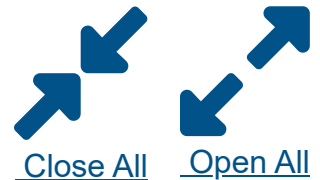


Extension of Post Completion Optional Practical Training (OPT) and F-1 Status for Eligible Students under the H-1B Cap-Gap Regulations

The “cap-gap” period starts when an F-1 student’s status and employment authorization expires and, unless terminated, ends on April 1 of the fiscal year for which the H-1B status is being requested or until the validity start date of the approved petition, whichever is earlier.

Cap-gap occurs because an employer may not file, and USCIS may not accept, a cap subject H-1B petition submitted more than 6 months in advance of 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 cap-subject petition is April 1 for the following fiscal year, which starts Oct. 1. If USCIS approves the H-1B petition and the accompanying change of status request, the earliest date that the student may start the approved H-1B employment is Oct. 1, but the beneficiary’s OPT employment authorization may expire before the H-1B start date.



Cap-Gap Extensions

Current regulations allow certain students with a pending or approved cap-subject H-1B petition to remain in F-1 status during the cap-gap period. This is referred to as filling the "cap-gap," meaning the regulations provide a way of filling the "gap" between the end of F-1 status and the beginning of H-1B status that might otherwise occur were F-1 status not extended for qualifying students.

Eligibility for an Extension

Cap-subject H-1B petitions that are properly and timely filed for an eligible F-1 student that request a change of status to H-1B within the fiscal year for which status is being requested qualify for a cap-gap extension.

Timely filed means that the H-1B petition (indicating change of status rather than consular processing) was filed during the applicable H-1B filing period, which begins April 1 and while the student's authorized F-1 duration of status (D/S) admission was still in effect (including any period of time during the academic course of study, any authorized periods of post-completion optional practical training (OPT), and the 60-day departure preparation period commonly known

as the "grace period"). A cap-subject H-1B petition will not be considered to be properly filed unless it is based on a valid, selected registration for the same beneficiary and the appropriate fiscal year, unless the registration requirement is suspended.

Once the petitioner properly and timely files a request to change status to H-1B within the fiscal year for which such status is being requested, the automatic cap-gap extension will begin. If the student's H-1B petition is approved (or selected and approved if the registration requirement is suspended), the student's cap-gap extension of status will continue until April 1 of the fiscal year for which such H-1B status is being requested or until the validity start date of the approved petition, whichever is earlier. The cap-gap extension of status will automatically terminate if the student's H-1B petition is denied, withdrawn, revoked, rejected, or is not selected, or if the change of status request is denied or withdrawn even if the H-1B petition is approved for consular processing. The student will have the standard 60-day grace period from the date the extension of status terminated or their program end date, whichever is later, to depart the United States (however, the 60-day grace period does not apply to an F-1 student whose accompanying change of status request is denied or revoked due to a status violation, misrepresentation, or fraud).

Students are strongly encouraged to stay in close communication with their petitioning employer during the cap-gap extension period for status updates on the H-1B petition processing.

Please note: F-1 students who have entered the 60-day grace period are not authorized to work. If an H-1B cap-subject petition is properly filed for a student who has entered the 60-day grace period, the student will receive the automatic extension of their F-1 status, but will not be authorized to work since the student was not authorized to work at the time H-1B petition was filed.

Those Not Qualified for an Extension

F-1 students who do not qualify for a cap-gap extension and whose periods of authorized stay expire before the validity start date of their approved petition are required to leave the United States. They then need to apply for an H-1B visa at a consular post abroad, if applicable, and seek to be readmitted into the United States in H-1B status for the dates reflected on the approved H-1B petition.

Additionally, the cap-gap provision applies only to beneficiaries of cap-subject H-1B petitions, not to beneficiaries of [cap-exempt H-1B petitions](#).

Proof of Continuing Status

The cap-gap extension of OPT is automatic for eligible students. A student does not file an application for the extension or receive a new Employment Authorization Document (EAD) to cover the additional time. The only proof of continued employment authorization currently available to an affected student is an updated Form I-20 showing an extension of OPT, issued to the student by their designated school official (DSO). This document serves as proof of continued employment authorization.

If a student chooses to obtain an updated Form I-20, they should provide their DSO with evidence of a timely-filed H-1B petition (indicating a request for change of status rather than for

consular processing), such as a copy of the petition and a FedEx, UPS, or USPS Express/certified mail receipt. The student's DSO will issue an updated Form I-20.

The student should return to their DSO with a copy of the petitioning employer's Form I-797, Notice of Action, indicating that the petition was filed and accepted. The Form I-797 must have a valid receipt number. The student's DSO will issue another updated Form I-20, showing an extension until April 1 of the fiscal year for which such H-1B status is being requested. In such situations, the student can continue to work while the update to their Form I-20 is being processed. Because the cap-gap extension is automatic, the updated Form I-20 is not required for a student to continue working; it merely serves as proof of the extension of OPT employment authorization.

Denied H-1B Petitions

If an H-1B petition filed for an F-1 student with a cap-gap extension is denied, rejected, revoked, or withdrawn, the student will have the standard 60-day grace period (from the date of the notification of the denial, rejection, revocation, or withdrawal of the petition) to depart the United States.

The 60-day grace period does not apply to an F-1 student whose accompanying change of status request is denied due to a status violation, misrepresentation, or fraud. In such cases, the F-1 student is ineligible for cap-gap extension of status and the 60-day grace period. Similarly, the 60-day grace period and cap-gap extension of status does not apply to an F-1 student whose petition was revoked based on a finding of a status violation, fraud or misrepresentation discovered following approval. In both instances, students are required to immediately leave the United States.

Travel during Cap-Gap Extension Period

An F-1 student may generally travel abroad and seek readmission to the United States in F-1 status during a cap-gap period if:

1. The student's H-1B petition and request for change of status has been approved;
2. The student seeks readmission before their H-1B change of status takes effect (normally at the beginning of the fiscal year on Oct. 1); and
3. The student is otherwise admissible.

However, if an F-1 student travels outside the United States while the H-1B petition and the change of status request remain pending the request for change of status will be considered abandoned.

Please note that even if an F-1 student meets all of the requirements listed above, a U.S. Customs and Border Protection (CBP) officer always makes the final determination on whether to admit an applicant for admission after inspection at a port-of-entry. F-1 students may refer to the [DHS Study in the States](#) page for a list of the documents needed to confirm eligibility for F-1 status.

STEM OPT Extensions

F-1 students who receive science, technology, engineering, and mathematics (STEM) degrees included on the [STEM Designated Degree Program List \(PDF\)](#), are employed by employers enrolled in and maintain good standing with E-Verify, and who have received an initial grant of post-completion OPT employment authorization related to such a degree, may apply for a 24-month extension of such authorization. F-1 students may obtain additional information about STEM OPT extensions in the [USCIS Policy Manual](#), on our [Optional Practical Training Extension for STEM Students \(STEM OPT\)](#) page, or the [STEM OPT Hub](#).

Students who are eligible for a cap-gap extension of post-completion OPT employment and F-1 status may apply for a STEM OPT extension during the cap-gap extension period.

However, students may not apply for a STEM OPT extension once the cap-gap extension period is terminated (if the H-1B petition is rejected, denied, revoked, or withdrawn) and the student has entered the 60-day grace period.

Unemployment Limits

The law allows you to be unemployed during your OPT period for a limited number of days.

If you received...	You may be unemployed for...	For a total of... (during the OPT period)
Initial post-completion OPT only	Up to 90 days	90 days
24-month extension	An additional 60 days	150 days

Start Date Issues

If the student's OPT end date is shortened to Sept. 30 even though their H-1B employment would not begin until a later date, they should contact their DSO. The DSO may request a data fix in the Student and Exchange Visitor Information System (SEVIS) by contacting the SEVIS helpdesk.

Changes in Employment

- **Laid off or terminated by the H-1B employer:** If the student has been approved to change their status to an H-1B nonimmigrant but is laid off/terminated by the H-1B employer before

the date they officially obtain H-1B status, the student can retrieve any unused OPT if they have an unexpired EAD issued for post-completion OPT. The student will remain in F-1 status and can continue their OPT using the unexpired EAD.

The student also needs to make sure that USCIS receives a withdrawal request from the petitioner before the H-1B change of status goes into effect. This will prevent USCIS from changing the student's status to H-1B. Once the petition has been revoked or withdrawn, the student must provide their DSO with a copy of the USCIS acknowledgement of withdrawal (the notice of revocation). The DSO may then contact the SEVIS Help Desk to request a data fix in SEVIS to prevent the student from being terminated in SEVIS.

If USCIS does not receive the withdrawal request before the date that the student is supposed to change status to an H-1B nonimmigrant, then the student will need to stop working, file Form I-539, Application to Extend/Change Nonimmigrant Status, to request F-1 status, and wait until the change of status request is approved before resuming OPT employment.

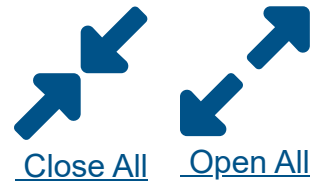
The F-1 student can continue working with their approved EAD while the data fix in SEVIS is pending if:

- The (former) H-1B employer withdrew the H-1B petition before the effective date of the H-1B change of status;
- The student finds employment appropriate to their OPT;
- The period of OPT is unexpired (which would indicate that the student was not actually utilizing "cap-gap" since they otherwise had valid OPT authorization); and
- The DSO has requested a data fix in SEVIS.

While Waiting for a Data Fix in SEVIS

- **Working while the data fix is pending:** If the employer withdraws the H-1B petition before the H-1B effective date, the student may continue working while the data fix remains pending so long as:
 - The student finds employment appropriate to their OPT;
 - The period of OPT is unexpired (which would indicate that the student was not actually utilizing "cap-gap" since they otherwise had valid OPT authorization); and
 - The student has not otherwise violated their F-1 status.
- **Maintaining valid F-1 status:** If the employer withdraws the H-1B petition before the date that the student officially changes to H-1B status, the student generally will remain in F-1 status while the data fix is pending. The student would have the standard 60-day grace period to depart the United States unless the H-1B petition was revoked because of fraud or violation of status.

If the employer withdraws the H-1B petition approval after the date that the student officially changes to H-1B status, the student's status will have been changed from F-1 to H-1B. The student will no longer be in valid F-1 status and would need to file a Form I-539 if seeking to change back to F-1 status.



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