

F-1 Employment Options: OPT & H-1B Transitions

Spring 2009
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Agenda

- General Employment Considerations
 - Maintaining F-1 status
- Optional Practical Training
 - Authorization process & Reporting requirements
 - Important Decision Factors
 - Available Extensions
- Transitions to H-1B
 - Employment Dates
 - Travel abroad & valid re-entry to U.S.
 - Planning Ahead



Maintain your Status!

- Employment authorization requires valid status
- Simple Steps to Stay in Status:
 - Attend the school you are authorized to attend
 - Maintain full-time registration each term, until completion
 - Notify ISO of any change in address within 10 days
 - Keep your passport valid at all times (6 months into future)
 - Obtain an updated travel signature on your I-20 each year
 - Carry your immigration documents when going off-campus
 - Stay informed on F-1 immigration issues with “ISO News”
 - Work only with valid & documented authorization!

Congratulations ...

- You'll be graduating soon! So, what's next?
 - Authorization to stay & pursue employment in the U.S.
- *Common Goal:* To achieve a smooth transition from full-time student to professional employee
 - How long do you hope to work in U.S.?
 - Which types of work permission might be available to you?
 - What factors can you use to compare potential employers?
 - Are you prepared to discuss visa sponsorship?
- *ISO Goal:* To provide basic guidelines that help you in making important immigration decisions

Optional Practical Training

- Benefit of maintaining F-1 (no change in status)
 - 12 months of OPT available at each higher degree level
- Work is either during or after academic program
 - Pre-completion, during academic year (part-time only)
 - Pre-completion, during annual vacation term (part-time/full-time)
 - After completion of all requirements excluding thesis (part/full)
 - ★ Post-completion, after all degree requirements (full-time only)
- Directly related to field of study, but flexible
 - No job offer is required & Ability to change employers
 - Plausible argument for connection between degree & job

OPT: Application Procedures

- “F-1 Optional Practical Training” (ISO/Online)
- Step 1: ISO Recommendation
 - Departmental Recommendation Form, from Advisor & Dean
 - Selection of eligible employment dates
 - Submit paperwork with 1 week processing time for new I-20
- Step 2: Authorization is granted by USCIS
 - Application fee of \$340, plus supporting documentation
 - Employment Authorization Document (EAD), in 2-3 months
 - Work may begin once EAD is received & start date reached

OPT: Timing Considerations

- Requesting the new I-20 from ISO
 - Apply within 90 days *before* and 60 days *after* completion
 - Plan accordingly, considering the EAD can take 3 months
 - Impact to on-campus student work permission
 - Completion Date (#5 on I-20) will be updated if necessary
- Selection of Employment Dates
 - Total 12-month authorization must fall within 14 months of the academic completion date on the I-20
 - Option to delay OPT start date for up to 60 days (“window”)
 - Once submitted, these dates are nearly impossible to modify
 - Job offer, without EAD → must wait to begin work
 - OPT begins, but no job yet → unemployment



OPT: Unemployment Limit

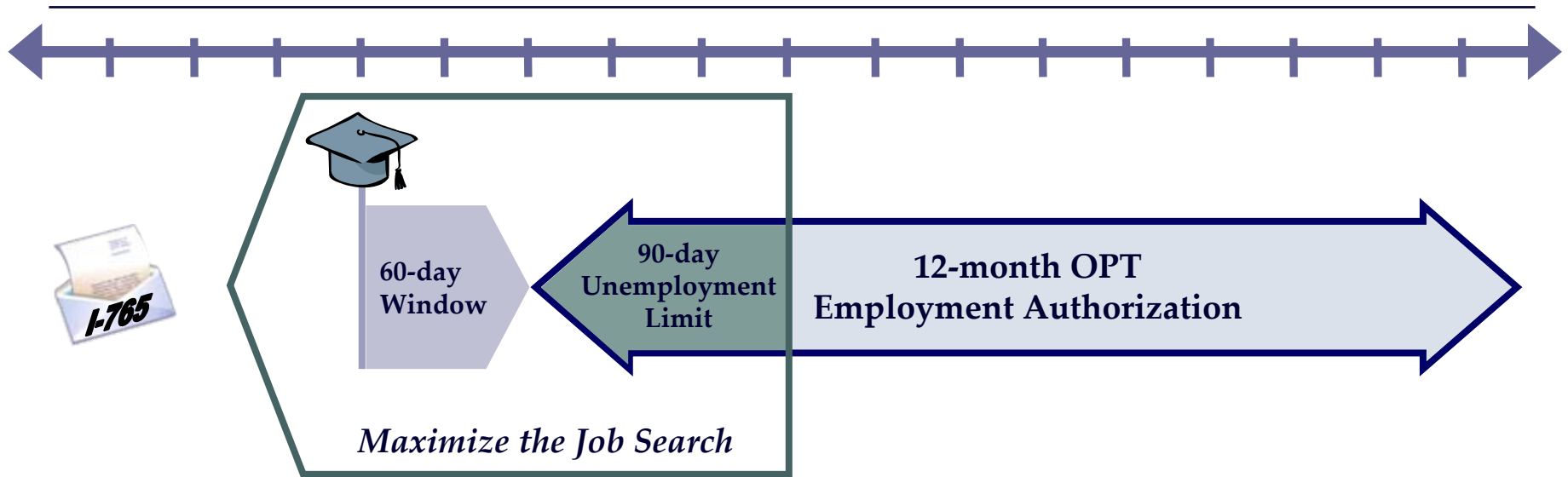
- 90-day cumulative total over 12 months of OPT
 - Unemployment is counted only once OPT period begins
 - If exceeded, remaining OPT automatically terminates
- No job yet? Maximize your search time!
 - 5 month job search: Use 60-day widow to delay start of OPT
- Avoiding days counted as unemployment
 - Multiple activities, Part-time, & Volunteer work qualifies
 - Work should be at least 20 hours per week, paid or unpaid
 - Keep a record of volunteering & efforts to find employment



OPT: Responsibilities

- UR remains immigration sponsor during OPT
 - F-1 regulations & requirements are still in effect
- Reporting Requirements (within 10 days)
 - Any change in personal address
 - Changes in name or citizenship, shown by passport
 - Employer name and address, and any changes
 - Periods of unemployment greater than 10 days
 - Any change in U.S. immigration status or departure
- Updating your travel signature on the I-20
 - Validity is shortened to 6 months, instead of one year

Overview of the OPT Process



- Apply up to 90 days before your scheduled completion date
- 60-day window available prior to requested start of OPT
- On-Campus work permission ends with I-20 completion date
- Days unemployed are counted once OPT authorization begins
- Avoid using Unemployment Limit & Reporting to ISO

OPT: STEM Extension

- Overview
 - Additional 17 months, after initial 12-month authorization
 - Apply to USCIS with new I-20 & fee, 90 days *before* OPT ends
 - Unemployment Limit extends to 120 days, over 29 months
- Eligibility
 - For majors in Science, Technology, Engineering, & Math
 - STEM Designated Degree Programs: www.ice.gov/sevis/stemlist
 - Employer must be enrolled in E-Verify program (DHS/SSA)
 - Find E-Verify information online: www.uscis.gov/everify
 - Enrolled employers (*unofficial*): www.smartbusinesspractices.com
 - Authorized only once, regardless of relevant future studies



OPT: Cap Gap Extension

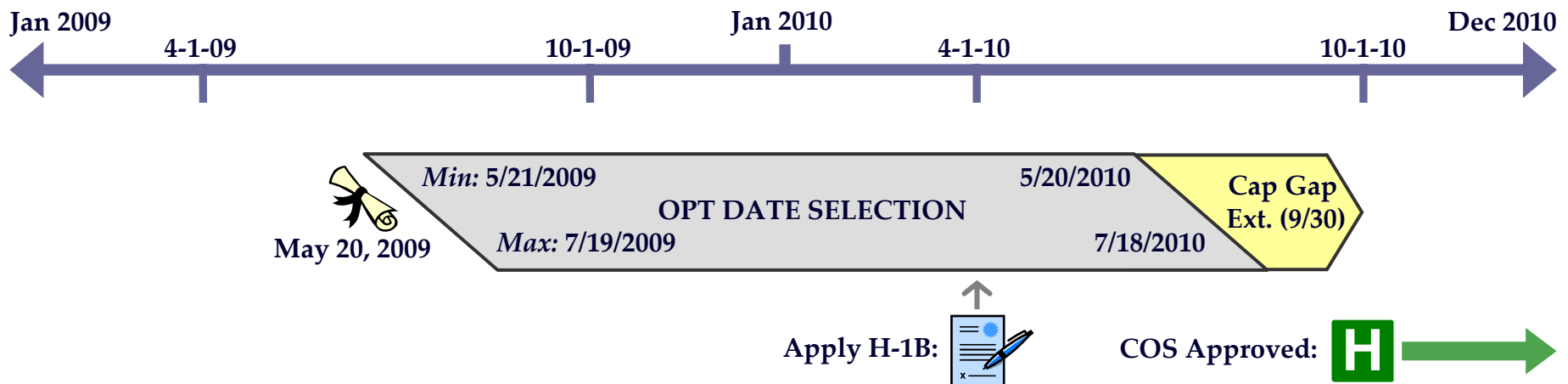
- Overview
 - Extends current F-1 permissions, between OPT & H-1B
 - OPT authorization must still be valid when the petition is filed
 - Granted in stages, based on the status of the H-1B petition
 - Automatic *vs.* Documented: Notify ISO for updated I-20
- Eligibility
 - For beneficiaries of a valid & timely filed H-1B petition
 - Application must be filed as a Change of Status
 - Employer must be subject to the annual H-1B quota

H-1B Temporary Workers

- Overview & Annual quota on new H-1Bs
 - Minimum Qualifications: Bachelors, in a specialized field
 - Employer-based authorization, requires permission to change
 - Quota: 65,000, plus 20,000 to Advanced Degrees Holders
 - U.S. universities & some non-profits are Cap-Exempt
- Applying for a Cap-Subject H-1B
 - Based on fiscal year: Oct 1 – Sept 30; Apply April 1st (6 mos.)
 - Relevant qualifications must be completed by filing date
 - Lottery system, when applications filed exceed quota
 - Must satisfy quota when moving from Cap-Exempt employer

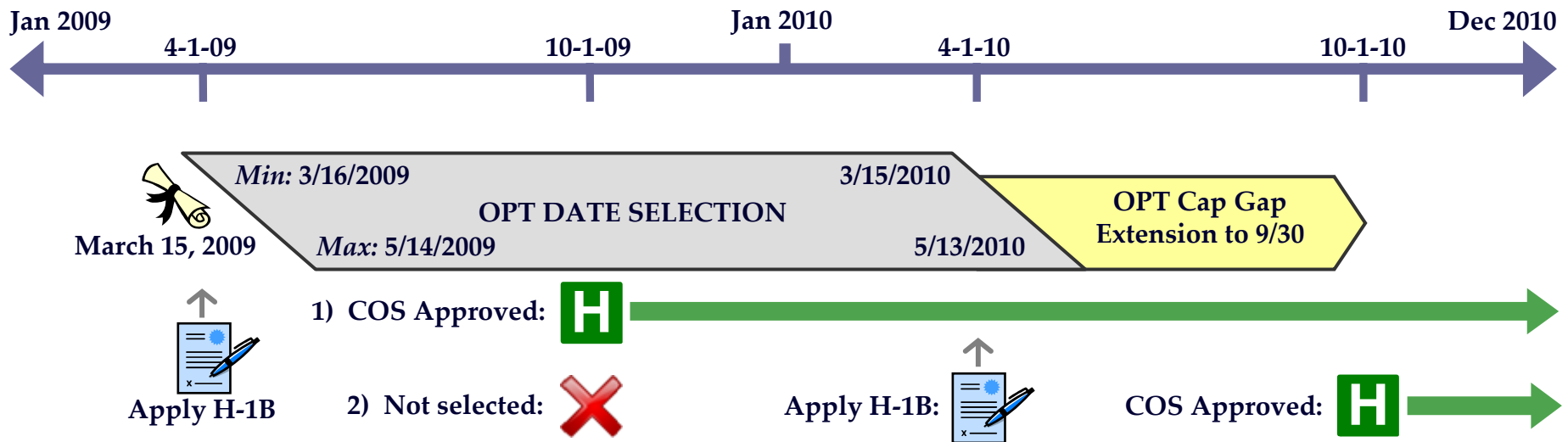
Transitions: OPT to H-1B (I)

- Degree Completion - Spring 2009
 - Completion of degree may restrict filing for H-1B in 2009
 - Use OPT Cap Gap Extension for continuous employment
 - OPT ends as scheduled if not selected under 2010 quota



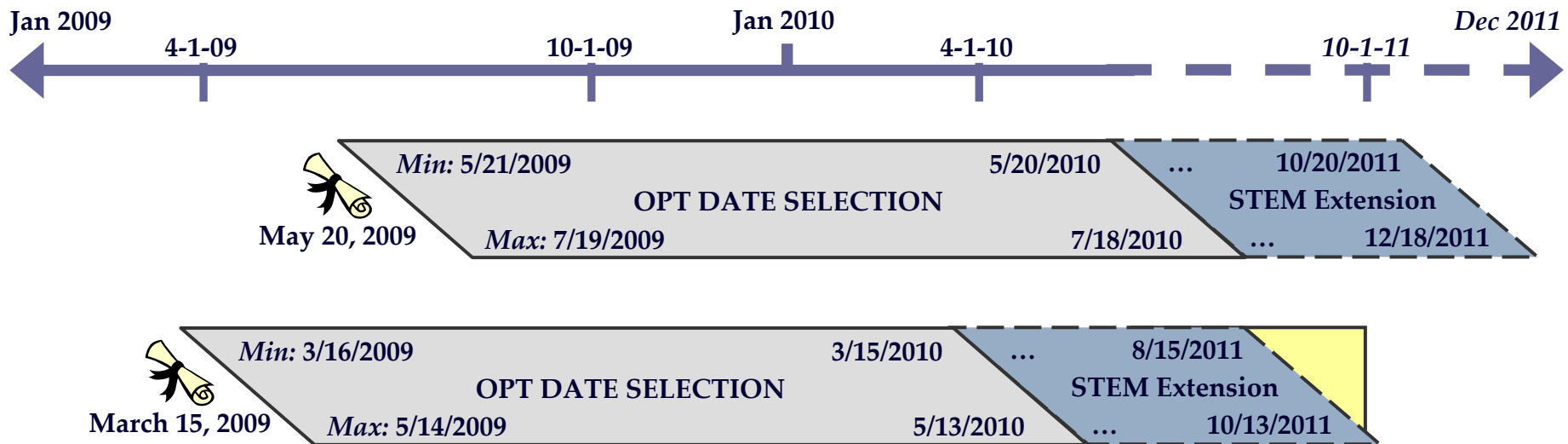
Transitions: OPT to H-1B (II)

- Degree Completion - Winter 2009
 - Possibility to file for Cap-Subject H-1B twice, 2009 & 2010
 - *Caution:* Be careful of OPT end date to preserve eligibility!
 - Can't finish? OPT is limited to part-time (... unemployment)



Transitions: OPT to H-1B (III)

- Using the STEM Extension
 - No need to apply for H-1B for several years, 2010 or 2011
 - Cap Gap extension is still available after STEM extension
 - Consider completion dates & alternatives (if no E-Verify)





Travel Complications

- Application for H-1B may impact travel plans
- “Change of Status” petition
 - If approved, H-1B takes effect on requested start date (10/1)
 - Individual must maintain current status until that time
 - Departure from U.S. will abandon a pending COS request
- “Consular Notification” petition
 - If approved, permission to apply for H-1B visa is granted
 - Individual must re-enter the U.S. with visa after start date
 - Valid travel under another category does not impact CN

Travel during H-1B Transition



H-1B filed as Change of Status



Change of Status

- No travel until approved
- Expedite (for extra fee)

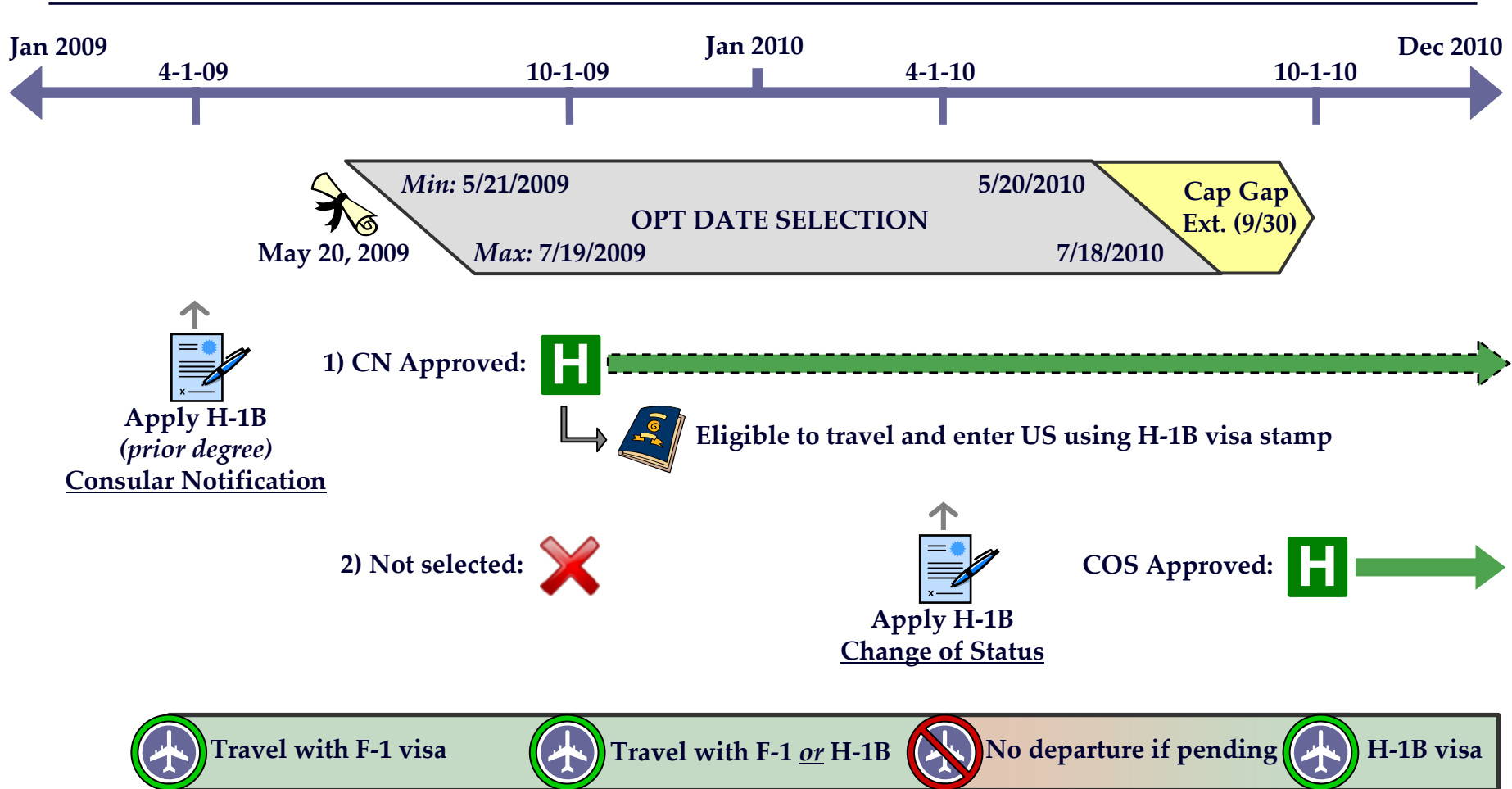
H-1B filed as Consular Notification



Consular Notification

- No travel restrictions
- H-1B does not start until valid entry with visa

Let's Consider This ...





Current Economic Issues

- American Recovery and Reinvestment Act (2009)
 - Banks & other companies receiving Troubled Asset Relief Program (TARP) funds must satisfy new H-1B provisions
 - No displacement of similarly employed U.S. workers within 90 days before or after the filing of a new H-1B petition
 - Efforts to recruit qualified U.S. workers, offering equal wages
- Impact for F-1 students & H-1B applicants
 - Some industries may be more scrutinized, not prohibited!
 - Employers will be more cautious, economically & legally
 - Use OPT to your advantage, since no sponsorship is needed
 - Stay tuned for more information & practical implications



Stay in Touch with the ISO!

- Keep your email & contact details up-to-date (!!!)
- Read “ISO News”
 - Reminders, new regulations, & changes in requirements
- Check our website: www.iso.rochester.edu
 - Latest information on F-1 regulations and opportunities
 - Online tools for required reporting
 - “Student Departure Form”: Notify ISO of plans to return home, Transfer to another school, Change of Status, etc.

Summary

- Rule #1: DON'T WORK WITHOUT PERMISSION!
 - Severe violation of status and a deportable offense
- Maintain your status to remain work eligible
- Individual circumstances & opportunities vary
 - Details Matter: Plan ahead and follow required procedures
- Get more detailed information from the ISO
 - Schedule an appointment with an advisor: 275-2866
 - Forms and instructions are online & available in the ISO



That's All Folks!

Questions??

Reminder: 2008 tax forms are due 4/15!!

CINTAX & Workshops are available.