DEFINING OPTIONAL PRACTICAL TRAINING (OPT)

F-1 visa holders are eligible to participate in an aggregate total of 12 months of employment known as Optional Practical Training (OPT).

RULES/REGULATIONS OF OPT

☐ Student must have been enrolled for at least 1 academic year (9 academic months) to be eligible for OPT.

☐ All employment (paid or unpaid) must be tied to major/program of study listed on the student’s Form I-20.

   Ex: If a student pursues a Masters in Accounting, the employment during the 12 month period must be related to the field of accounting.

☐ A period of OPT is available once per successive degree level earned at a U.S. institution of higher education authorized to sponsor F-1 students.

   Ex: Bobby pursues a Bachelor’s degree in the U.S., he is eligible for a period of 12 months of OPT during or after his Bachelor’s degree. Bobby then goes on to pursue a Master’s degree in the U.S. Bobby is eligible for another 12 months of OPT during or after completion of his Master’s degree. If Bobby went on to pursue a second Master’s degree, he would not be eligible for another 12 month period of OPT if he already used it for his previous Master’s degree.

☐ A period of OPT must be used while or directly after pursuing the degree. OPT is a “use it or lose it” benefit.

   If Bobby chose to forgo his period of OPT after his Bachelor’s and enroll directly in a Master’s degree, he would not have 24 months of OPT available to him during or after his Master’s degree; he would only have 12 months of OPT available.

TYPES OF OPT

POST COMPLETION OPT

A student is eligible to extend their F-1 student status for up to 12 months post-graduation to pursue employment opportunities if they have been enrolled in F status for 9 academic months.

☐ This is most commonly pursued by students.

☐ Graduate students whose only academic obligation left is a thesis/dissertation may pursue post-completion OPT prior to the end date listed on the I-20 form. All other students are not eligible to begin until the program end date on the I-20 form.

PRE-COMPLETION OPT

Any student is eligible to pursue OPT prior to end date listed on the I-20 form so long as they have been enrolled in F status for 9 academic months. While using pre-completion OPT, students are limited to the following hours:

☐ 20 hours/week while classes are in session

☐ 40 hours/week during breaks
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GENERAL CONSIDERATIONS

WHO ADJUDICATES THE APPLICATION?

US Citizenship & Immigration Services (USCIS) reviews the application. Although the application process is ultimately decided on by USCIS, you will assemble the application in an appointment with an advisor in the GPS office. If approved, USCIS sends back an Employment Authorization Document (EAD). The OPT card is formally referred to as an EAD or Form I-766. The term OPT card is an informal term.

IS OPT ANOTHER EMPLOYMENT VISA?

No, OPT is simply a continuation of your F-1 student visa status. You are not switching to another visa type, nor is OPT considered a separate visa status. Your visa sponsorship remains with Wake Forest University.

DO I NEED AN EMPLOYMENT OFFER FIRST?

An offer of employment is not a pre-requisite to applying for OPT. However, pursuing employment is required once your period of OPT has started.

90 DAY UNEMPLOYMENT GRACE PERIOD

Once your period of OPT begins, you are allotted a 90-day (3 month) unemployment period during the 12 months.

- You are obligated to report all employment activity to the Wake Forest Center for Global Programs & Studies within 10 days of accepting, terminating, or changing employment.
- Students that are unemployed for more than 90 days will need to exit the U.S.

HOW IS EMPLOYMENT DEFINED BY THE DEPARTMENT OF HOMELAND SECURITY?

For the purposes of OPT, the “employment” obligation can be met in any of the following manners:

- Gainful full-time employment
- Gainful part-time employment (20 hours/week minimum)
- Self-employment (20 hours/week minimum)
- Unpaid full-time or part-time (20 hours/week) internships
- Volunteering for 20 hours/week

CAN I BE EMPLOYED WITH MORE THAN ONE EMPLOYER?

Yes. With OPT, you can have multiple employers, and you can also switch employers very easily. Wake Forest remains your immigration sponsor throughout the duration of your OPT program. Any changes of employment should be reported to the Wake Forest Center for Global Programs & Studies.

WHAT HAPPENS AFTER THE PERIOD OF OPT?

All employment must cease by the end date on the OPT card unless you are eligible for the Cap-Gap extension because an employer sponsored and successfully switched you to an employment based visa or STEM extension. If you are not eligible for either extension, you have a 60 day grace period within which you can remain in the U.S.
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TIMELINE FOR APPLICATION

US Citizenship & Immigration Services (USCIS) by law can take up to 90 days to adjudicate an application.

- You are eligible to begin applying for Post-Completion OPT up to 90 days prior to the program end date listed on the I-20 form.
- If you have an offer of employment, and/or intend to begin employment soon after graduation, it is strongly encouraged that you apply early.
- The last date to submit an OPT application to USCIS is 60 days after the program end date on the I-20 form.

USCIS PROCESSING: Once your application is submitted and officially received by USCIS, they then have 90 days within which to make a formal decision on your application. A receipt notice will be provided by USCIS to the applicant with a receipt number and receipt date. The 90 day processing clock begins for USCIS according to the receipt notice date, NOT the date you mail the application to USCIS. Moreover, USCIS takes 90 days to make a decision on the application; this does not include card production time and card mailing time.

REQUESTS FOR EVIDENCE (RFE): USCIS may on occasion issue a request for evidence if further clarification is needed or if any documentation is missing. Once an RFE is issued, the 90 day clock stops temporarily until you provide the evidence they are requesting. RFE’s generally have a generous response time (85 days) but it is generally best to respond sooner rather than later. Generally most RFE’s for OPT applications are easy to resolve and do not cause significant delays.

APPLICATION PROCESS

STEP 1: GATHER DOCUMENTS

- Copy of passport data page
- Copy of most recent F-1 visa stamp (even if expired)
- Copy of most recent I-94 record (if you entered the U.S. after April 30, 2013, your I-94 record is available through the Customs and Border Protection website: cbp.gov/i94)
- All I-20 forms, especially those with approved periods of Curricular Practical Training (CPT)
- 2 passport style photos (2 inches x 2 inches)
- Personal check or money order for $380.00
- Completed form I-765 (sample of completed Form I-765 can be found on OPT website: http://global.wfu.edu/iss/employment/opt)

STEP 2: SCHEDULE AN APPOINTMENT WITH A DESIGNATED SCHOOL OFFICIAL

- Reynolda Campus: Ms. Vinithra (Vini) Sharma or Ms. Carrie E. O’Brien
- Health Sciences/Bowman Gray Campus: Ms. Elizabeth Whitsett

STEP 3: Bring all above documents to your appointment along with an idea of start dates for your OPT to begin. During the appointment, the advisor will review your documents for accuracy. The advisor will also input the recommendation into the SEVIS system along with the start and end dates of your OPT.
OPTIONAL PRACTICAL TRAINING

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APPLICATION PROCESS CONTINUED

DO I CHOOSE THE START DATE AND END DATES FOR OPT?

Yes, you will choose the start date for your period of OPT during the OPT appointment with a DSO. On the OPT recommendation page in SEVIS, the DSO will input the selected dates. For post-completion OPT, you may begin your period of OPT at any point during the 60 day grace period following the end date of your I-20 form.

Please note, once the recommendation has been input and the application has been submitted to USCIS, it is not possible to change the dates, so please think carefully about your start date before your appointment to submit your application.

WHAT ADDRESS DO I USE ON THE I-765 FORM?

Please choose a stable address on the Form I-765. The application process can take up to 90 days. If you plan to move from your current location, it is strongly encouraged that you choose an alternate secure address (a trusted friend or family member). If your address does change after you submit your application, you may change it by visiting the USCIS website and filing an online change of address form.

WHAT HAPPENS AFTER I SUBMIT MY APPLICATION TO USCIS?

After USCIS receives your application, a receipt notice will be mailed out within 2-3 weeks. This receipt notice is simply to state that USCIS has received the application and will work on adjudicating it in the proper timeframe. It will provide a receipt number and official date of receipt. Do not lose this notice.

WHILE YOU WAIT FOR USCIS APPROVAL

TRACKING THE STATUS OF YOUR APPLICATION

You can certainly track the status of your application, but BEWARE, the USCIS website does not always accurately record the true status of your application, so do not place too much credence in the accuracy of the tracking. The application process can take up to 90 days. During this time, you will simply need to be PATIENT and wait. Calling USCIS or a DSO in the Center for Global Programs & Studies will prove futile in expediting the application.

IS THERE A WAY TO EXPEDITE?

No, currently there is no expedite option offered by USCIS for I-765 petitions (OPT applications). There are limited criteria for expediting an I-765 petition, but many are difficult to meet, and USCIS retains full discretion on whether they will grant an expedite request or not. To date, Global Programs has not seen USCIS grant an expedite request from a student. Do not count on being granted an expedite from USCIS. Plan your application timing accordingly.

WHAT IF MY APPLICATION IS PENDING FOR MORE THAN 90 DAYS?

An advisor in the Center for Global Programs & Studies can put in a request for a status update once the petition has been pending for 85 days. This generally prompts action from USCIS, but is not guaranteed. If your application has been pending for 80 days or more, from the date on the receipt notice, contact an advisor in the Center for Global Programs & Studies.
After Receipt of Card

Cancelling a Period of OPT

If the card has not yet been produced and you wish to cancel your application, please contact a representative from the Center for Global Programs & Studies for advice on how to proceed. The advisor will cancel the request in the SEVIS system, but you will also be responsible for calling USCIS to cancel the application as well. Keep in mind, there are no refunds of the $380.00 filing fee. If the card has already been processed, it is very difficult if not impossible to have it cancelled.

Mistakes on the EAD Card

Occasionally USCIS will make a mistake on the EAD card. If the mistake is in your name or date of birth, those are generally considered “trivial” mistakes. It is generally not worth having these mistakes corrected.

If the mistake is in the dates of employment, you will want to contact USCIS to have it rectified. Provided the original card is valid for employment while you are waiting for the corrected card, you may continue employment. You will not need to pay the $380.00 filing fee again.

Lost EAD Card

If you lose your EAD card, you will have to re-file the OPT application and pay the $380.00 filing fee again. If you lose the card after starting employment with an employer, you may continue to work for that employer, provided they retained a copy. You will not be able to begin employment with a new employer until you receive the new card.

What Visa Do I Hold When I Am Pursuing a Period of OPT?

You are still considered to be in F-1 student status during your period of OPT. You are required to use an F-1 visa stamp in order to re-enter the U.S. The OPT Card does NOT take the place of a visa stamp nor does it stand alone as a valid nonimmigrant status.

Travel & Re-entry to the U.S.

Can I Travel Internationally While Pursuing OPT?

Yes, you are welcome to travel internationally for short periods of time during your period of OPT. While employment is not a pre-requisite to applying for OPT, it is a condition of maintaining F-1 status while on OPT. USCIS has stated that employment is a condition of re-entry into the U.S. That said, the Center for Global Programs & Studies, to date, has not heard of an instance when a student has been denied re-entry. This is of course unwritten practice, and subject to change at any point. Please note, time spent outside of the U.S. does contribute towards the 90 day unemployment period. Upon re-entry into the U.S., you must be sure to re-enter using the documents listed on the next page.

If you re-enter the U.S. under a different visa category, your period of OPT is immediately cancelled. (Ex: you re-enter using a B2 tourist visa or the visa waiver program because you forgot to renew your F-1 stamp.) OPT is a benefit of the F-1 status, not any other nonimmigrant status in the U.S. and therefore your OPT is cancelled if you enter using another nonimmigrant status.
DOCUMENTS NECESSARY TO RE-ENTER THE U.S.

- Valid passport dated at least 6 months into the future
- Valid F-1 visa stamp*
- Valid I-20 form with OPT details and updated travel authorization signature on the third page (the travel authorization signature is valid for 6 months from the date it was last signed)
- OPT Card
- Employer offer letter/confirmation letter (not required, but recommended to have; in the absence of this letter, be prepared to provide proof that you are actively seeking employment opportunities in the U.S.)

*Automatic Visa Revalidation Clause: You may re-enter the U.S. with an expired F-1 visa stamp only if your travel was to Canada, Mexico, or the qualifying adjacent Caribbean islands for a period of 30 days or less. Note, citizens of certain countries are not eligible to take advantage of this provision.

TRAVEL BEFORE GRADUATION

If you travel internationally and re-enter the U.S. before the program end date on your I-20 form, you may re-enter with your valid F-1 visa stamp, I-20 form, and passport. If your OPT application is pending, have the receipt notice with you.

TRAVEL AFTER GRADUATION BUT WHILE OPT APPLICATION IS PENDING

Once you have completed your program of study, international travel is expressly discouraged until you receive the OPT card in your hand. If an emergency arises, please consult with GPS prior to exiting the U.S.

If you attempt to re-enter the U.S. without your approved OPT card, the officer may question your eligibility to re-enter the U.S. which will cause further travel complications.

TEMPORARY ABSENCE: 5 MONTH CLAUSE

If you remain outside of the U.S. for a period of 3 months or more, your F-1 visa status and subsequent period of OPT is automatically cancelled. As noted before, time spent out of the United States counts towards the 90 days of unemployment, therefore while on OPT, if you remain outside of the U.S. for more than 90 days, your OPT and F status are effectively cancelled.

Forewarning: a Customs and Border Patrol officer will likely be suspicious of a student who has spent an extended period of time outside of the U.S. When making re-entry after an extended absence, it is strongly encouraged that you have a letter from your employer explaining the details of your employment.

GENERAL RULE OF THUMB ON IMMIGRATION ADVICE FROM FRIENDS

You may hear from friends of other schools that they have been warned against travelling while on OPT. Please remember that it is strongly discouraged to take immigration advice from friends. If you have any doubts regarding travel and re-entry, please contact an advisor in GPS for guidance.
OPTIONAL PRACTICAL TRAINING

QUICK FOR COMPREHENSION

CIRCLE TRUE OR FALSE FOR EACH STATEMENT

T  F  I can use OPT to pursue employment opportunities that do not relate to my academic degree.

T  F  It takes USCIS 90 days to make a decision on an OPT application.

T  F  I am given an unemployment period of 100 days while on OPT.

T  F  I need a job offer first before I can apply for OPT.

T  F  I can be employed for more than one employer.

T  F  USCIS will expedite processing of my application.

T  F  OPT is a separate nonimmigrant visa status.

T  F  Wake Forest remains my immigration sponsor during my period of OPT.

ANSWER KEY: F, T, F, T, F, F, T

GLOSSARY OF ACRONYMS

GPS  Global Programs & Studies
DHS  Department of Homeland Security
OPT  Optional Practical Training
USCIS  US Citizenship & Immigration Services
EAD  Employment Authorization Document (same as OPT card, and Form I-766)

NEXT STEPS

- GATHER OPT APPLICATION MATERIALS (see page 3)
- SCHEDULE APPOINTMENT WITH F VISA ADVISOR TO ASSEMBLE & SUBMIT OPT APPLICATION (see page 3)
- MAIL OPT APPLICATION TO APPROPRIATE USCIS PROCESSING CENTER
- COMMUNICATE WITH FUTURE EMPLOYERS
  Keep your future employer updated and adjust start dates as necessary. USCIS can take up to 90 days to make a decision; this does not include card production and card mailing time.
- KEEP WAKE FOREST GPS INFORMED OF CHANGES TO:
  - EMPLOYMENT STATUS
  - PERSONAL CONTACT INFORMATION (phone, email, and mailing address)
  - DEPARTURES FROM U.S. (permanent and for general travel)
A lawsuit recently concluded regarding the validity of the OPT program. In Washington Alliance of Technology Workers v. U.S. Department of Homeland Security (WashTec v. DHS), the court ruled the following:

- The rule authorizing the 12-month OPT program was upheld and cannot be further litigated.
- The rule that authorized the 17-month OPT extension is vacated (invalidated). The reason it is vacated is because DHS failed to issue the rule in the proper method.
- The effective date of invalidation of the rule is delayed until May 10, 2016.
- DHS has the opportunity to remedy the original procedural errors and reissue a new STEM rule in the proper manner.

**WHAT DOES THIS MEAN?**

The current rule remains in effect until either: the effective date of any new regulation eventually published by DHS or; the court-ordered vacatur date (May 10, 2016), whichever is sooner. DHS has submitted a new rule for notice and comment and is expected to issue a final rule shortly. The new rule would expand the extension from 17 months to 24 months.

In the meantime, we have been told that eligible students can continue to apply for and use any of the benefits allowed under the current rule. Students whose 17-month extensions have already been approved, or those whose applications are pending, will have the opportunity to file an extension application to capture the additional 7 months of STEM OPT under the new rule once it is published and finalized.

**IN THE MEANIME**

Please continue to update Global Programs & Studies about any employment/address changes. Please note it is your responsibility to notify GPS within 10 days of a change. If you are already on an approved period of STEM OPT, all employers must be registered with E-Verify and you must report your status to GPS every 6 months, regardless of whether a change has occurred or not.

**OTHER ITEMS IN THE VACATED RULE**

The 2008 rule contained sub-rules other than the STEM OPT extension, including:

- Provisions for another period of standard OPT after moving to a higher educational level
- Automatic cap-gap extensions
- The 90-day limit on unemployment

The judge’s vacatur order specifically references only the 17-month STEM extension, and so it is unclear what impact, if any, the order will have on the other parts of the 2008 rule.

**ITEMS PROPOSED IN THE NEW RULE**

The new rule contains a variety of changes. Highlighted below are 3 big changes; many more are included in the new rule:

- Extends the STEM extension from 17 months to 24 months, for a total OPT period of 3 years for STEM candidates and expands list of degrees eligible for STEM extension.
- A provision that allows students to apply for STEM extensions based on prior STEM degrees
  - Example: Bobby received a Bachelor’s in Biology. Bobby used his standard 12-month period of OPT, but did not use the additional STEM period. Bobby goes on to pursue a Mechanical Engineering (MBA). Bobby would be eligible to use another period of 12-months of OPT, and would be eligible to file for the STEM extension based on his Bachelor’s in Biology so long as Bobby is working in a field that relates to Biology.
- New employer obligations that require employers to furnish their EIN number in addition to their E-Verify number, and to implement formal mentoring, training, and evaluation plans for STEM OPT employees.
OPTIONAL PRACTICAL TRAINING
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CHECKLIST: OPT APPLICATION REQUIRED DOCUMENTS

DOCUMENTS YOU MUST GATHER AND BRING TO OPT APPOINTMENT

- Photocopy of passport data page
- Photocopy of most recent F-1 visa stamp (even if expired)
- Photocopy of most recent I-94 record (if you entered the U.S. after April 30, 2013, your I-94 record is available through the Customs and Border Protection website: cbp.gov/i94)
- Photocopies of all I-20 forms, especially those with approved periods of Curricular Practical Training (CPT)
- 2 passport style photos (2 inches x 2 inches)
- Personal check or money order for $380.00 made out to the Department of Homeland Security
- Completed form I-765
  - Visit www.uscis.gov/i-765 and download the Form I-765
  - A sample of a completed Form I-765 can be found on OPT website: global.wfu.edu/iss/employment/opt
- Completed Form G-1145 E-Notification of Application/Petition Acceptance
  - Visit www.uscis.gov/i-765 and download the Form G-1145
  - Read instructions on G-1145 and fill in your name, email, and phone number at the bottom

INFORMATION YOU SHOULD BRING TO OPT APPOINTMENT

- Requested start date of OPT (you should consult with any future employers regarding your employment start date to ensure that your OPT requested date is appropriate for the start of your employment)
  - Remember, you may choose a start date that falls within the 60-day period following the program end date on your Form I-20
  - Example: Form I-20 Program End Date is 05/16/2016. The OPT start date can fall at any point between May 17, 2016 and July 15, 2016.

SCHEDULE APPOINTMENT WITH F VISA ADVISOR

- REYNOLDA CAMPUS F VISA ADVISORS: Ms. Carrie E. O’Brien & Ms. Vini Sharma
- BOWMAN GRAY CAMPUS F VISA ADVISOR: Ms. Beth Whitsett

AT THE APPOINTMENT, YOU WILL RECEIVE THE FOLLOWING DOCUMENT

- Form I-20 that recommends you for OPT; the Form I-20 will include your requested OPT dates. A copy of this Form I-20 will need to be included in the application package to USCIS.
- Further information regarding your obligations during your period of OPT, and sample tax and employment documents you will be asked to fill out by future employers.