension period may not be possible.

17-Month Post-Completion OPT Extension for "STEM" Students

Under the new rules, recipients of U.S. Bachelor's, Master's, and Doctoral degrees in certain **STEM** (science, technology, engineering, mathematics) fields, are eligible for a one-time, 17-month extension of post-completion OPT (for a total eligibility of up to 29 months).

To be eligible for the 17-month extension, the following conditions must be met:

- The student must be authorized for OPT at the time of the extension application and working in a job related to his or her field of study.
- The 17-month extension is limited to students who have completed certain science, technology, engineering, or mathematics (STEM) degrees. Contact the OIS by e-mail at internationalservices@jhmi.edu to determine if your program is a STEM program.
- At the time of application for the OPT extension, the student's employer must be registered with and participating in the USCIS **E-Verify** employment verification program.
 - Employers must indicate their E-Verify Identification Number on the I-765
 - Employers must agree to notify the Berkeley International Office within 48 hours of a student's employment termination

DHS has provided the following additional guidance on the 17-month OPT extension:

- Students eligible for the 17-month extension must request the extension recommendation from the OIS
- The extension request must be filed with form I-765, application fee, and supporting documents. The eligibility code for the 17-month extension on the I-765 question 16 is (c)(3)(c).
- Applications must be received by the USCIS prior to the student's current OPT end date
- While the 17-month extension application is pending, the 12 month OPT is automatically extended for 180 days or until the I-765 is adjudicated, whichever comes earlier.
- The start date on the 17-month extension OPT card will be the day after the 12-month OPT expires.
- Students with a 17-month extension must submit the **EMPLOYMENT VERIFICATION FORM** to the OIS **every six months** in order to maintain their legal F-1 status.