



NEW OPT RULES for F-1 Visa Students

Also available on OISS website at:
http://studentlife.unlv.edu/international/pdf/OPT_Rules_F1Students.pdf

Effective April 8, 2008, the Department of Homeland Security published new rules that directly impact all F-1 students who will or have applied or received for Optional Practical Training (OPT), have an application pending for OPT, or are currently engaged in OPT. All of these rules apply as of 4/8/2008 and will continue to apply in the future. These are **not** just one time changes, they are permanent for all F-1 students.

3 Changes

In general, there are 3 big changes that F-1 students need to know about as explained in detail below.

- 1) There is a new OPT Application form, timeline, and new reporting requirements - for **all** F-1 students.
- 2) There is an option to apply for an Extension of OPT for 17 more months – **ONLY** available to students who have received their OPT card for the first 12 months of OPT and whose major field of study for that OPT was in a **Science, Technology, Engineering, or Mathematics. (S.T.E.M. majors only)**. A list of UNLV's S.T.E.M. majors is attached below.
- 3) H-1B 'Cap-Gap' Extension of employment authorization – **ONLY** for students who have applied for an H-1B that will begin in the current fiscal year (i.e. for this year October 1, 2008; for students who apply for H-1B next year it would be October 1, 2009). Students who already applied for an H-1B visa can continue to work even if their OPT card expires, but there are many requirements for this (see #3 below).

1) OPT Application Process, Timeline, and Reporting Requirements – ALL F-1 students

When to Apply

The new rules allow all qualified F-1 students to apply for 12 months of OPT up to 90 days prior to completion of all required courses and within 60 days after completion of all required courses. So you can only apply as early as three months before you graduate, or even as late as two months after you graduate. ("graduate" means finish all required courses) Also, once UNLV OISS has given you the new I-20 with your OPT information on it, you must mail in your I-765 OPT application so that USCIS receives it within 30 days.

Start Date of OPT

The OPT card start date will begin on the date requested or the date the employment authorization is adjudicated, whichever is later.

The OPT Application Form

Effective April 8th, 2008, all students applying for OPT must use the new 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. An OISS advisor can assist you with preparing the application materials and completing the new I-765 form.

Reporting Requirements

All F-1 students on OPT are required to report to UNLV OISS within 10 days any changes to the following information. OISS has an *OPT Address Change form* on our website which you can use to report this information: <http://studentlife.unlv.edu/international/>

- Name
- Residential address – where you live
- Phone and email address
- Employer name
- Employer address
- Employment status

Periods of Unemployment

Students authorized for the original 12 months of OPT put their F-1 status in jeopardy if they are unemployed for more than 90 days aggregate during that OPT period. This new rule starts as of 4/8/2008, so any periods of unemployment before 4/8/2008 do not count. For example, if your OPT starts 5/18/2008, then you may not have more than 90 aggregate/total days of unemployment between 5/18/2008 and 5/17/2009.

IMPORTANT: The term “employment” is very broad. Even unpaid work qualifies as “employment” for the purposes of this new rule. So an internship, volunteer work, or temporary short-time gigs still count as “employment.”

2) 17-Month Post-Completion OPT Extension for S.T.E.M. Majors only

Under the new rules, recipients of U.S. Bachelor’s, Master’s, and Doctoral degrees in certain **S.T.E.M.** (science, technology, engineering, mathematics) fields, are eligible to apply for a one-time, 17-month extension of post-completion OPT (for a total eligibility of up to 29 months – 12 + 17 = 29). To be eligible to apply for the 17-month extension, the following conditions must be met:

- The student must be already authorized for OPT at the time of the OPT extension application
- The 17-month extension is limited to students who are currently on OPT after having completed certain science, technology, engineering, or mathematics (STEM) degrees. See below for a list of these majors at UNLV.
- The student must currently be working in a job related to his or her field of study (STEM)
- **Employer Requirements:**
 - 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. - for more information about what E-verify is go to http://www.dhs.gov/ximgtn/programs/gc_1185221678150.shtm
 - Employer must provide their E-Verify Identification Number to the student to put on the I-765 form
 - Employer must sign an agreement to notify UNLV OISS within 48 hours of a student’s employment termination

How to Apply?

- Students who meet the above criteria for the 17-month extension must complete the *OPT Extension Request* form from UNLV OISS.
- You can apply for this extension AFTER you have received your first 12-month OPT card and you must do so BEFORE that 12-month OPT card expires.
- UNLV OISS will issue a new I-20 with the OPT extension information on it.

- The student will mail the extension request with form I-765, application fee, and supporting documents (as instructed by OISS) to USCIS
- USCIS must receive the extension application 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 extension application is adjudicated, whichever comes earlier.

NOTE: The start date on the 17-month extension OPT card will be the day after the first 12-month OPT period expires. You cannot 'split' your 17 months into two periods. You can only request a one-time 17-month extension.

Reporting Requirements

All F-1 students on this extension of OPT are required to report to UNLV OISS within 10 days any changes to the following information. OISS has an *OPT Address Change form* on our website which you can use to report this information: <http://studentlife.unlv.edu/international/>

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

AND

- Students who receive a 17-month extension of OPT must submit a "validation report" to UNLV OISS **every six months** in order to maintain their F-1 status while on OPT. This means you must update OISS of your address, employer name and address, and employment status every six months, even if none of the above information has changed. Use OISS' OPT Address Change form to report your information.

Periods of Unemployment

Students granted a 17-month OPT extension put their F-1 status in jeopardy if they are unemployed for more than 120 days of unemployment aggregate during the total 29 month OPT period. Employment during the 17-month extension must be regular paid employment.

2) H-1B 'Cap-Gap' Extension of Status and Employment– ALL F-1 students

Before this new rule, students who were approved for an H-1B visa status effective October 1st and had an OPT card that expired prior to that H-1B visa status start date had to stop working and leave the country until the H-1B visa status start date arrived. The new rule fixes this problem 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.

How to Apply for the Cap-Gap Extension

Although the extension of the F-1 status and the employment authorization are really "automatic," DHS recommends that students who will use this cap-gap to remain in the U.S. and employed contact their school's ISS office to request that the information be updated in their SEVIS record. By making sure that the extension is recorded in your SEVIS record, a student will have actual proof of the extension on paper. Therefore, OISS recommends that students who use this cap-gap extension email or call and advisor in OISS to request a Cap-Gap Extension in SEVIS. The Advisor will ask you to provide a copy of your H-1B approval notice (or receipt notice) via email or fax. Then the Advisor will contact SEVIS to

ask their Help Desk to put the extension into your record. At this time, it is unclear how long it will take for SEVIS to update the cap-gap in students' records. It could take 2 weeks but it may take 6 or more.

Please note the following additional requirements for the Cap-Gap:

- The extension of employment authorization automatically ends if the H-1B petition is denied, canceled, or revoked by USCIS. Effective on the date of such notification of denial etc. by USCIS, the student will have a 60-day grace period to leave the country, transfer programs, or file for a change of status. So, if you find out later that you did not win the lottery – i.e. you don't get an H-1B application receipt notice from USCIS - then this new Cap-Gap extension of status and employment does NOT apply to you.
- Travel abroad and re-entry to the U.S. during this automatic extension period is strongly discouraged. (If your OPT card has expired, you may not be permitted to re-enter the U.S.)
- For a student who is the beneficiary of an H-1B petition for a cap exempt (higher education, non-profit, etc) employer, USCIS will likely NOT recognize that s/he is eligible for the extension of status & work authorization under the cap gap provision of this rule.
- Under the new cap gap extension, a student may undertake any employment that directly relates to the field, including employment with the employer from his/her original OPT period or an employer who has filed an H-1B petition with the student as the intended beneficiary.

Periods of Unemployment

Students who are eligible for the cap-gap extension will put their F-1 status in jeopardy if they are unemployed for more than 90 days aggregate during the OPT period plus the extension. This new rule starts as of 4/8/2008, so any periods of unemployment before 4/8/2008 do not count. For example, if your OPT starts 5/18/2008 and you are able to use the cap-gap in May 2009, then you can not have more than 90 aggregate/total days of unemployment between 5/18/2008 and 9/31/2009 (the cap-gap would end on 9/31/2009).

Questions? Please contact an Advisor in OISS:

| | <u>Walk-In Hours</u> |
|-----------|----------------------|
| Tuesday | 11:30 – 1:30 |
| Wednesday | 1 – 4 |
| Thursday | 11 – 1 |
| Friday | 12 – 3 |

Phone: (702) 895-0143 Email: issssc@unlv.edu

**Science, Engineering, Technology, Mathematics Majors
(S.T.E.M majors)
For 17-month extension of OPT**

Students who graduated with a U.S. Bachelor's, Master's, or PhD/Doctorate in the following majors are potentially eligible for the 17-month OPT extension. In addition to the major, remember that there are other qualifications required for the OPT extension. See page 2-3 above for a list of those other qualifications.

| CIP code | Gouvernement Major name | UNLV Major name |
|-----------------|---|---|
| 11.0401 | Information Science/Studies | INFORMATICS |
| 11.0701 | Computer Science | COMPUTER SCIENCE |
| | | PRE COMPUTER SCIENCE |
| 14.0101 | Engineering, General | ENGINEERING-PROBATIONARY |
| | | OTHER ENGINEERING |
| | | PRE ENGINEERING |
| | | PRE ENGINEERING/COMPUTER SCIENCE |
| | | PRE ENGR CHANGED TO ECSPRE |
| 14.0201 | Aerospace, Aeronautical and Astronautical Engineering | AEROSPACE ENGINEERING |
| 14.0501 | Biomedical/Medical Engineering | BIOMEDICAL ENGINEERING |
| 14.0801 | Civil Engineering, General | CIVIL & ENVIRONMENTAL ENGINEERING |
| | | CIVIL ENGINEERING |
| | | PRE CIVIL ENGINEERING |
| 14.0804 | Transportation and Highway Engineering | TRANSPORTATION |
| 14.0901 | Computer Engineering, General | COMPUTER ENGINEERING |
| | | PRE COMPUTER ENGINEERING |
| 14.1001 | Electrical, Electronics and Communications Engineering | ELECTRICAL ENGINEERING |
| | | PRE ELECTRICAL ENGINEERING |
| 14.0901 | Mechanical Engineering | MECHANICAL ENGINEERING |
| | | MECHANICAL ENGINEERING-BIOMEDICAL |
| | | PRE MECHANICAL ENGINEERING |
| 15.1001 | Construction Engineering Technology/Technician | PRE-CONSTRUCTION MANAGEMENT |
| 26.0101 | Biology/Biological Sciences, General | BIOLOGICAL SCIENCES |
| | | BIOLOGICAL SCIENCES- INTEGRATIVE AND ORGANISM |
| | | BIOLOGICAL SCIENCES-ANIMAL |
| | | BIOLOGICAL SCIENCES-BIOTECHNOLOGY |
| | | BIOLOGICAL SCIENCES-CELL & MOLECULAR |
| | | BIOLOGICAL SCIENCES-COMPREHENSIVE |
| | | BIOLOGICAL SCIENCES-ECOLOGY & EVOLUTIONARY |
| | | BIOLOGICAL SCIENCES-EDUCATION |
| | | BIOLOGICAL SCIENCES-ENVIRONMENTAL |
| | | BIOLOGICAL SCIENCES-PREPROFESSIONAL |
| | | BIOLOGICAL SCIENCES-PROBATIONARY |
| | | BIOLOGICAL SCIENCES-TERRESTRIAL |
| 26.0202 | Biochemistry | BIOCHEMISTRY |
| 26.0301 | Botany/Plant Biology | BIOLOGICAL SCIENCES-PLANT |

| | | |
|---------|---|----------------------------------|
| 26.1302 | Marine Biology and Biological Oceanography | BIOLOGICAL SCIENCES-AQUATIC |
| 27.0101 | Mathematics, General | MATHEMATICAL SCIENCES |
| | | MATHEMATICS |
| | | MATHEMATICS PROBATIONARY |
| 27.0301 | Applied Mathematics | MATHEMATICS -APPLIED |
| | | MATHEMATICS-ACTUARIAL SCIENCE |
| | | MATHEMATICS-PURE MATH |
| 27.0501 | Statistics, General | MATHEMATICS -STATISTICS |
| | | MATHEMATICS-STATISTICS/ACTUARIAL |
| 40.0501 | Chemistry, General | CHEMISTRY |
| | | CHEMISTRY-PREPROFESSIONAL |
| | | CHEMISTRY-PROBATIONARY |
| 40.0601 | Geology/Earth Science, General | EARTH SCIENCE |
| | | ENVIRONMENTAL GEOLOGY |
| | | GEOLOGY |
| | | GEOLOGY-PROBATIONARY |
| 40.0605 | Hydrology and Water Resources Science | WATER RESOURCES MANAGEMENT |
| 40.0801 | Physics, General | COMPUTATIONAL PHYSICS |
| | | PHYSICS |
| | | PHYSICS -APPLIED |
| | | PHYSICS-PROBATIONARY |