



Converting 17-Month STEM OPT to 24-Month STEM OPT Under New Regulations Commencing May 10, 2016

Insights

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Starting May 10, 2016, a new regulation published last month by the U.S. Department of Homeland Security (DHS) takes effect which increases the work authorization extension period from 17 to 24 months for F-1 students holding U.S. degrees in a designated Science, Technology, Engineering or Math (STEM) field.

The new regulation contains a one-time “transition” process by which holders of current 17-month STEM extensions can apply for an additional seven (7) months of work authorization. Employers with F-1 students currently working pursuant to a 17-month Optional Practical Training (OPT) work permit must plan accordingly or they will miss this one-time opportunity.

The new 24-month STEM rule imposes additional requirements on employers that sponsor F-1 students. Employers agreeing to sponsor F-1 students for the additional 7 months of OPT must agree to these additional requirements. For example, the rule increases government oversight over STEM OPT extensions by requiring the implementation of formal training plans by employers (new government Form I-983), adding wage and other protections for students and U.S. workers, and allowing extensions only to students with degrees from accredited schools. More detailed information about this new rule can be found [here](#).

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allowing extensions only to students with degrees from accredited schools. More detailed information about this new rule can be found [here](#).

Students with Existing 17-Month STEM OPT EADs

F-1 students with an existing 17-month STEM OPT EAD card will have a limited window from May 10, 2016, to August 8, 2016, in which to apply for the additional 7 months of OPT under the new rule. This 7-month extension filing is optional. The U.S. Citizenship and Immigration Services (USCIS) confirmed that a 17-month STEM OPT EAD that USCIS issued on or before May 9, 2016, will remain valid until the EAD expires, is terminated or revoked.

To qualify for the additional 7 months, the F-1 student must have at least 150 calendar days remaining before the end of their 17-month OPT period as of the date they submit USCIS Form I-765 between May 10, 2016, and August 8, 2016. The F-1 student filing for the additional 7 months must meet all of the new requirements, and the employer must abide by all of the terms, for a 24-month STEM OPT extension under the new rule. This includes, but is not limited to, completion and submission of Form I-983, the "Training Plan for STEM OPT Students," to the appropriate Designated School Official (DSO).

Once approved, the USCIS will issue a 7-month EAD with a validity period that starts the day after the expiration date in the F-1 student's current 17-month STEM OPT EAD.

Students with 17-Month STEM OPT Applications Pending as of May 10, 2016

The 17-month STEM OPT regulations remain in effect through May 9, 2016. USCIS has confirmed that it will continue to accept and adjudicate applications for 17-month STEM OPT extensions under the 2008 interim final rule through May 9, 2016.

On May 10, 2016, the USCIS will apply the new requirements of the 24-month STEM OPT extension rule when adjudicating all pending I-765 applications. USCIS will issue Requests for Evidence (RFEs) requesting missing documentation to determine whether the F-1 student is eligible for a 24-month STEM OPT. USCIS has confirmed that Forms I-20 certified by Designated School Officials (DSOs) dated after the initial submission of the STEM OPT extension request will be considered valid if the Form I-20 is submitted in response to a transition period RFE.

The USCIS has confirmed that an F-1 student may elect to withdraw a pending 17-month STEM OPT extension request and file a new application for a 24-month STEM OPT extension after May 10, 2016.

Fisher Phillips has knowledgeable legal professionals with many years of experience practicing federal immigration law. If you have questions about this new regulation, immigration sponsorship or compliance in general, please contact your Fisher Phillips legal representative for guidance.

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