Understanding the F-1 STEM OPT Extension

September 25, 2020
Agenda

• What is the STEM OPT Extension?

• Key points:
  • Eligibility Considerations
  • Form I-983 Training Plan
  • Reporting During STEM OPT
  • Transitions During & After STEM OPT

• Questions!
What is the STEM OPT Extension?

Extended F-1 OPT work permissions...

- 24-month extension of active post-completion OPT
- Available twice in a lifetime (following a higher degree level)
- Continued F-1 status & UR immigration sponsorship

... with more requirements!

- Only available for designated fields (STEM)
- Limits on appropriate employers and activities (vs. OPT)
- Maintenance of I-983 Training Plan
- Significant reporting obligations throughout STEM period
Eligibility Considerations
Basic Eligibility: Student

• F-1 study in a qualified STEM field
  • CIP Code: ICE STEM Designated Degree Programs List
    [https://studyinthestates.dhs.gov/eligible-cip-codes-for-the-stem-opt-extension](https://studyinthestates.dhs.gov/eligible-cip-codes-for-the-stem-opt-extension)
  • New: CIP codes updated for 2020 – no new STEM list

• Have an eligible job/job offer

• ISO recommendation (new I-20)
  • Request via ISO form + I-983 Training Plan

• USCIS application is timely filed/received
  • Last 90 days of OPT – MUST apply by OPT end date
Basic Eligibility: Employment

• Qualified STEM employer
  • Has an Employer Identification Number (EIN) for tax purposes
  • US address for on-site work*
  • Actively enrolled in E-Verify database
  • *Bona fide* employer-employee relationship: Employer hires, controls work, supervises, trains, etc
  • Sufficient resources/personnel to fulfill STEM training goals at the site of activity*

*Should be the case in a NORMAL state. Remote work/supervision due to COVID-19 is permitted (future guidance may change).
Basic Eligibility: Employment

• Qualified STEM position
  • 20 hours/week or more*, directly related to STEM degree
  • Compensated; comparable duties, hours, wages to US workers

• Eligibility is documented via I-983 Training Plan
  • Contract between student & employer, reviewed by ISO

• Resources:
  • Study in the States (SEVP)
    https://studyinthestates.dhs.gov/stem-opt-hub/students-determining-stem-opt-extension-eligibility
  • USCIS

*Should be the case in a NORMAL state. A reduction in hours due to the economic effects of COVID-19 is currently permitted (future guidance may change). Contact ISO to discuss your specific situation.
STEM Training Limitations

• Employment arrangements more restricted!
  • *Simultaneous positions are rare:* 20 hour/week minimum
  • *Unpaid volunteer work:* Wages, duties are not commensurate
  • *Self-employment:* Cannot supervise own training opportunity
  • *Entrepreneurial work or Start-up company:* Must have bona fide employer-employee relationship & all STEM conditions met
  • *Staffing or Consulting agency:* Direct, on-site supervision

• Unemployment limit – additional 60 days
  • 90 days (OPT) + 60 days (STEM OPT) = 150 days total
  • Cumulative total over entire 36 months work permission
  • Reaching unemployment limit ends OPT, no grace period
Application Timeline

• STEM OPT application must be *received* by USCIS...
  
  • **before 12-month post-completion OPT expires!!**
    • Check OPT expiration date on your OPT EAD card directly (might be different from I-20)
  
  • no earlier than 90 days before OPT expires
  
  • within 60 days of ISO’s recommendation
  
  • while you are maintaining status in the US

• Start early
  
  • Confirm employment meets eligibility criteria well in advance
  
  • Plan travel as necessary
  
  • Allow 2-4 weeks to get I-983 Training Plan done/new I-20
    • Some employers are fast, some are slow
    • Allow ISO 1-2 weeks for I-20 processing (once I-983 is satisfactory)
Processing & Benefits

• While application is pending...
  • Work authorization automatically extends until decision (up to 180 days)
  • Documentation: STEM Recommendation I-20, Receipt Notice

• Once application is approved...
  • New EAD with STEM OPT dates

• Continuous work authorization
  • STEM OPT starts the day after OPT ends – even if application is not yet approved
  • STEM rules & reporting apply from first day
  • Additional 60 days of unemployment added from first day
Form I-983
Training Plan
Form I-983 Training Plan

- I-983 Training Plan for STEM OPT Students
  - 5-page document, completed by employer & student
  - Required for every training opportunity during STEM period
  - Must be updated based on any material changes or deviations
  - ISO must review I-983 to ensure training conditions are met
Qualified Job(s)

• Key details on the I-983 Training Plan
  • Student: Qualifying STEM degree, current F-1 sponsor (UR)
  • Employer: Name, address, EIN, certification of training role
  • Job details: Hours per week, start date, compensation
  • Work site: Location, supervising official, contact info
  • Objectives: Student’s role & goals, oversight, assessment

• Little guidance re: nature/scope of work
  • Training must provide experience related to STEM degree
  • No set criteria or evaluation of posting, job description, etc.

• Be able to articulate & justify the training!
I-983 is like a contract

- Student certification to follow all STEM rules
- Employer certification to follow all STEM rules, ensure job eligibility

SECTION 4: EMPLOYER CERTIFICATION

I certify on behalf of the employer that this Training Plan for STEM OPT Students ("Plan") is approved and that:

1. I have reviewed and understood this Plan, and I will ensure that the supervising Official follows this Plan;
2. I will notify the DDS at the earliest available opportunity regarding any material changes to this Plan, including but not limited to, any change of Employee Identification Number resulting from a corporate reorganization, any reduction in compensation from the amount previously submitted on the Plan that is not tied to a reduction in hours worked, any significant decrease in hours per week that a student engages in a STEM training opportunity, and any decrease in hours below the 20-hour-per-week minimum required under this rule;
3. Within five business days of the termination or departure of the student during the authorized period of OPT, I will report such termination or departure to the DDS (Note: business days do not include federal holidays or weekend days); and an employer shall consider a student to have departed when the employer has known the student has left the practical training opportunity, or when the student has not reported for practical training for a period of five consecutive business days without the consent of the employer);
4. I will adhere to all applicable regulatory provisions that govern this program (see 8 CFR Part 214), which include, but are not limited to, the following:
   a. The student's practical training opportunity is directly related to the STEM degree that qualifies the student for the STEM OPT extension, and the position offered to the student achieves the objective of the STEM OPT extension;
   b. The student will receive on-site supervision and training, consistent with this Plan, by experienced and knowledgeable staff;
   c. The employer has sufficient resources and personnel to provide the specified training program set forth in this Plan, and the employer is prepared to implement that program, including at the location(s) identified in this Plan;
   d. The student's STEM OPT extension will not replace a full-time, temporary or permanent U.S. worker. The terms and conditions of the STEM practical training opportunity—including duties, hours, and compensation—are commensurate with the terms and conditions applicable to the employer's similarly situated U.S. workers or, if the employer does not have any other similarly situated U.S. workers in this area of employment, the terms and conditions of other similarly situated U.S. workers in the area of employment;
   e. The training conducted pursuant to this Plan complies with all applicable Federal and State requirements relating to employment.

Note: DHS may, at its discretion, conduct a site visit of the employer to ensure that program requirements are being met, including that the employer possesses and maintains the ability and resources to provide structured and guided work-based learning experiences consistent with this Plan.

Printed Name and Title of Employer Official with Signatory Authority:

Signature of Employer Official with Signatory Authority (Sign in ink):

Date (mm-dd-yyyy): __________
Printed Name of Employing Organization:

SECTION 2: STUDENT CERTIFICATION

I declare and affirm under penalty of perjury that the statements and information made herein are true and correct to the best of my knowledge, information and belief. I understand that the law provides severe penalties for knowingly and willfully falsifying or concealing a material fact, or using any false document in the submission of this form.

I certify that:

1. I have reviewed and understood this Plan, and I will adhere to the training opportunity ("Plan");
2. I will notify the DDS at the earliest available opportunity regarding any material changes to this Plan, including but not limited to, any change of Employee Identification Number resulting from a corporate reorganization, any reduction in compensation from the amount previously submitted on the Plan that is not tied to a reduction in hours worked, any significant decrease in hours per week that a student engages in a STEM training opportunity, and any decrease in hours below the 20-hour-per-week minimum required under this rule;
3. I understand that the Department of Homeland Security (DHS) may deny, revoke, or terminate the STEM OPT of students whom DHS determines are not engaging in OPT in compliance with the law, including the STEM OPT of students who are not, or whose employers are not, complying with this Plan;
4. My practical training opportunity is directly related to the STEM degree that qualifies me for the STEM OPT extension; and
5. I will notify the DDS at the earliest available opportunity regarding any material changes to or deviations from this Plan, including but not limited to, any change of Employee Identification Number resulting from a corporate reorganization, any material reduction in compensation from the amount previously submitted on the Plan that is not tied to a reduction in hours worked, any significant decrease in hours per week that a student engages in a STEM training opportunity, and any decrease in hours below the 20-hour-per-week minimum required under this rule.

Signature of Student (Sign in ink): __________
Printed Name of Student: __________
Date (mm-dd-yyyy): __________
Reporting During STEM OPT
Reporting Requirements

- All OPT reporting due **within 10 days of change**
  - Change in name, address, personal contact details
  - Change in employment status (new job, end job)
  - Change in employer details: name, address, etc.
  - Plans to depart the US permanently, or end F-1 status

- Additional STEM OPT reporting
  - Validation reports: Every 6 months (confirm nothing has changed)
  - Self-evaluations: 12 mos., 24 mos., end of any employment
  - [http://iso.rochester.edu/employment/students/stem/reporting.html](http://iso.rochester.edu/employment/students/stem/reporting.html)

- **Employers**: Notify ISO about end of employment relationship within 5 days
Maintaining Form I-983

• Submission to ISO, within set deadlines
  • Prior to issuing initial STEM OPT recommendation
  • Within 10 days of starting new employer
  • Within 10 days of self-evaluation deadlines
  • At the “earliest opportunity” to document material changes

• Material changes, such as:
  • Corporate restructuring, new EIN, or other employer details
  • Reduction in compensation or change in training hours/week
  • Revisions to training objectives, methods, supervision, etc.
  • Change of site location

• ISO must provide to ICE/USCIS on request
Transitions During & After STEM OPT
Changing Employers on STEM

• Challenges identifying viable employers
  • E-Verify enrollment; online search tool is not reliable
  • Direct hire employment relationship, with supervision & on-site training from other employee(s) of the organization
  • Employer confusion, varying familiarity with STEM OPT

• Changes in STEM OPT Employment
  • Verify employer eligibility before starting
  • Monitor unemployment time
  • Avoid SEVIS changes while STEM application is pending
  • New I-983 Training Plan, properly executed within 10 days
  • Final Evaluation from previous employer due within 10 days
Immigration Transitions

• Common US immigration path

• Changing to H-1B visa category
  • Cap-subject (most) vs. cap-exempt (non-profits, gov orgs, etc)
  • Quota: Lottery in March, filing in April, earliest start in October
  • STEM Extension allows for multiple H-1B cycles, if needed
  • Cap-Gap Extension still available following STEM OPT

Increased scrutiny, travel & mobility limitations
Next Steps

• Obtain initial 12-month OPT authorization
  • Apply for post-completion OPT ~90 days before program end
  • If already on OPT, check the end date on your EAD!

• Talk with prospective/current employers
  • Eligibility for F-1 OPT/STEM, work permission up to 3 years
  • E-Verify; experience, & willingness with I-983 Training Plan

• Contact ISO when time to apply for STEM!
  • Consider application timeline, situational factors
  • Must obtain new I-20 BEFORE sending application to USCIS

http://iso.rochester.edu/employment/students/stem/apply.html
Connecting with ISO

Email: questions@iso.rochester.edu
Phone: +1 (585) 371-8736 (temporary)
Web: www.iso.rochester.edu
All advising currently happening via Zoom!

STEM OPT can be one of the most complicated F-1 advising topics!
Appointments recommended!
(must be scheduled at least 1 day in advance)

More STEM information & resources:
http://iso.rochester.edu/employment/students/stem/index.html
Questions?