F-1 STEM OPTIONAL PRACTICAL TRAINING

Workshop for MIT International Students and Alumni in F-1 nonimmigrant student visa status

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General Introduction

- The STEM OPT Final Rule is new, so this presentation, and information on the ISO Website regarding STEM OPT, will be updated as we continue to receive more clarifications from the U.S. Department of Homeland Security and gain from our experiences in student filings for STEM OPT authorization after the new final rule goes into effect

- Regulations on Employment
  - Any activity that a student pursues, on- or off-campus, **paid or non-paid**, will require appropriate authorization before beginning the activity to comply with U.S. Department of Homeland Security and U.S. Department of Labor regulations

  - Federal regulations significantly limit international student options for pursuing employment-related activities on or off-campus
    - View that "Employment" is any activity for which an individual provides a service for which someone doing similar or same work receives a benefit in return (or would normally receive some benefit in return)
      - Pay, stipend, housing, meals, transportation expenses, etc.

- Please review ISO website -- http://web.mit.edu/iso/immigration/employment.shtml

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Brief History of 24-month STEM OPT Extension

- Original 17-month STEM OPT Extension created in 2008
- STEM OPT expansion by Presidential Executive Order in November 2014
- Per the Secretary of Homeland Security, ensure that a student's practical training "furthers the student's full course of study in the United States" and is "consistent with U.S. labor market protections to safeguard interests of U.S. workers"
- March 2014 lawsuit filed by the Washington Alliance of Technology Workers vs. USDHS
  - August 2015 – judge ruled President and DHS had right to establish STEM OPT, but did not follow appropriate procedures to create STEM OPT
  - Judge provided time for DHS to properly publish STEM OPT rule
- March 11, 2016 – new STEM OPT final rule published

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New STEM OPT Extension Final Rule

- Published March 11, 2016; effective May 10, 2016
- Key new components:
  - STEM OPT Extension period changed from 17-months to 24-months extension
  - Eligibility for 2 STEM OPT periods in a student's lifetime
    - May not apply for second STEM extension based on current STEM OPT authorization (no "stacking" of 2 periods of 24 months after completion of one degree)
  - Limit on unemployment during STEM OPT period increased from 30 days to 60 days
    - total unemployment allowed for 12-month OPT (90 days) plus STEM OPT extension period (60 days) = 150 days
  - Additional reporting requirements for students and employers
  - New, expanded, STEM eligible CIP code list

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New STEM OPT Extension Final Rule

- Students now have the ability to apply for a STEM OPT Extension based on a previously earned STEM degree from an accredited and SEVIS-certified, institution in the U.S. within the past 10 years under which the student had not previously applied for STEM OPT Extension.
- New, required Form I-983 Mentoring and Training Plan completed by employer and student
- Self-employment and volunteering are not eligible
  - Startups – is the company established/incorporated?
  - Is there an employer/employee relationship?
  - Applicant is not the only employee of the company
  - Employer has ability to “fire” employee
  - Waiting for further DHS guidance
- Students must work at least 20 hours per week during the STEM OPT Extension period (in order to not accrue period of unemployment)
- Employer must be enrolled/certified in the DHS E-Verify system
- Must have official, written job offer letter with E-Verify eligible employer

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Form I-983 – Mentoring & Training Plan

- Final version of Form I-983 is now available from DHS, form can be found online
- Prepared by student AND employer
- Outlines training goals and supervision/evaluation
- Explains how training is directly related to field of study
- States position duties, hours, and compensation
  - Compensation must be commensurate with US workers in same positions at the employer
- Self-evaluations by student, signed by employer, submitted to MIT ISO at 12th month and 24th month of STEM OPT authorization
- Updated Form I-983 required with any material changes in work activity (new position title; new duties; new employer)
- DHS may conduct site visits at employer

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STEM OPT Extension based on Previously Earned STEM degree

- Current degree program can NOT be a STEM-designated program (DHS STEM CIP Code list) for STEM OPT Extensions based on previously earned STEM degree
- Earned a previous STEM degree at an accredited institution in the U.S. within the past 10 years
  - Previous institution must be currently accredited for the STEM degree offered at that institution at time of application for the STEM OPT Extension
- Student must not have been authorized for STEM OPT in the past based on that previous STEM degree
- Must be authorized for the initial 12-month OPT period, or part thereof, based on the completion of the current non-STEM degree just completed
  - Cannot apply for STEM OPT Extension unless currently on authorized post-completion OPT (12-month period based on current degree completion)
- May NOT apply for the second STEM OPT Extension to extend a currently authorized STEM OPT Extension (no "stacking" of both 24-month STEM OPT periods back-to-back)
- STEM OPT, like regular OPT, may only be granted for the next period at a higher degree level
  - If authorized for OPT at PhD level, then do Master's program, NOT eligible for OPT at Master's level

STEM OPT Extension based on Previously Earned STEM degree

Eligibility Scenario #1

Bachelor's degree completed (STEM field)

→12-months post-completion OPT after completion of degree

→ STEM OPT Extension authorized based on Bachelor's degree

→ Pursued and completed Master's degree (non-STEM field)

→12-months post-completion OPT based on Master's degree

NOT eligible for STEM OPT Extension after Master's degree based on previous Bachelor's STEM degree

(already used STEM OPT based on that Bachelor's degree)

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STEM OPT Extension based on Previously Earned STEM degree

Eligibility Scenario #2

Bachelor's degree completed (STEM field)

→12-months post-completion OPT based on Bachelor's degree

→ Did not apply STEM OPT Extension based on Bachelor's degree

→ Pursued and completed Master's degree (non-STEM field)

→12-months post-completion OPT based on Master's degree

ELIGIBLE for STEM OPT Extension after Master's degree based on previous Bachelor's STEM degree

(did not use STEM OPT based on the previous Bachelor's STEM degree)

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STEM OPT Extension based on Previously Earned STEM degree

Eligibility Scenario #3

Master's degree completed (STEM field)
→12-months post-completion OPT granted (EAD card issued)
→ Worked for 6 months on OPT, then returned home
→ 3 years later, began new Master's degree (non-STEM field)

NOT eligible for 12-months post-completion OPT (already granted at same degree level – previous Master's degree)

NOT eligible for STEM OPT Extension (not able to obtain any period of post-completion OPT for after this Master's degree program)

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STEM OPT Extension based on Previously Earned STEM degree

Eligibility Scenario #4

Master's degree completed (STEM field)

→ Applied for and granted 3 months of post-completion OPT (EAD card issued for 3 months only) to pursue summer internship position after degree

→ Returned to home country for job after OPT completed

→ 3 years later, began new Master's degree (non-STEM field)

ELIGIBLE for 9 months of post-completion OPT based on completion of this new Master's degree (was not authorized for full 12-months of OPT at Master's degree level; only authorized for 3 months after previous Master's degree)

ELIGIBLE for STEM OPT Extension based on previous Master's degree in STEM field

(was not authorized for full 12 months of OPT at Master's degree level after first Master's degree, so student had a period of post-completion OPT available after second Master's degree; then eligible for STEM OPT as did not apply for STEM OPT Extension after previous Master's degree in STEM field)

STEM OPT Extension based on Previously Earned STEM degree

- Additional Questions yet to be answered by DHS and USCIS:
  - How will a student document the previously earned STEM degree to the current school/visa sponsor and USCIS?
    - Current recommendation is copy of transcript (provides most information)
    - Copy of diploma?
    - Copy of all previously issued Forms I-20 for that program, if in F status?
    - Letter from the DSO of the previous institution confirming visa status, any previously authorized Practical Training?
    - Letter from Registrar from previous institution confirming program of study, CIP code assigned to the program of study, is a STEM field?
  - How will a DSO verify accreditation of the previous institution where the STEM degree was earned?
  - Must position at company on STEM OPT Extension be directly related to BOTH the original STEM degree field AND the current non-STEM degree field?
    - Current guidance is YES, must be related to both degree program fields

Key Aspects of Filing Application for STEM OPT

- **Must be currently authorized for 12-month post-completion OPT period** at the degree level
  - If you do multiple degrees at the same level, need to have saved some OPT from first degree for use post-completion at same degree level and to apply for STEM OPT Extension
- **New Application** for STEM OPT Extension with USCIS Required
  - Individuals on 17-month STEM OPT Extension, applying for additional 7-month extension, are also required to file new I-765 application with fee, new I-20, and supporting documents
- **In-Person or Phone Appointment** with ISO Advisor Required to coordinate process for STEM OPT Extension application
  - Alumni on OPT/STEM OPT are able to submit request for new I-20 STEM OPT extension recommendation via email to ISO Advisor
  - Once STEM OPT I-20 is received from ISO, student must file full application with USCIS

Eligibility for STEM OPT Eligibility

- Employment must be directly related to student's declared major field of study
  - If current degree is STEM field, activity must be related to that STEM field
  - If applying based on previously earned STEM degree, and current degree and OPT is not in a STEM-eligible field, then position under the STEM OPT Extension must be related to both the previous STEM field and current non-STEM field
    - Waiting for specific DHS guidance
- Transfer to another school automatically terminates any approved OPT/STEM OPT (new I-20 issued for new program/ institution; if authorized for any period of OPT/STEM OPT, lose the remaining OPT time on EAD card)
- Move to another educational level automatically terminates any approved OPT/STEM OPT (new I-20 issued for new level)

Apply for 17-month, 24-month, or 7-month STEM OPT Extension?

- Current students applying for initial 12-month post-completion OPT
  - http://web.mit.edu/iso/immigration/emp_f1_opt.shtml
- Currently authorized for 12-months post-completion of degree OPT, applying for STEM OPT Extension
  - 17-month STEM Extension (applications filed **prior to** May 10, 2016)
    - http://web.mit.edu/iso/immigration/emp_f1_17_stem_opt.shtml
  - 24-month STEM Extension (applications filed on or after May 10, 2016)
    - http://web.mit.edu/iso/immigration/emp_f1_24_stem_opt.shtml
- Currently Authorized for 17-month STEM OPT Extension, considering eligibility for 7-month additional STEM OPT Extension to new maximum 24-month limit
  - http://web.mit.edu/iso/immigration/emp_f1_transition_stem_opt.shtml

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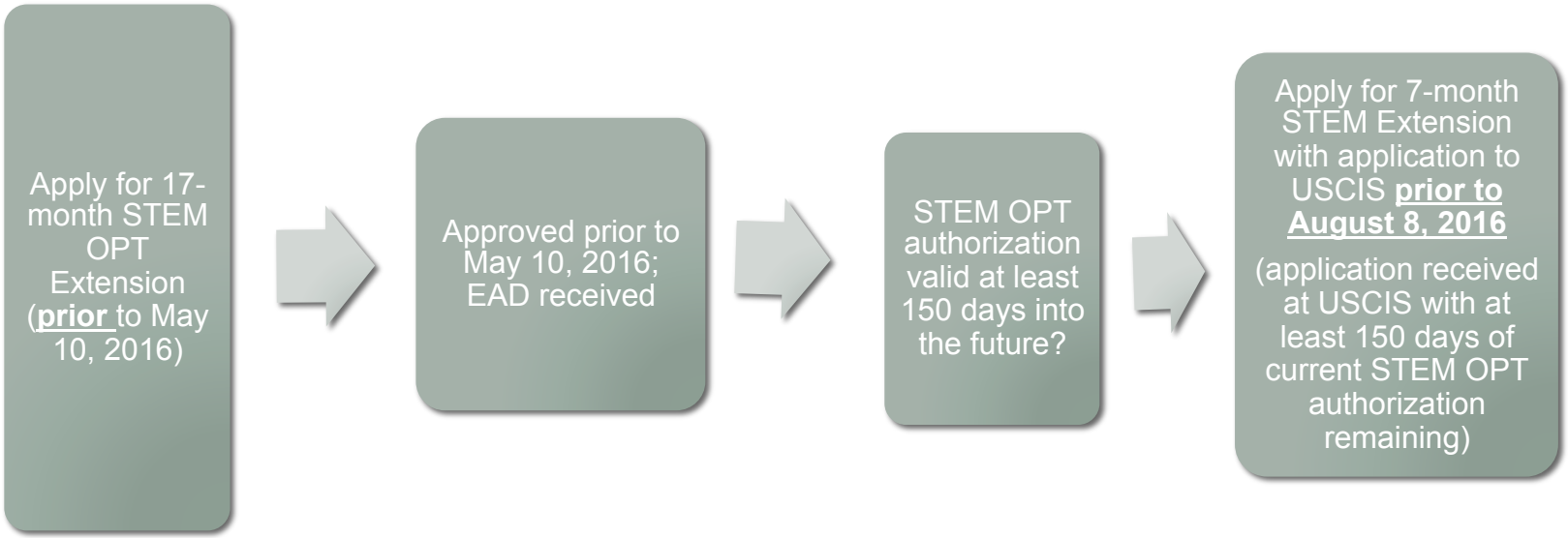
17-Month STEM OPT Extension (applications prior to May 10, 2016)

Current Student on Authorized 12-month OPT → STEM OPT Approved Prior to May 10, 2016 → Applying for 7-Month Extension



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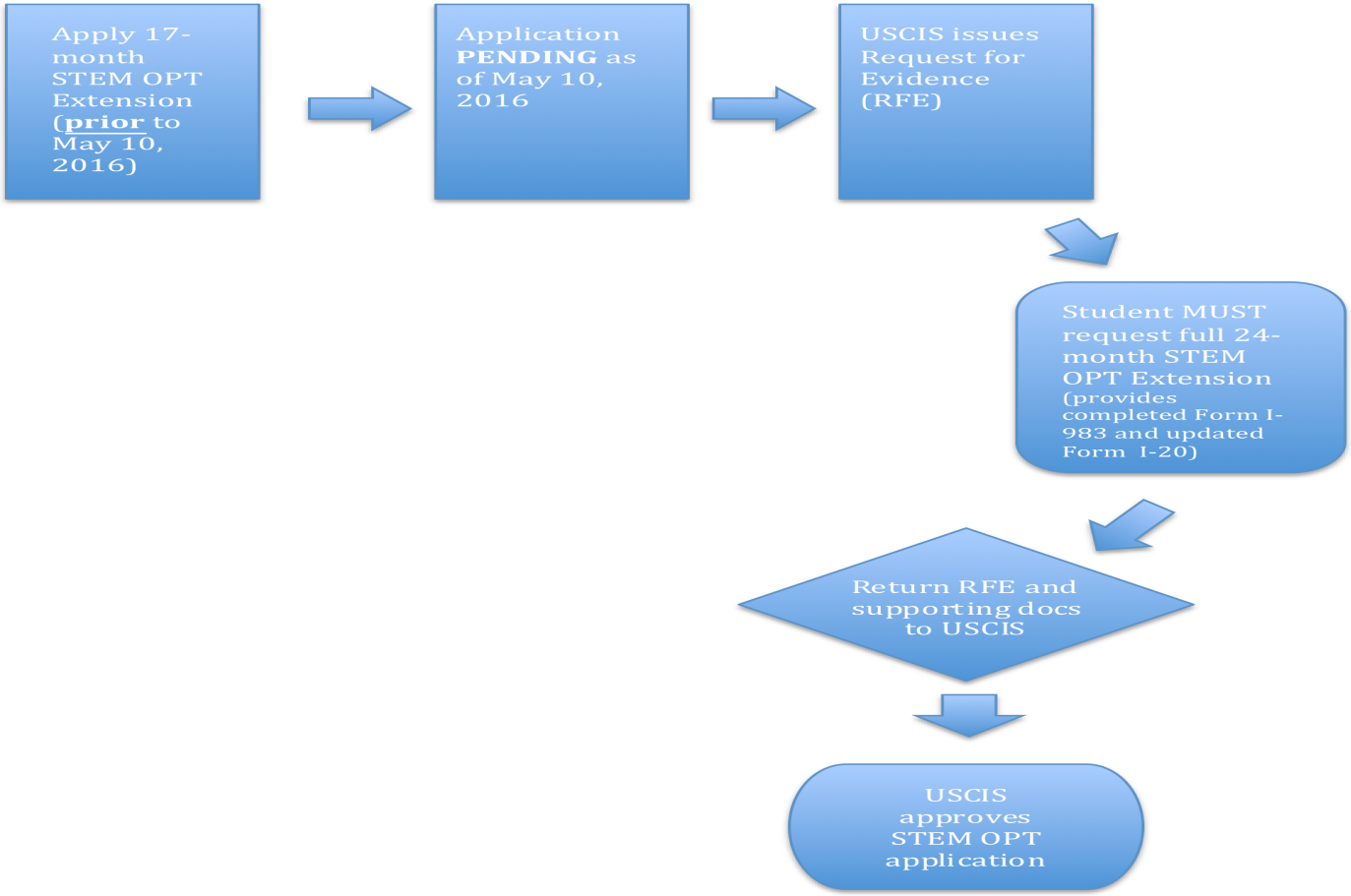
24-Month STEM OPT Extension (applications on or after May 10, 2016)



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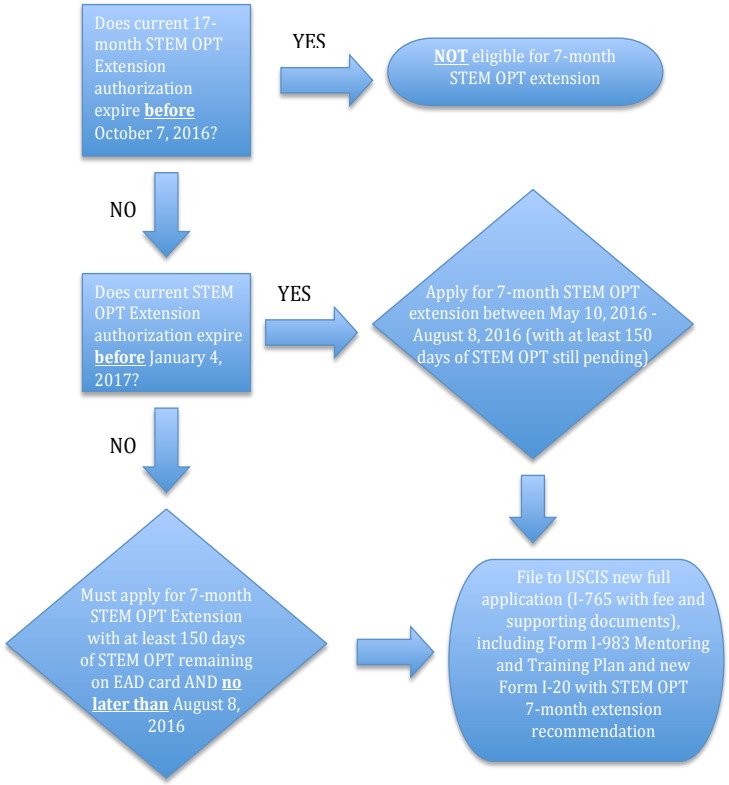
17-Month STEM OPT Applying for 7-Month STEM Extension (to max. 24 months)



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Current STEM OPT Valid At Least 150 Days Into The Future

- If currently authorized for STEM OPT, and applying for 7-month STEM OPT Extension, your current STEM OPT EAD Card must be valid at least 150 days into the future

- USCIS needs to **RECEIVE** your 7-month STEM OPT Extension application with at least 150 days remaining on current STEM OPT authorization EAD card
  - Reminder – must file between May 10, 2016 – August 8, 2016
  - Examples:
    - Application received at USCIS on May 10, 2016, STEM OPT EAD Card must be valid until at least October 7, 2016
    - Application received at USCIS on May 20, 2016, current STEM OPT EAD Card must be valid until at least October 17, 2016
    - Application received at USCIS on August 8, 2016, current STEM OPT EAD Card must be valid until January 4, 2017

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Application Process

- Read about the STEM OPT Application Process on ISO website: http://web.mit.edu/iso/immigration/employment.shtml
- Contact your ISO Advisor to set up a phone or in-person appointment
- Submit required documentation to the ISO to obtain a new Form I-20 with a Recommendation for STEM OPT on Page 2
  - Plan on ISO processing new I-20 within **2 weeks** of submitted request
- New I-20, with STEM OPT recommendation, along with additional documentation, MUST be mailed to USCIS for processing in order to receive STEM OPT Extension EAD Card
- Processing time at USCIS **approximately 3-4 months** (average 90-100 days)
- Receive employment authorization in form of an EAD card (if approved)

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When Can I Submit My STEM OPT Extension I-20 Request to ISO?

- ISO will not be able to issue Form I-20 with 24-month or 7-month STEM OPT Extension recommendation until DHS makes functionality available in SEVIS
  - Regulation indicates rule effective May 10, 2016
  - ***Students will be able to file STEM OPT Extension as of May 10, 2016 without the new Form I-20 until May 23, 2016, but USCIS will issue Request for Evidence (RFE) to ask for new Form I-20 when available***
  - DHS just announced (on April 6, 2016), that they will not update SEVIS with functionality until **at least May 13, 2016**
- ISO will notify students by email, and on ISO website, once SEVIS functionality is available and we can process STEM OPT Extension Forms I-20

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Submitting STEM OPT I-20 Request to ISO

- Submit I-20 request to ISO on iMIT **at least 2 weeks** prior to desired date of mailing application to USCIS
- Full listing of required documentation for I-20 Request to ISO on ISO website and iMIT
  - Includes completed Form I-983 Mentoring & Training Plan signed by student and employer
- Choose start date and end date of STEM OPT
  - Start date must be date after current authorized OPT expires (day after current EAD Card expiration date)
- Administrative fee payable to MIT of $200.00

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Recommendation from ISO for STEM OPT

- Receive new Form I-20 with recommendation for STEM OPT on page 2 of the Form I-20
- Travel signature on Page 2 of Form I-20
  - Travel signature valid for re-entry to US within 6 months of signature date on Form I-20
  - To re-enter from abroad, should have STEM OPT EAD Card in hand and position offer letter for STEM OPT employer included on application (Form I-765 and Form I-983)
- Once receive new Form I-20 with recommendation for STEM OPT Extension, make a photocopy of Pages 1 and 2 to include in official application to USCIS (Form I-765 and supporting documents)

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Required Documents for STEM OPT Application

- Will require Form I-765 – Application for Employment Authorization, and required fee ($380) payable to U.S Department of Homeland Security
- List of required documentation available on ISO STEM OPT webpages
  - http://web.mit.edu/iso/immigration/emp_f1_stem_opt.shtml)

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Tips on the STEM OPT Application

- I-765 fields (https://www.uscis.gov/i-765)
  - Fill out the PDF form version electronically
  - Checkbox – Renewal of authorization (to obtain STEM OPT Extension)
  - #3: U.S. Mailing Address must your residential U.S. address or include "c/o Friend's name", this address determines Lockbox mailing location
  - #11: Check yes since you have previously applied for an OPT/EAD card include information from your initial OPT period(s)
  - #16: STEM OPT Extension – (c)(3)(C)
  - #17: Enter Degree (ex: SB, SM, PhD) & Name of Degree ex: 'SB in Chemistry'
  - Print, then sign and date, include telephone number

- G-1145 E-Notification of Application/Petition Acceptance (see I-765 Instructions webpage)

- Application must be received by USCIS within **60 days** of date when ISO Advisor recommends OPT in SEVIS (within 60 days of date new Form I-20 with STEM OPT Extension is generated/signed)

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I-765 examples

I am applying for: [X] Permission to accept employment. [ ] Renewal of my permission to accept em

1. Full Name

(Family Name) (First Name) (Middle Nar

2. Other Names Used (include Maiden Name)

3. U.S. Mailing Address

(Street Number and Name) (Apt. Numb

100 Memorial Dr. (c/o Emily Cheng) 500

(Town or City) (State) (ZIP Code)

Cambridge MA 02474

17. (c)(3)(C) Eligibility Category. If you entered the eligibility category (c)(3)(C) in **Question 16** above, list your degree, your employer's name as listed in E-Verify, and your employer's E-Verify Company Identification Number or a valid E-Verify Client Company Identification Number in the space below.

Degree	Employer's Name as listed in E-Verify
SB in Comp. Sci.	Employer Name

Employer's E-Verify Company Identification Number or a Valid E-Verify Client Company Identification Number

xxxxxx

16. Eligibility Category. Go to the "**Who May File Form I-765?**" section of the Instructions. In the space below, place the letter and number of the eligibility category you selected from the instructions. For example, (a)(8), (c)(17)(iii), etc.

(c) (3) (C)

11. Have you ever before applied for employment authorization from USCIS?

[X] Yes (Complete the following questions.)

Which USCIS Office?	Dates
Vermont Service Center	07/01/2015

Results (Granted or Denied - attach all documentation)

Granted

[ ] No (Proceed to **Question 12.**)

Certification

I certify, under penalty of perjury, that the foregoing is true and correct. Furthermore, I authorize the release of any information that U.S. Citizenship and Immigration Services needs to determine eligibility for the benefit I am seeking. I have read the "**Who May File Form I-765?**" section of the instructions and have identified the appropriate eligibility category in **Question 16**.

Applicant's Signature

Date of Signature (mm/dd/yyyy)

Telephone Number

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Adjudication at USCIS Processing Center

- May take 3-4 months for USCIS to process (average 90-100 days)
- Receive a "Receipt Notice" letter from USCIS with a Receipt Number to track status of application
  - received approximately 2-3 weeks from date of mailing application to USCIS)
- Can request "Expedite" at 90 days from the "Received Date" if not yet approved; applicant calls the USCIS National Customer Service Center phone number listed on your Receipt Notice from USCIS
- If approved, receive **"Approval Notice"** from USCIS in the mail
- Separately, USCIS will send the **Employment Authorization Document** (EAD) Card by mail (approximately 1 week after Approval Notice issued)
- Once received, upload a copy of EAD Card to ISO at http://iMIT.mit.edu

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Important Reminders about OPT and STEM OPT

- Students may continue working on OPT up to 180 days, with a STEM OPT application pending, as long as the STEM OPT application has been received by USCIS prior to expiration date of original 12-month period of OPT authorization (as appears on EAD card)
- When STEM OPT period requested begins, must be working for STEM OPT employer and position must be STEM-related as per your application
- Employer will require copy of current EAD and Receipt Notice for STEM OPT Extension application to complete Form I-9 *Employment Eligibility Verification Form* to continue or begin employment

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Common Questions about OPT and STEM OPT

If OPT or STEM OPT is granted for the full period (initial 12 months of OPT, or the 17-month or 24-month of STEM OPT), and a student changes visa status or stops working during the authorized period, do they retain any of the unused portion of authorized OPT or STEM OPT for future use?

Unfortunately, NO.

Once the OPT/STEM OPT is authorized, the period authorized on the Employment Authorization Document (EAD) card is considered used, whether the student works for that full period or not. The unused portion cannot be "refunded" or used in the future if USCIS already authorized for the full period allowed.

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Common Questions about OPT and STEM OPT

Can a student apply for their second STEM OPT Extension immediately after the first period of STEM OPT Extension?

No.

It is not possible to "stack" both periods of STEM OPT Extension consecutively. The STEM OPT Extension is for extending an initial period of OPT (12-months) based on completion of a current degree.

At most, after completion of a degree, a student can apply for and obtain a maximum of 12 months of initial OPT plus a 24 months STEM OPT Extension to that period (maximum total after a degree is 36 months)

To be eligible for the second STEM OPT Extension period, a student would need to complete a new degree program at a higher level, be eligible for, apply for, and obtain a period of post-completion OPT for that new degree, and then be eligible for, apply for, and obtain the second period of STEM OPT Extension.

Travel on STEM OPT Extension Authorization

Carry the Following Documents during STEM OPT period:

- EAD card issued for STEM OPT authorization
- Original, Signed Letter from your employer confirming employment / Job Offer Letter
  (printed on letterhead paper, date, signed)
- Form I-20 for STEM OPT Extension with travel signature from ISO Advisor on page 2 (not older than 6 months)
- Valid F-1 entry visa stamp in passport from U.S. Consulate (if expired, you will need to obtain a new F-1 entry visa stamp while abroad to re-enter the U.S.)
- Passport (valid at least for 6 months beyond date of return to U.S.)

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What Does Student Have to Do After OPT Approval?

After STEM OPT is approved, student MUST report the following to the MIT ISO during OPT period:

- change of name or citizenship
- change of U.S. address, telephone number, email address
- Name, address, phone, email of Supervisor at Employer
- start and end dates of employment(s)
- change of employer contact information (may also require updated Form I-983)
- Change in position duties/responsibilities with employer (may also require updated Form I-983)
- decision to end STEM OPT and leave the U.S.A.
- transfer to another school or begin new academic program
- change of visa status
- Self-Evaluation Form – required at 12th month and 24th month of STEM OPT

Employer Responsibilities:

- Employer must notify ISO within 5 business days of termination of employment

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ISO Guidance

- Electronic submission of STEM OPT Extension I-20 requests
  - Currently submit application through e-mail or mail.
  - Future enhancements will allow students to submit through electronic forms via ISO's iMIT system, form requirements will be E-Forms and the ability to attach necessary reporting documents
- Electronic submission of required information while on STEM OPT
  - Will be able to complete required reporting through E-Forms available through iMIT's Full Services or Limited Services login from alumni only (iMIT.mit.edu)
- MIT ISO website will be the source for continued updates on any regulatory or process changes
  - ISO will notify students regularly via email notification of any updates/changes, but ISO website is place for students to go first with standard questions about employment and STEM OPT eligibility, procedures, and requirements
  - ISO will create a resource page for Employers to consult on their STEM OPT responsibilities
  - A Frequently Asked Questions (FAQ) section will also provide guidance based on questions/information provided by DHS, employers and students/alumni on STEM OPT

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Questions?

- All documentation/information about F-1 Practical Training is available on the ISO website under the "Immigration"→"Employment" link at http://web.mit.edu/iso
  - F-1 Employment
    http://web.mit.edu/iso/immigration/employment.shtml
  - F-1 Optional Practical Training
    http://web.mit.edu/iso/immigration/emp_f1_opt.shtml
  - F-1 STEM Optional Practical Training
    http://web.mit.edu/iso/immigration/emp_f1_stem_opt.shtml

ISO Advisors -- http://web.mit.edu/iso/about/student-advisor.shtml

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