

EMPLOYERS HIRING STEM GRADUATES ON F-1 OPT EXTENSIONS | FAQ

1. What is the STEM OPT Extension Program?

F-1 international students whose program of study is in a so-called STEM (Science, Technology, Engineering, Mathematics) field may qualify for an extension of their original 12-month OPT (optional practical training) employment authorization period following completion of their studies. This additional employment authorization period permits STEM graduates to continue employment and training with certain U.S. employers, while affording additional chances for qualifying for an H-1B visa or other work authorized status.

The original STEM OPT extension program began on April 8, 2008, and provided for a 17-month OPT extension. Beginning May 10, 2016, STEM graduates may request a **24-month extension**, for a total Post Completion OPT period of 36 months. STEM graduates with pending STEM OPT applications filed prior to May 10, 2016, as well as certain graduates already on a 17-month STEM extension, may also qualify for the longer extension period.

2. Which F-1 Students Qualify for the STEM OPT Extension?

F-1 students working in a period of OPT following completion of a bachelor's degree-level or higher course of study in an eligible STEM field may qualify for the STEM OPT extension. In addition, F-1 students who completed a STEM-field program of study prior to their current program may apply for a STEM extension based on the prior STEM program, provided the student had not already applied based on that program. Last, F-1 students who earn an additional STEM degree may apply for a second STEM OPT extension.

The qualifying degree(s) must be earned from an accredited school certified by the U.S. Student and Exchange Visitor Program (SEVP).

The U.S. Department of Homeland Security (DHS) maintains a [list of fields of study that qualify as STEM fields](#).

Examples of fields designated as STEM areas by DHS include the following:

- Actuarial Science
- Biological and Biomedical Sciences
- Computer Science Applications
- Engineering
- Engineering Technologies
- Mathematics and Statistics
- Medical Scientists
- Military Technologies
- Physical Sciences
- Science Technologies

DHS continues to revise this list and may extend this list to other fields. However, F-1 students graduating from programs outside the STEM list as published will not qualify for the STEM OPT extension.

3. When does the new rule take effect?

The original STEM OPT extension program began on April 8, 2008. USCIS Form I-765, Application for Employment Authorization, <https://www.uscis.gov/i-765>, was revised to allow for this benefit. The new 24-month STEM OPT program effective date is May 10, 2016.

4. What must a company do to extend an F-1 worker's OPT period?

The employer must enroll in the DHS's online E-Verify program, <https://www.uscis.gov/e-verify>, before any F-1 OPT candidate can qualify for the STEM OPT extension. Employers seeking to enroll in E-Verify should enroll only after consulting with immigration counsel about the potential legal exposure for doing so. Please refer to the Jackson & Hertogs memo on E-Verify for more information, <http://www.jackson-hertogs.com/?p=5218>. Companies should

not enroll in E-Verify without first balancing its advantages against its disadvantages. The decision to enroll in E-Verify should be made only after consulting with the company's internal corporate counsel or chief executives.

The employer must also certify that the STEM OPT employee will go through a formal training program with the employer, with concrete learning objectives and proper oversight. Employers must complete and certify Form I-983, <https://studyinthestates.dhs.gov/stem-opt-hub/for-students/students-and-the-form-i-983> to provide details regarding the training program.

As part of this formal training, the employer must review and sign annual self-evaluations by the STEM OPT employee. The employer must also report any material changes to the training program, or to the employer-employee relationship.

5. When and how should the F-1 OPT employee file the STEM OPT extension?

The employee must file for the extension **before** the original 12-month OPT period has expired. The extension is filed via USCIS Form I-765, along with the required filing fee, a new Designated Student Officer-endorsed SEVIS Form I-20, a copy of the STEM degree, proof of the sponsoring employer's enrollment in the E-Verify program, and the employer's signed and certified Form I-983 training program.

Many higher education institutions have specific procedures for students and employers to follow to obtain OPT and STEM OPT approval. Employers and employees should check with the employee's specific institution for details.

6. Must USCIS approve the OPT extension request before an employer can hire (or continue employing) an F-1 OPT employee who has applied for the STEM extension?

No, the F-1 OPT employee will have extended employment authorization simply by having timely filed the extension request. The employment authorization will continue for up to 180 days, until the extension request is adjudicated.

7. What obligations will the employer take on by hiring someone under the STEM OPT extension period?

The employer and employee will share significant reporting requirements to the DHS in applying for and securing the STEM OPT extension. The employer will be required to notify the F-1 OPT employee's DSO within five business days of the employee being terminated from or departing employment. The five business days begin counting down as soon as the employer knows the student has left the OPT employment or if the student has not reported for work for five consecutive business days without the employer's permission. It is unclear what, if any, penalties employers may face for failure to timely abide by this notification requirement. The employee is required to report change of name, address, employer, employer address, or loss of employment within 10 days of the change.

The employer must assemble a formal training program for the employee and report on the employee's progress through self-evaluations, as noted in Question 4.

The employer must also attest that the student on a STEM OPT extension will not replace a full- or part-time, temporary or permanent U.S. worker.

Furthermore, the terms and conditions of the STEM practical training opportunity — including duties, hours, and compensation — must be commensurate with the terms and conditions applicable to the employer's similarly situated U.S. workers or, if the employer does not employ and has not recently employed more than two similarly situated U.S. workers in the area of employment, the terms and conditions of other similarly situated U.S. workers in the area of employment. Non-wage compensation such as stock options

8. Where can I learn more about the new F-1 OPT extension?

DHS has published a STEM OPT Hub with detailed information, including requirements, recognized STEM fields, and other relevant information at the following link, <https://studyinthestates.dhs.gov/stem-opt-hub>.