24 MONTH STEM EXTENSION FREQUENTLY ASKED QUESTIONS

Does the new 24-month STEM OPT extension make any changes to the standard 12-month OPT, pre-completion OPT, or Curricular Practical Training (CPT) programs?

No.

Can I apply for the 24-Month STEM OPT extension if I’m currently on an approved period of 17-month STEM OPT?

Students who have a 17-month EAD that was approved before May 10, 2016 under the current 17-month rule may request to have their 17-month EAD for an extra 7 months. Not all students with approved 17-month STEM OPT will qualify. To be eligible for the 7-month extension, however, the student must meet all of the following conditions:

1) Properly file a Form I-765, with USCIS on or after May 10, 2016 and on or before August 8, 2016, and within 60 days of the date the DSO enters the recommendation for the 24-month OPT extension into the student’s SEVIS record.

2) Have at least 150 calendar days remaining prior to the end of his or her 17-month OPT extension at the time the Form I-765, is properly filed.

3) Meet all the requirements for the 24-month OPT extension under the new final rule, except the requirement that the student must be in a valid period of standard 12-month post-completion OPT at the time of filing.

Can I apply for the 24-month STEM OPT extension if my 17-month STEM OPT application is currently pending with USCIS?

If your application is adjudicated on or after May 10, 2016 you will receive a Request for Evidence (RFE) from USCIS asking for documentation to prove that you are eligible for the 24-month extension under the provisions of the new rule. If you respond appropriately to this RFE you will be granted the 24-month extension. If you do not respond to the RFE your application will be considered abandoned and you will get neither the 17 nor the 24 month extension.

My 17-month STEM OPT extension was approved on or before May 9, 2016. Do I need to do anything if I DON’T want the additional 7 months of STEM OPT?

No. 17-month STEM OPT extensions approved on or before May 9, 2016 will continue to be valid until the expiration date printed on the EAD without being subject to the requirements of the new rule.

I was granted a STEM OPT extension previously. Can I apply for another STEM OPT extension under the new rule?

The new rule provides that students may receive up to two STEM extensions over the course of the academic career. In order to qualify for a second OPT STEM extension, a student must meet certain eligibility requirements. Additionally, the second OPT STEM extension can only be approved for a degree earned at a higher level than the first extension.

Can I apply for a second STEM OPT extension to immediately follow my first STEM OPT extension?

No. Two periods of STEM OPT cannot immediately follow each other. There must be an intervening degree and a period of 12-month OPT between the STEM OPT extensions.
Can I use a previously earned STEM degree to apply for the 24-month STEM OPT extension?
Yes, if the previous STEM degree was earned from an accredited U.S. institution no more than 10 years prior to the date the 24-month OPT STEM extension is filed. For more information on how to use a prior STEM degree, see the STEM OPT extension eligibility requirements.

How does the new rule affect the H-1B Cap Gap Extension?
For all F-1 OPT students whose OPT ends between April 1 and October 1, the rule continues the "cap gap" employment authorization for those students who have a cap-subject H-1B filed on their behalf. As in the current rule, the new rule continues employment authorization until the H-1B petition is rejected in the lottery, denied, revoked by USCIS, or until October 1, whichever is latest. The new rule also clarifies that employment authorization ends when the petition is withdrawn by the employer, and that it ends if the H-1B petition is approved, but the student's change of status portion of the petition is denied.

Does my employer still need to participate in the E-Verify program under the new 24-month STEM OPT extension?
Yes. The new rule continues the requirement that in order for the student to receive a STEM extension, the student's employer must be enrolled in the E-Verify program for all of the employer's new hires, at least at the location where the student will receive OPT. The employer continues to be required to inform the student's school of any termination of the student's employment (or non-authorized absence from work for 5 consecutive days).

What is the individualized training plan required by the new 24-month STEM OPT extension?
The 24-month STEM OPT extension increases the educational benefits that F-1 students receive from their practical training experiences by requiring the submission of a formal training plan on form I-983. Students and their employers will complete the form I-983 and submit it to the student's school which must review it prior to recommending a STEM OPT extension. Additionally, students must complete an annual self-evaluation of the training plan and submit it to their employer for review. SEVP has provided further training on this important new document via an online tutorial and pages specific to students and employers.

Does employment on the 24-month STEM OPT extension have to be paid, and if so, how much?
Yes. "DHS has determined that as a result of the rule's general requirements, a student seeking a STEM OPT extension will not be allowed to use a volunteer opportunity as a basis for a STEM OPT extension." According to the DHS, "The terms and conditions of a STEM practical training opportunity during the period of the 24-month OPT extension, including duties, hours, and compensation, must be commensurate with terms and conditions applicable to the employer's similarly situated U.S. workers in the area of employment." (Federal Register; Volume 81, Number 48; Page 13079, 13119)

May I be self-employed on the 24-month STEM OPT extension?
"F-1 students cannot qualify for STEM OPT extensions unless they will be bona fide employees of the employer signing the Form I-983 because F-1 students may not provide the employer attestation (i.e., signatures) on their own behalf. However, they may use a start-up business so long as all regulatory requirements are met. The employer that signs the Form I-983 must be the same entity that employs the student and provides the practical training experience." (DHS, Study in the States, STEM OPT hub, "Students: Determining STEM OPT Extension Eligibility")