

## **Tulsa Community College ISS Office**



### **Q&A On Cap-Gap Regulations**

**Answers to Common Questions  
Related to the Cap Gap**



International Student Services

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## What determines the length of the cap-gap extension?

### Events Impacting the Length of

The Petition Naming the Student	Impact on Cap-Gap OPT	Impact On F-1 Status
Petition Filed Properly.	OPT extended to 06/01/2009	F-1 status extended to July 31, 2009
Is not selected for receipting.	No additional receipting.	No additional extension
Is selected for Wait-listing.	OPT is extended To July 27, 2009.	F-1 status is extended to September 26, 2009.
Is selected for Receipting.	OPT authorization is extended to September 30.	The student's Record completes on September 30, ending the student's F-1 status.
Is withdrawn or denied.	OPT authorization ends 10 days after the date of withdrawal or denial.	Grace period ends 60 days after the date of the withdrawal or denial.

*Note 1: If a student's regular period of OPT extends to June 1, the student does not need to make the request.*

*Note 2: If a student's regular period of OPT extends to July 27, the student does not need to make the request.*

## the Cap-Gap Extension

Extension Request Needed	Action Required By Student	Action Required by ISS Office
Yes	Must send request for I-20 extension to ISS with proof of proper filing. (See note 1.)	Update SEVIS record under Cap Gap extension link to indicate an H1-B petition has been filed.
N/A	None	None
Yes.	Must send request for I-20 extension to ISS with proof that the petition was Wait-listed. (See note 2)	Update SEVIS record under Cap-Gap extension link to indicated H-1b petition was wait-listed.
No, SEVIS will use the data from CLAIMS.	Student may request the ISS Office to print an I-20 showing the extension.	Print updated I-20 as requested.
No, SEVIS will use the data from CLAIMS.	Student must terminate OPT on the proper date and either leave the U.S. upon expiration of the grace period or take other steps to maintain status.	None

## **CAP GAP AUTOMATIC EXTENSION FOR F-1 STUDENTS WHO ARE THE SUBJECT OF AN H-1B PETITION**

### **Cap gap**

Cap gap refers to the period of time an F-1 visa student would ordinarily end his OPT and the time his or her H-1B status begins. This rule automatically extends the student's F-1 status and work authorization.

### **Cap-gap extension**

The cap-gap extension is a period in which an eligible F-1 student's status is automatically extended to bridge the gap between the end of F-1 status and start of H-1B status. If the student is in a period of authorized post-completion OPT on or after the date the student becomes eligible for the extension, the student's post-completion OPT is also automatically extended.

### **Cap-gap OPT**

A period of OPT that has been extended beyond the date on the F-1 student's employment authorization document during an authorized cap-gap extension.

### **Basic provisions**

The eligibility date is the date a USCIS Service Center receives a properly filed Form I-129, Petition for a Nonimmigrant Worker, from the prospective employer naming the student as a beneficiary of the petition.

The cap-gap extension starts when the student's current period of F-1 status ends, regardless of whether the student was in a period of OPT. However, if the student was not in a period of authorized post-completion OPT on the eligibility date, the extension of status starts on the day after the student's initial grace period expires.

### **Do the limits on OPT unemployment time apply to students with a cap-gap extension?**

Yes. The 90-day limitation on unemployment continues during the cap-gap extension.

**If a student was not in an authorized period of OPT on the eligibility date, can the student work during the cap-gap extension?**

No. In order for a student to have employment authorization during the cap-gap extension, the student must be in an approved period of OPT on the eligibility date.

**Does a student need to file an application or pay a fee to receive a cap-gap extension?**

No. The extension is granted automatically at no cost. However, it is important to note that although the extension is automatically granted, SEVIS may not be automatically updated to show the extension. A student is responsible for checking with the ISS Office and verifying that his or her SEVIS record has been updated with the extension. See the section on how students know they have a cap-gap extension.

**What is the length of the cap-gap extension?**

For a student with active post-completion OPT, the cap-gap extension for both employment and F-1 status starts on the date the student's original OPT expires and ends September 30 unless the H-1B petition for the student is rejected, denied, or withdrawn. In those cases, the employment authorization ends and the grace period begins.

For a student whose post-completion OPT expired prior to the filing date of the H-1B petition, the cap-gap extension starts at the end of the student's grace period and ends September 30 unless the H-1B petition for the student is rejected, denied, or withdrawn. However, the student will not have work authorization.

Due to the complexities involved, students will receive cap-gap extensions in increments, as the petitions go through the steps of filing, receipting and adjudication.

**Can the cap-gap extension of OPT be extended beyond September 30 if the H-1B petition filed on the student's behalf has not been adjudicated by USCIS?**

No.

**What is the length of the cap-gap extension?**

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Due to the complexities involved, students will receive cap-gap extensions in increments, as the petitions go through the steps of filing, receipting and adjudication.

**Will students receive personal notification when they have a cap-gap extension?**

Students will not automatically receive notification when they have a cap-gap extension. Students must request a Form I-20 from the ISS Office showing the period of the extension. Students need to notify the ISS Office that they are eligible for the extension.

**How will students know they have a cap-gap extension?**

A student must remain in contact with the employer that filed the Form I-129, Petition for a Nonimmigrant Worker, on the student's behalf and with the ISS Office. Until USCIS issues receipt notices, only USCIS and the petitioning employer will know when an application is properly filed or wait-listed. The student may obtain evidence from the employer for either of these two events and ask the ISS Office to request a data fix from SEVIS. When USCIS has receipted an H-1B petition, the information is entered into the USCIS Service Center database and used to update SEVIS. However, there are some cases where the data from the database interface does not properly update SEVIS. Students are responsible for checking with the ISS Office and verifying that their SEVIS records have been updated with the extension.

**How will students know if their cap-gap extension is terminated before September 30 due to a withdrawn or denied H-1B petition?**

Students will not be personally notified by DHS of a withdrawn or denied H-1B petition, so they must remain in contact with their sponsoring employer and the ISS Office. It is the student's responsibility to check regularly on his or her status.

**What proof will students have that they are entitled to the extension of employment authorization and status?**

Using SEVIS, the ISS Office can print a SEVIS I-20, which shows the dates of continued F-1 status and employment authorization.

**What information appears on the Form I-20 if an F-1 student is eligible for the cap-gap extension of F-1 status and OPT?**

If the F-1 student has an approved current or future post-completion OPT SEVIS will be updated with the following:

*F-1 status and employment authorization for this student have been automatically extended to September 30, [current year]. The student is authorized to remain in the United States and continue employment with an expired employment authorization document. This is pursuant to 8 CFR 214.2(f)(5)(iv) and 8 CFR 274a.12(b)(6)(iv), as updated April 8, 2008, in a rule published in the Federal Register (73 FR 18944). Additional information about the automatic extension can be found on the Student and Exchange Visitor Program Web site at [www.ice.gov/sevis](http://www.ice.gov/sevis).*

**What appears on the Form I-20 if an F-1 student is eligible for the cap-gap extension of F-1 status but not OPT?**

If an F-1 student does not have an Approved current or future post-completion OPT on the date the pending or approved change of status request to H-1B is received from CLAIMS, SEVIS will be updated with the following:

*F-1 status for this student has been automatically extended to September 30, [current year]. The student is authorized to remain in the United States. This is pursuant to 8 CFR 214.2(f)(5)(iv) and 8 CFR 274a.12(b)(6)(iv), as updated April 8, 2008, in a rule published in the Federal Register (73 FR 18944). Additional information about the automatic extension can be found on the Student and Exchange Visitor Program Web site at [www.ice.gov/sevis](http://www.ice.gov/sevis).*

**What if SEVIS does not show that an eligible student's work authorization and status have been extended?**

Students are responsible for checking with the ISS Office and verifying that their SEVIS records have been updated with the extension. If a student is the beneficiary of a receipted or approved H-1B petition and the student's SEVIS record does not properly reflect his or her status, the student should ask the ISS Office to request a data fix and provide the DSO with a copy of the receipt (Form I-797) and/or the receipt number.

**If a student is eligible for the cap-gap extension, can he or she continue to work while SEVP is updating the student's SEVIS record with the extension?**

Yes. If a student is eligible for the cap-gap extension, he or she can continue to work while the update is being processed. The updated SEVIS I-20 is only intended to provide a student with proof of the cap-gap extension. The extension itself is automatic, based on the pending or approved H-1B petition

**May students travel outside the United States during a cap-gap extension period and return in F-1 status?**

It is strongly recommended that students do not travel outside the United States during the cap-gap extension, if possible, as USCIS will consider a change-of-status application to be abandoned if the applicant leaves the country while the application remains pending. Thus, a change-of-status petition from F-1 to H-1B filed on behalf of a student with a cap-gap extension who departs the U.S. before the application is adjudicated could be denied.

**What do students on a cap-gap extension need to report to their DSOs?**

As with all students on post-completion OPT, a student must report the name and address of the employer, any change of address within 10 days, any legal name change, any change to the name and address of the employer or any interruptions of employment.