Work After Graduation & OPT Application Procedures

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Agenda

- Student-based permissions: OPT & STEM
- Factors to consider: Unemployment & Travel
- H-1B & Cap-Gap Extension
- Applying for OPT
You’re graduating soon!

Your Goal: To achieve a smooth transition from full-time student to employee in the United States.

ISO Goal: To provide basic guidelines that help you in making important immigration decisions.
From an immigration perspective, there’s a lot to think about...

- **How long** do you plan to work in the US?
- Which **types of work permission** might be available to you, now and in the future?
- What **factors** can you use to compare potential employers?
- Are you prepared to discuss **visa sponsorship**?
Working in the United States

- Employment is any work or service performed in exchange for personal compensation:
  - Money – hourly pay, stipend, reimbursements, etc.
  - Any other personal benefit (other than experience alone)

- Employment authorization requires valid status!

- Work only with valid & documented authorization
  1. Documented – Official approval from authorizing agent
  2. Active – Authorization start date must be reached
F-1 Optional Practical Training

- Benefit of maintaining F-1 status, UR remains immigration sponsor during OPT
- Must have not been authorized for more than 12 months of FT CPT
- 12 Months of OPT available only once as each degree level
- Must have been enrolled in full course of study for at least 1 academic year
- Work is either during or after academic program

Pre-completion

During academic year (part-time only)
During annual vacation term (part-time/full-time)

Post-completion

After completion of all requirements excluding thesis (full-time)
After all degree requirements are satisfied (full-time)
Applying for Post-Completion OPT

1. Receive new I-20 w/OPT recommendation on 2\textsuperscript{nd} page
2. Mail required application materials to USCIS
OPT Application Window

**Program Completion Date** sets eligibility period

- May apply up to **90 days** *before* completion
- May apply up to **60 days** *after* completion* (grace period)
- Must apply within **30 days** of ISO’s OPT recommendation

*Eligibility during grace period depends on maintenance of status
Post-Completion OPT
after all degree requirements are satisfied

- Applies to most students
- **Program completion** is not always the same as *degree conferral*
- Student health insurance ends after final term!
  - Questions about end of UR insurance enrollment: insurance@uhs.rochester.edu
  - Individuals must look at alternative options for health insurance during OPT
Post-Completion OPT
after completion of all requirements excluding thesis

- Typically students in **doctoral degree program**
- Program completion date used in the OPT application may be earlier than when you submit your final thesis, but not later.

  *Caution*: Shortening your completion date marks an earlier end to on-campus work permission
  
  - This is especially important to keep in mind if you are receiving employment-based (for-service) payments
OPT Employment Dates Selection

- Start Date: Must be within **60 days of completion date**
- Trade-off for date selection: **Earlier start date** → Unemployment!
  **Later start date** → Can’t work!
- Cannot change date selection after filing application
- If transitioning from CPT, start date must be day after completion date!
OPT Application Processing Time

- USCIS will adjust OPT start date automatically, as needed
- Job offer not required, and it is not always best to wait for a job offer
- Cannot start work until EAD card has arrived!
- Not possible to expedite OPT application
- File as soon as you are eligible if transitioning from CPT to OPT!
- Latest possible end date for OPT is **14 months** after completion date
F-1 60-Day Grace Period

If you timely file for Post-Completion OPT:

- You may remain in the US while waiting for the decision to be made on your application but you cannot begin work until EAD is issued and start date on EAD has been met

If you do not apply for OPT:

- Depart the US no later than 60 days after I-20 completion date (or take action to maintain permission to remain in the US)
- You cannot return to the US in F-1 status during this grace period
**OPT Unemployment**

**90-day limit**

- Automatically calculated in SEVIS from start date printed on OPT card
- Max reached: OPT ends & no longer possible to maintain F-1 Status
- If OPT ends due to unemployment, there is no grace period
- If OPT ends without exceeding unemployment limit, you get a 60-day grace period
- Find activities that will satisfy basic employment requirements, while still looking for “best job ever”
OPT Employment Criteria

- General requirements for OPT employment
  - Related to current field of study, as reported to SEVIS
  - 20 hours per week, or more (no maximum)

- Reporting categories
  - Employee/Paid Intern
  - Self-Employed/Independent Contractor
  - Volunteer/Unpaid Intern
  - Self-Employed in the Performing Arts

- Unpaid/volunteer Activities
  - Request documentation of dates and nature of activity
File for OPT while in the US!

Must be physically in the US when USCIS receives your application

Take this into account if you will travel or will do your final class abroad!

- Currently, no USCIS guidance or temporary COVID-related adaptations to allow filing of I-765 from outside the US.

- In the preamble to Part 3 of the I-765 (page 4), USCIS states: *You must file Form I-765 while in the United States* which is in the context of the applicant’s statement that everything is accurate and subject to penalties for misrepresentation.

- Filing I-765 while outside the US could be viewed as willful falsification of the application, subject to USCIS penalties including, but not limited to, denial of OPT.
OPT: Travel Out of the US

It is possible to travel outside the US without impacting your pending OPT application, but be sure to speak with your advisor in advance!

Always a risk when you travel out of the US (especially now, due to COVID)
→ More risky when on OPT if you don’t have a valid visa to return on!

Before completion date...
Must have: valid visa, passport valid 6 months into the future, & signed I-20

After completion but before OPT start date...
Must have: valid visa, passport valid 6 months into the future, signed I-20, & Receipt Notice or EAD card if already issued

After OPT start date...
Must have: valid visa, passport valid 6 months into the future, signed I-20, EAD card, & proof of employment

Note: During OPT, travel signature on I-20 is only valid for 6 months.
H-1B Temporary Workers

- Employer-sponsored visa category/status
- H-1Bs (Cap) Annual Quota: 65,000 & 20,000 to Advanced Degree Holders
  - Lottery registration 3/1/2021, Chosen petitioners to file starting 4/1/2021
- US universities & some non-profits are Cap-Exempt/not subject to quota
- Requested Action can impact travel plans
  - Change of Status: New status takes effect on start date, 10/1
  - Consular Notification: Permission to apply for visa abroad (note current government restrictions on this that may continue in 2021)
- Non-Immigrant Intent
  - H-1B is a dual intent category for visa application
  - Grounds for denial of F-1 visa renewal, once H-1B is filed
Cap-Gap Extension

- H-1B Petition may be filed as early as 4/1, with 10/1 start
- Cap-Gap Extension: Extension of OPT work permission from end of OPT period to September 30th
- Cap-Gap Extension Eligibility Requirements
  - H-1B petition filed before end of OPT, as a Change of Status
  - H-1B petition filed with start date of October 1st

If H-1B petition is filed during the grace period following the end of your OPT, with a start date of October 1st, your permission to stay in the US will be extended only (not your work permission).
24-Month STEM Extension

- Good back up if cap-subject H-1B not selected in lottery
- Application for additional 24-months of post-completion work authorization
- Eligible to file up to 3 months before OPT ends
- USCIS must receive application before OPT ends
- Schedule [zoom/phone] appointment with ISO advisor 3-4 months before OPT ends to discuss application
- Must have qualifying employment
  - Employer must be enrolled in USCIS E-Verify database
  - E-Verify employer must be the one that hires you, pays you, trains you, and supervises you
  - No: Self-employment, Third-party placements, Remote jobs
Optional Practical Training

Application Procedures

http://iso.rochester.edu/employment/students/opt/apply.html
1. Obtain OPT Recommendation

OPT Recommendation Issued on new I-20

Student Information
- Post-Completion OPT
- OPT Start & End Date

Advisor
- Confirm Completion Date

Dean’s Office Certification

Submit to ISO at least 1 week before you intend to send your application to USCIS!
2. Submit OPT Application to USCIS

- Fee payment for $\textbf{410.00}$ (fee changing 10/2/2020 to $550)
- 2 new US-sized passport photos (print name & I-94 number on the back)
- G-1145 E-Notification of Application Acceptance
- Form I-765 Application for Employment Authorization (singled-sided)
- Document photocopies (single-sided, black & white okay)
  - New I-20, issued with OPT recommendation within 30 days
  - Previous I-20s related to current degree program
  - Passport ID page, F-1 visa stamp (if applicable)
  - I-94 admission record (cbp.gov/i94)
  - Previously issued EAD card(s), if applicable

See ISO’s \textit{OPT Application Checklist & 12-Month OPT Application Materials Reference Guide} for additional instructions on preparing the application, completing the government forms, & providing payment!

Have your application reviewed by an ISO advisor before mailing!
EAD & Reporting Requirements

Monitor case status online: https://egov.uscis.gov/casestatus/landing.do

Do not begin working until your employment authorization is valid!

Employment Authorization Document (EAD) will list your employment dates

Report employment activities online:

- Within 10 days of starting, ending, or changing employment
- via ISO: www.iso.rochester.edu/employment/students/reporting/index.html
  - ISO will report information to SEVIS on your behalf
- via SEVP’s Portal
  - Email to activate account sent on the start date of your approved OPT
  - View reported address & employment details any time
  - Can use to report changes of address in addition to employment details
  - Email opt@rochester.edu to notify use of portal
While on OPT, also notify ISO if...

- If you change your name, address, or email.
- If you change your immigration status (i.e. to H-1B).
- If you are transferring to another degree program.
- If you plan to leave the country and plan not to return.
- Use ISO reporting tools:
  - www.iso.rochester.edu/employment/students/reporting/opt.html
  - www.iso.rochester.edu/employment/students/reporting/esm.html
  - www.iso.rochester.edu/employment/students/reporting/h1b.html
  - www.iso.rochester.edu/travel/depart/student.html
Summary

- **DON’T WORK WITHOUT DOCUMENTED AUTHORIZATION!**
- Maintain your status to remain work eligible
- Plan ahead and apply early *especially if travel will be involved*
- Report your employment while on OPT
- Additional resources from the ISO:
  - Forms and instructions are online
  - Schedule a zoom appointment with an advisor by emailing questions@iso.rochester.edu
Questions?

Upcoming Workshops:

9/18/2020: Academic Internships During an F-1 Academic Program
9/25/2020: Understanding the F-1 OPT STEM Extension