



University at Buffalo
The State University of New York

Office of International Education
International Student and Scholar Services

OPTIONAL PRACTICAL TRAINING FOR F-1 STUDENTS APPLYING FOR THE CAP GAP OPT EXTENSION

What is the Cap Gap Extension?

The “cap gap” is the period after F-1 students’ Optional Practical Training has expired, but before their H-1B work authorization begins on October 1. The “cap gap” extension automatically extends F-1 students’ immigration status and work authorization in order to bridge the gap between the end of their F-1 status and the start of their H-1B status. In this way, the students’ employment and stay in the U.S. are not interrupted.

Who is eligible for the Cap Gap Extension?

You are eligible for the Cap Gap Extension if your OPT will end before the start of your H-1B, you have maintained F-1 status and you are the beneficiary of an H-1B petition that:

- has been properly and timely filed AND
- requests an employment start date of October 1 AND
- requests a change of status to H-1B

Note: If your H-1B petition requests consular processing rather than a change of status, you are not eligible for the Cap Gap Extension.

Unlike the 17-Month STEM Extension, there is no requirement that students graduate in a certain major. **Students in ALL majors are eligible for the Cap Gap Extension.**

When should I apply?

In order to continue working, you must apply for the Cap Gap Extension before your Post-Completion OPT ends. Please keep in mind that we cannot extend your I-20 for the cap gap period unless we have proof that your H-1B petition was properly filed, is pending, is waitlisted or has been approved.

How do I apply for the Cap Gap Extension?

When you have a copy of the I-797 receipt notice for your H-1B petition, contact ISSS and request a new I-20 showing the OPT extension.

If you do not have a copy of the I-797 receipt notice and the deadline for applying for the Cap Gap Extension is approaching, we can extend your I-20 based on proof that your H-1B petition was timely filed. Such proof should include: 1) a statement from your employer that you are the beneficiary listed on a properly filed H-1B petition, and 2) proof of delivery of your H-1B petition to a USCIS Service Center.

What documents should I send to ISSS?

You should fax, e-mail or mail the following documents to ISSS:

- Student on OPT Data Form (found at: www.buffalo.edu/intlservices/documents/StudentDataFormOPT_fillable.pdf)
- A copy of your EAD Card
- A statement from the employer (on employer's letterhead) stating that you are the beneficiary listed on a properly filed H-1B petition.
- Copy of the documents below (*submit all that apply in your case.*):
 - H-1B approval notice
 - H-1B receipt notice
 - Documentation that your case is waitlisted
 - Proof of delivery to a USCIS Service Center

How long is the Cap Gap Extension application process?

In most cases, your new I-20 will be issued within 5-7 business days upon receipt of proper documentation. Occasionally, it is necessary for us to make a request to SEVIS for your "cap gap" information to be manually added to your SEVIS record; if this is necessary, your I-20 will be ready in 1-3 weeks.

You will be notified via e-mail when your new I-20 is ready. It can be mailed to you or you can pick it up in person.

Can I work while my Cap Gap OPT Extension is in process?

Yes, if you applied before the expiration of your Post-Completion OPT and ISSS approved your application before that deadline.

No, if you applied during the 60-day grace period following the expiration of your Post-Completion OPT. In this case, you may remain in the U.S., but you may not work.

Note: Your work authorization automatically ends if the USCIS rejects, denies or revokes the H1B petition.

How long will my OPT be extended?

The length of your Cap Gap Extension is determined by the status of your H-1B petition.

If Your H-1B Petition is Approved – Your OPT work authorization and F-1 status will both be extended until September 30, 2009.

If Your H-1B Petition is Pending – Your OPT work authorization will be extended until June 1, 2009 and your F-1 status until July 31, 2009.

If Your H-1B Petition is Waitlisted – Your OPT work authorization will be extended until July 27, 2009 and your F-1 status until September 27, 2009.

Note: Your Cap Gap Extension will be terminated if your H-1B petition is rejected, denied or revoked.

What happens if my H-1B petition is withdrawn or denied?

If your H-1B petition is withdrawn or denied, you will have a 60-day grace period from the date of notification of the denial, rejection or revocation of the petition to prepare to depart the U.S., change status, transfer to a new school, begin a new degree program, etc. Note: If the H-1B was denied due to discovery of an immigration status violation or revoked because of fraud or misrepresentation, there is no grace period.

Can I travel outside the U.S. during the Cap Gap Extension?

If your EAD card is still valid, you may travel outside and re-enter the U.S. However, once your EAD card has expired and you are in the Cap Gap Extension period, you will have to apply for an H-1B visa in order to return to the U.S. Please consult with your immigration attorney regarding any travel plans while your H-1B petition is pending and after it has been approved.

What if my OPT expires BEFORE my H-1B is filed?

If your OPT EAD card expires before your H-1B is filed and you are in your 60-day grace period, you may still file for the Cap Gap Extension. However, because your work authorization has already expired, only your F-1 status will be extended. You may stay in the U.S.; however you may not work until your H-1B is approved and effective.

PLEASE REMEMBER:

While you are on OPT, you must:

- notify ISSS of any change of address within 10 days of your move. Please e-mail your new address to intlservices@buffalo.edu.
- notify ISSS of any change in employer. Please email this information to intlservices@buffalo.edu.
- have your I-20 signed every six months.

Please refer to the handout on “Maintaining F-1 status while on OPT” for additional reminders. It is available at www.buffalo.edu/intlservices/documents/MaintainingF-1StatusWhileonOPT-LH-12-08.pdf.

