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OPT EAD Card Receipt Overview

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The Employment Authorization Document (EAD) card provides authorization by the U.S. Bureau of Citizenship and Immigration Services (USCIS) for employment for F-1 students who have applied for and been approved to participate in Optional Practical Training (OPT). The employment authorization is subject to all rules and restrictions as stated in the USCIS regulations or cited on the EAD card. **Below is an overview of some of the primary rules governing Optional Practical Training:**

- ❖ In most cases, the employment authorization is only valid for the time period indicated on the card. The only exception to this rule is for students who qualify to receive an extension of employment authorization as part of the “Cap Gap Relief”. (See attached document for more information). In this case, you will need to contact a Designated School Official (DSO) in CARE to obtain a new I-20 noting this extension of work authorization.
- ❖ Authorization to engage in OPT employment is automatically terminated even if the EAD card ending date has not been reached when I:
 - Transfer to another school;
 - Exit the U.S. and reenter with an I-20 issued by another school or by The Chicago School (TCS) for another academic program;
 - Begin studies at another level at TCS or any other institution in the U.S.;
 - Change my status to any other USCIS or Department of State non-immigration or immigration category, i.e. H-1B, J-1, J-2, F-2 and Permanent Resident.
- ❖ If I continue my employment after engaging in any of the above listed actions, the employment will be considered to be unauthorized under USCIS regulations.
- ❖ If I terminate my OPT earlier than the ending date on my EAD card, USCIS regulations do not allow for recovery of unused OPT time.
- ❖ It is my responsibility to provide CARE and USCIS with my current address and contact information, as well as the name and address of my employer(s) throughout the duration of my Optional Practical Training. I also understand that I must maintain compliance with all USCIS regulations. I will also inform International Student Services if I am approved for a change of status and provide them a copy of my approval notice.
- ❖ If I accumulate more than 90 aggregate days of unemployment while on post-completion OPT, My work authorization is effectively terminated as I will no longer be considered in-status.
- ❖
- ❖ After I am authorized 12 months of OPT, I may become eligible for another 12 months of OPT **only** when I move to a higher educational level.
- ❖ International travel while on post-completion OPT is possible, although students are strongly discouraged from leaving the United States before securing relevant employment. Due to recent changes in immigration regulations, those students who have not obtained a job before returning to the U.S. are likely to be denied reentry at the port of entry by immigration officials. Students who do have a job should travel with a letter from their employer, OPT I-20 signed for travel, EAD card and a valid F-1 visa. If your F-1 visa has expired, you will need to apply for a new one at your local consulate before returning to the U.S.

Overview of Key Components of Immigration Regulations Pertaining to OPT

April 23, 2008

Cap Gap Relief

Changes in immigration regulations in April 2008, now allows all students who are engaged in post-completion OPT, and who are beneficiaries of properly filed H-1B petition requesting an employment start date of October 1 of the following fiscal year, to remain in the United States and continue working during the "cap gap". The cap-gap occurs when an F-1 student's status and work authorization expire before they can start their approved H-1B employment beginning the following October 1.

The extension for "cap gap" status and work authorization officially commences on the date of filing the H-1B (the date received by USCIS), not the receipt date.

If a student's program end date was before the filing of an H-1B petition on April 1, 2008, but s/he is still within the 60 day grace period as of April 8, 2008, the student's F-1 status would be extended under this provision. However, it is not clear whether the expired work authorization would be revived. USCIS and SEVP are consulting with counsel.

For a student who is the beneficiary of an H-1B petition for a cap exempt (higher education) employer, USCIS will likely NOT recognize that s/he is eligible for the extension of status & work authorization under the cap gap provision of this rule. The rationale is that a cap exempt employer can choose a start date that matches the end of authorized F-1 status or work authorization. USCIS and SEVP are consulting with counsel.

The automatic extension terminates when USCIS rejects, denies, or revokes the H-1B petition. However, the student would have a grace period after the termination during which s/he is authorized to remain in the United States for up to 60 days to prepare for departure from US, change degree level, transfer, change status, etc. as long as the student has not otherwise violated status.

USCIS and SEVP are developing a policy regarding documentation that would prove that a student's status and authorization have been extended. Most likely, it will involve a SEVIS data fix with notation on the I-20, e.g. "F-1 status and work authorization extended to...(insert date)."

Limited Periods of Unemployment to Maintain Status

The rule also adds a new provision that would clarify a position informally held by DHS in recent years, that students who are unemployed more than 90 days while on post-completion OPT are in violation of status. Students may not accrue an aggregate of more than 90 days of unemployment during any post-completion OPT carried out under the initial post-completion OPT authorization. Students granted a 17 month extension would violate status if they are unemployed for more than 120 days during the total 29-month OPT period.

Given this is a change in policy, unemployment provisions of the regulation do not apply to any periods of unemployment before the effective date of April 8, 2008. For students currently on post-completion OPT who are unemployed, the 90 day "clock" starts on April 8, 2008. For students applying for post-completion OPT after that date, unemployment dates will be counted from either the start date of a student's OPT or the date the employment authorization is adjudicated by USCIS, whichever is later.