Work After Graduation: Available Permissions & Common Transitions

Spring 2014

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Agenda & Target Audience

- General Considerations
  - Goals & Decision-Making
  - Documentation
- Post-completion Work Permissions
  - J-1 Academic Training
  - F-1 Optional Practical Training
- Common Issues & Transitions
  - Travel abroad & re-entry to U.S.
  - H-1B Temporary Worker category
  - Planning Ahead: Short-term and Long-term

Congratulations ...

- You’ll be graduating soon! So, what’s next?
- Your Goal: To achieve a smooth transition from full-time student to professional employee
  - Do you plan to work in U.S.? Temporarily or long-term?
  - What types of work permission might be available to you?
  - How long will you search for a job? What is your ‘Plan B’?
  - Are you prepared to discuss immigration sponsorship?
- ISO Goal: To provide basic guidelines that help you in making important immigration decisions

Post-Completion Employment

- Benefit of status: Extends F-1 or J-1 program
  - Apply in advance: Eligibility, processing time, applicable fees
  - Begin work only with specific authorization:
    1. Documented – Formal approval from authorizing official
    2. Active – Authorization start date must be reached
- Maintain your immigration status!
  - Enrollment is required until completion (full-time or RCL)
  - Do NOT work without permission (including on-campus)
- Keep records of your work & related activities
  - Unpaid or volunteer opportunities are subject to DOL rules

J-1 Academic Training

- Cumulative work permission up to 18 months
  - May be used pre-completion, post-completion, or combo
  - Part-time or Full-time, but authorization periods assume FT
  - Additional 18 months available to postdoctoral students
  - Separate from J-1 on-campus employment (20 hours/week)
- Eligible upon arrival: No minimum period
  - Related to field of study & integral to curriculum
  - Must maintain enrollment and adequate health coverage
- Authorized only for specific dates & employer
  - Sequential or simultaneous activities; Paid or unpaid
  - Authorization must begin within 30 days after completion

AT: Application Procedures

- Submit documentation to J-1 sponsor
  - UR vs. Fulbright, etc.: Be sure to follow appropriate policies
  - Job offer is required: Letter from employer, listing specific dates, location, and job duties (on employer letterhead)
  - Recommendation from UR Academic Advisor & Dean
- Obtain new DS-2019 & Authorization Letter
  - No application to USCIS necessary & No fee
  - Update to J-1 program dates may be necessary; AT requests must be processed before completion of current program
- Extensions or new job are processed separately
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F-1 Optional Practical Training
- 12 months available at each higher degree level
- Post-completion OPT, based on I-20 end date
  - After all degree requirements are satisfied (course/exam based)
  - After completion of all requirements excluding the final thesis
    - Must complete defense and thesis within OPT period
  - On-campus work permission ends with I-20 completion date
- Flexible employment, related to field of study
  - No job offer is required in order to apply (most common)
  - Ability to change employers at any time during OPT period
  - Plausible rationale for connection between degree & job

OPT: Application Procedures
- Step 1: ISO Recommendation
  - Departmental Recommendation Form, from Advisor & Dean
    - Determine appropriate completion date for degree requirements
      (must maintain registration & degree progress until this date)
    - Select eligible employment dates for work permission
    - Submit paperwork with 1 week processing time for new I-20
- Step 2: Authorization is granted by USCIS
  - I-765 application fee of $380, plus supporting documents
  - Employment Authorization Document (EAD), in 2-3 months
  - Work may begin once EAD is received & start date reached

OPT: Timing Considerations
- I-20 completion date sets eligibility period
  - Apply within 90 days before and 60 days after completion date
  - Caution: Program Extension will cause delays or limit work
  - Coordinate your research, assistantship or other campus job
- Selection of Employment Dates
  - 12-month OPT must fall within 14 months of completion
    - Option to delay OPT start date for up to 60 days (“window”)
    - Tradeoff: Once submitted, these dates cannot be changed
  - Job offer, without EAD → must wait to begin work
  - OPT begins, but no job yet → counts as unemployment

OPT: Unemployment Limit
- Requirements: Hands-on experience or training
  1. Related to current field(s) of study, as reported to SEVIS
  2. Full-time: 20 hours per week, or more (no maximum)
- 90-day cumulative limit over 12 months of OPT
  - Unemployment is counted only once OPT period is active
  - If limit is exceeded, remaining OPT is considered void
- How to avoid counting days as unemployment...
  - Coordinate: Match OPT start to target employment period
  - Alternatives: Part-time, volunteer, or short-term activities
  - 5-month job search: Use 60-day OPT window for max time

Overview of OPT Timeline
- Determine appropriate completion date for academic program
  - 60-day window available, prior to requested start of OPT
  - On-campus work permission ends with new end date on I-20
- Select employment dates for 12-month authorization period
  - Days unemployed are counted once OPT authorization begins
  - Apply up to 90 days before your scheduled completion date

Your Responsibilities
- UR immigration sponsorship during OPT or AT
  - F-1 & J-1 reporting requirements to ISO are still in effect
  - Advising & services via long-distance; Allow processing time!
- Reporting Requirements, via online forms
  - Any change in personal address (within 10 days of moving)
  - Changes in name or citizenship, as shown on passport
  - Any change in U.S. immigration status or final departure
- Additional requirements for F-1 OPT Reporting
  - Report employer name and address, and any changes
  - Monitor all periods of unemployment greater than 10 days

February 21, 2014
### Travel Risks & Considerations

- Valid F-1 or J-1 visa is required for re-entry
  - Visa renewal: Must demonstrate non-immigrant intent
    - Document ties to home country, following U.S. work
    - Allow time for processing or consider alternative plans
- Travel documents before & during F-1 OPT
  - Prior to completion date: Permission to resume studies
  - Prior to OPT start date: Permission to look for work
    - I-20 with recommendation, Receipt Notice or EAD card
  - During OPT: Permission to “resume employment”
    - I-20 and EAD card, Recent paystubs or job offer letter
  - Travel signature: Validity is shortened to 6 months (vs. year)

### OPT: STEM Extension

- Overview
  - Additional 17 months, after initial 12-month authorization
  - Apply to USCIS with new I-20 & fee, 120 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](http://www.ice.gov/sevis/stemlist)
  - Employer must be enrolled in EVerify program (DHS/SSA)
  - Find EVerify information online: [www.uscis.gov/everify](http://www.uscis.gov/everify)
  - Ask: Government has not released lists of all enrolled employers.
  - 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 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: Employees in a Specialty Occupation
  - Minimum Qualifications: Bachelors, in a specialized field
  - Employers-sponsored status, requires permission to change
  - Limit of 6 years in H-1B status; “Dual Intent” category
  - Quota: 65,000, plus 20,000 for Advanced Degree Holders
  - Universities & some non-profits are Cap-Exempt (no quota)
- Applying for a new Cap-Subject H-1B
  - Fiscal year: Oct 1 - Sept 30 → Apply 6 mos. ahead (April 1)
  - Lottery system, when applications received exceed quota
  - Minimum qualifications must be completed by filing date
  - Must satisfy quota when moving from Cap-Exempt employer

### Transitions: OPT to H-1B (I)

- Degree Completion - Spring 2014
  - Completion of degree may restrict filing for H-1B in 2014
  - Use OPT Cap Gap Extension for continuous employment
  - OPT ends as scheduled if not selected under 2015 quota

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Transitions: OPT to H-1B  (II)
• Degree Completion - Winter 2014
  • Possibility to file for Cap-Subject H-1B in 2014 and/or 2015
  • Caution: Selected OPT end dates extension eligibility!
  • Consider personal and professional plans for F-1 vs. H-1B

Min: 3/16/2014
Max: 5/14/2014
F-1 OPT (12 mos.)

Transitions: OPT to H-1B  (III)
• Using the STEM Extension
  • No need to apply for H-1B for several years, as late as 2016
  • Cap Gap extension is still available after STEM extension
  • Important: Permission for COS to H-1B restricted by 212(e)!

Min: 3/16/2014
Max: 5/14/2014
F-1 OPT (12 mos.)

Transitions: AT to H-1B
• Using J-1 Academic Training
  • PhD students have significant flexibility with 36 months
  • No extensions available: Consider longterm plans & timing
  • Important: Permission for COS to H-1B restricted by 212(e)!

Min: 3/16/2014
Max: 5/14/2014
J-1 ACADEMIC TRAINING (18 mos.)

Travel & the H-1B Petition
• Change of Status vs. Consular Notification
  • Change of Status: New status takes effect on start date, 10/1
  • Individual must maintain current status until that time
  • Departure from U.S. will abandon a pending COS request
  • Cap Gap Extension for current F-1 OPT is available
  • Consular Notification: Permission to apply for visa abroad
  • Travel and reentry with H-1B visa is required after start date
  • Valid travel under another category does not impact petition
  • Non-Immigrant Intent for visa application
  • H-1B is a dual-intent category allowing lower burden of proof
  • Grounds for denial of F/J visa renewal, once H-1B is filed

Min: 5/15/2014
Max: 9/15/2014
J-1 ACADEMIC TRAINING (15 mos.) + 18 mos. (PhD)

Reminders & Next Steps
• DO NOT WORK WITHOUT PERMISSION!
  • Maintain your status to remain eligible for employment
  • Permission must be approved and active prior to working
• Individual circumstances & opportunities vary
  • Details Matter: Follow required procedures and timelines
  • Think about ‘Plan B’: Decisions made with incomplete info
• Get more details and guidance from the ISO
  • Read ‘ISO News’ & resources online: www.iso.rochester.edu
  • Schedule an appointment with an ISO Advisor: 275-2866
  • Keep your email and contact details up-to-date with ISO!!!

Whew ...

Questions
Reminder: 2013 tax forms are due 4/15!!
www.iso.rochester.edu/taxes/file/index.html