



U.S. Immigration
and Customs
Enforcement

SEVP
STUDENT AND EXCHANGE VISITOR PROGRAM

Training STEM OPT Students
May 10, 2016

Presentation Overview

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TERMS AND DEFINITIONS

Frequently Used Terms

- **Designated School Official (DSO)**
 - Dedicated school employees for assisting and overseeing F and M nonimmigrant students
- **Student status**
 - Nonimmigrant student's immigration status
 - Maintained by fulfilling purpose for which the visa is issued and by following regulations associated with that purpose
- **Training**
 - On-the-job learning that supplements knowledge gained in academic studies.
- **Similarly situated U.S. worker**
 - U.S. worker in the area of employment performing similar duties, subject to similar supervision and with similar qualifications and levels of responsibilities

THE NEW REGULATION

Introduction to the New Regulation

- **Background**
 - DHS published final STEM OPT regulation on March 11, 2016
 - Amended regulation will be fully implemented today, May 10, 2016
- **Replaces existing regulations on 17-month STEM OPT extensions:**
 - Lengthens STEM OPT extension from 17 to 24 months
 - Introduces the Form I-983, “Training Plan for STEM OPT Students”
 - Employer site visits
 - New employer reporting requirements

Protections and Enhancements

- **DHS received over 50,000 comments from the public**
 - Stakeholder feedback helped shape provisions of the final rule
 - SEVP appreciates the feedback from those who commented on the draft rule
- **The new protections and enhancements:**
 - Lengthen the STEM OPT extension period from 17 to 24 months
 - Strengthen program oversight
 - Allow employers to play a key role in maintaining the integrity of STEM OPT

WHAT STAYS THE SAME

Program Requirements

- Requirements of the 24-month STEM OPT extension similar to requirements of the 17-month extension:
 - Employers must be enrolled in E-Verify
 - Students must complete at least 20 hours of practical training per week
 - Students must apply for the extension before the initial 12 month OPT authorization expires
 - DSOs at student's school of most recent enrollment remain responsible for maintaining student's SEVIS record
 - Students receive Cap-Gap relief as long as employers timely file H-1B petition and change of status requests

WHAT'S CHANGED

Form I-983 Training Plan

- **Form I-983**
 - Completed by student and prospective employer, returned (with employer's signature) to the DSO
 - DSO checks for completeness and keeps in student's record
 - DSO recommends STEM OPT in SEVIS if regulatory requirements are met
- **Employer requirements:**
 - Work with students to complete Form I-983
 - Designate an “Official with Signatory Authority” who signs the form

Form I-983 Training Plan

- **Clarification of employer responsibilities**
 - What information should employers provide?
- **The Form I-983 requires employers to answer four questions:**
 - How are the student's assignments with the employer related to the student's STEM degree?
 - How will the assignments with the employer contribute to the student making progress toward professional goals and objectives?
 - How will the employer evaluate the student?
 - How will the employer supervise the student?

Employer Site Visits

- **ICE may conduct site visits to employer locations**
 - ICE will provide 48 hours' notice in advance unless site visit is triggered by evidence of noncompliance
 - Limited to checking information related to STEM OPT employment
 - Ensuring that learning experiences are consistent with the Form I-983
- **Follow-up information will be sent to employer in writing if warranted**

Employer Site Visits

- **As part of a site visit, ICE may:**
 - Confirm the employer has sufficient resources and supervisory personnel
 - Ask employers to provide evidence used to assess wages of “similarly situated U.S. workers”
- **ICE will conduct site visits in a way that balances the burden on the employer with the need to ensure compliance with the STEM OPT program**
 - ICE may physically inspect some sites but may first or instead request information by email or phone

Reporting Requirements

- **Students must immediately notify DSOs of:**
 - Material changes to the Form I-983
 - Termination of practical training experience
 - Change in employer
 - Employer noncompliance
- **Students check in with DSOs annually to complete self-evaluations**
- **Employer reporting requirements:**
 - Employer must review and sign the student's annual self-evaluation form
 - Employer must notify DSO if the student's employment is terminated for any reason no later than five business days after the termination

Terms and Conditions for Employers

- Employers must attest on the Form I-983 that the student will not replace a U.S. worker
- Employer must certify that the terms and conditions of the STEM OPT training are commensurate with similarly situated U.S. workers
 - Similarly situated U.S. workers perform similar duties, are subject to similar supervision and have similar qualifications, levels of responsibility and skill sets as the nonimmigrant student
 - Duties, hours and compensation must be consistent with the range of terms and conditions the employer has or currently offers similarly situated U.S. employees

EFFECTS OF THE TRANSITION PLAN

Transition Plan Overview

- **17-month STEM OPT regulations remained in effect until yesterday, May 9, 2016**
 - All STEM OPT extension applications adjudicated and approved before May 10, 2016, are subject to previous regulations
- **17-month STEM OPT applications pending on and after today, May 10, 2016**
 - Students will receive RFEs to convert pending 17-month STEM OPT applications to 24-month applications, which will be adjudicated under the new regulations
- **24-month STEM OPT regulations come into effect today, May 10, 2016**
 - All applications adjudicated on or after today are subject to the new 24-month STEM OPT extension regulations, including the Form I-983 training plan, potential site visits and reporting requirements

Transition Plan Overview

- **Students with STEM OPT applications adjudicated before May 10, 2016, are on 17-month STEM OPT**
- **To apply for the seven-month extension, students with existing 17-month STEM OPT EADs must:**
 - Have at least 150 days remaining on the EAD
 - Fulfill all new eligibility requirements
 - Submit 24-month STEM OPT application and fees starting today, May 10, 2016, through Aug. 8, 2016
- **Terms and conditions of the new requirements apply as of date of receipt by USCIS**

Two Categories of Students

- Employers may be simultaneously subject to two regulatory environments
 - Regulations for population of students who remain on 17-month STEM OPT
 - Regulations for population of students who receive 24-month STEM OPT extensions and are subject to the accompanying requirements

EMPLOYER REPORTING REQUIREMENTS

Review

- **For the Form I-983, the employer:**
 - Works with the student to complete and designates an “Official with Signatory Authority” to sign the form
 - Works with the student to report any material changes to the student’s training plan, filling out a new Form I-983 if needed
 - Reviews student’s annual self-evaluation and signs to attest accuracy
- **Termination from training and departure**
 - Employer must notify DSO no later than five business days after student’s employment terminates for any reason before the end of the authorized extension period
 - If a student was not terminated but the employer knows the student has left, or if a student has not reported to his or her practical training for five consecutive business days, employer must notify DSO

HELPFUL RESOURCES

STEM OPT Hub

Form I-983 video tutorial

May 2016 regulation implementation overview

Form I-983 information

Transitioning to 24-month extension

Information for DSOs

Information for students and employers

Additional resources

Conferences Page

2015-16 Audience Breakdown
Data through March 2016

Audience Group	Percentage
GENERAL/DSOS	69%
GOVERNMENT PARTNERS	46%
ACADEMIC ASSOCIATIONS	38%
COMMUNITY COLLEGES	20%
STATE ASSOCIATIONS	12%
ESL ASSOCIATIONS	8%
STUDENT GROUPS	7%
PRIMARY/SECONDARY (K-12) ASSOCIATIONS	2%

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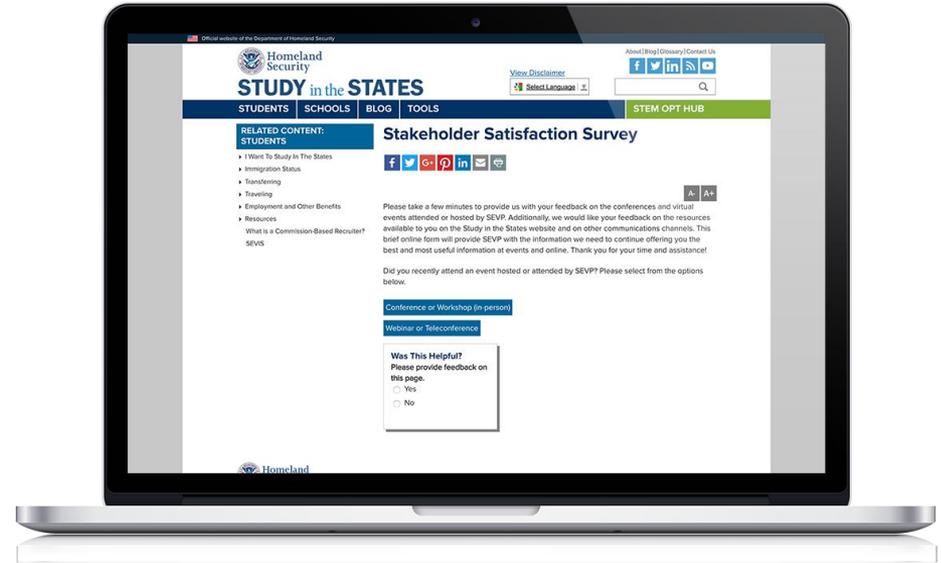
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