

LEGAL UPDATES

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New Regulations Extend Work Authorization of STEM Foreign National Students

New federal regulations released March 11, 2016, extend the time that foreign national students who graduate in STEM (science, technology, engineering or math) fields may work in the U.S. before seeking employer-sponsored work authorization. The regulations, meant to attract high-demand talent to the U.S., impose additional reporting requirements on colleges and universities seeking to attract foreign students. And employers of these STEM students must implement a formal training plan that identifies learning objectives and a plan for achieving them.

Rules Increase Burden for Colleges, Employers and Students

Previously, students on F-1 visas who graduated in STEM fields were granted 17 months of work authorization, called optional practical training (OPT), in addition to the one year of OPT that non-STEM F-1 graduates receive. The new federal regulations extend that additional authorization to two years, allowing STEM graduates a total of three years of postgraduate work authorization.

The new regulations also place additional requirements on colleges and universities seeking to attract foreign students. Specifically, Designated School Officials (DSOs) are subject to four main reporting requirements:

STEM OPT students must check in with the DSO every six months to confirm that current biographical and employment information is entered in the Student and Exchange Visitor Information System (SEVIS).

Students must report to the DSO on OPT progress in an annual self-evaluation.

Students and employers must report changes in employment status to the DSO.

Material changes to or deviations from a student's formal training plan must be reported to the DSO.

The formal training plan, to be implemented by employers, augments students' academic learning through practical experience. Information for the training plan will be collected on Form I-983, to be completed by both the student and employer. The formal training plan must include the following attestations:

The employer has sufficient resources and trained personnel available to provide appropriate training in connection with the specified opportunity

The student on a STEM OPT extension will not replace a full-time, part-time, temporary or permanent U.S. worker

The employment opportunity helps the student attain training objectives.

Additionally, employers of STEM OPT students will be subject to Department of Homeland Security site visits and to continued mandatory participation in E-Verify.

What This Means to You

Colleges and universities that enroll F-1 students must implement procedures to comply with the additional rules before issuing STEM OPT extensions. Employers of students who are working pursuant to an OPT STEM extension must ensure that training plans are in place that comply with the new requirements.

Contact Us

More than 100 clients turn to Husch Blackwell's Higher Education attorneys for legal guidance so they can concentrate on effective and efficient service to their students and communities. Our Higher Education team includes immigration attorneys positioned to help schools navigate a full range of matters and compliance issues unique to their environment. If you have questions about F-1 student OPT, STEM OPT or the new regulations, please contact immigration attorneys Toni Blackwood or Kelli Stout.