

Optional Practical Training for F-1 Students

OPT Basics

- F-1 students are eligible to participate in optional practical training (OPT) once they have been in continuous, legal, F-1 status for a full academic year. The United States Citizenship and Immigration Service (USCIS) defines a full academic year as two complete semesters or nine months.
- A nonimmigrant student who is outside of the U.S. on a WFU-approved program of study (i.e. study abroad, etc.) can count the time spent abroad toward fulfilling the 9-month requirement. Likewise, a student will not lose eligibility to receive a period of OPT if he/she spends their last nine months outside of the country on a WFU-approved program of study.
- An F-1 student is eligible to receive a total period of 12 months of OPT for each successive degree level that is completed. (Example: A student who completes both a bachelor's and a master's degree would be eligible to receive a sum total of 24 months of OPT.)
- Permission to participate in the OPT program is granted by the USCIS. An application that has been recommended by the International Student Advisor must be submitted to the Service.
- *Having a job is **not** a prerequisite for OPT eligibility.* Furthermore, a student who is actively pursuing employment during the approved OPT period is considered to be in legal, F-1 status.
- A student is required, however, to engage in employment that is directly related to his/her stated course of study.
- Students may work for as many different employers as they choose during the approved OPT period.
- A student who has completed a course of study may apply for permission to pursue full-time employment. Prior to the completion of a course of study, a student on OPT is only allowed to engage in part-time (20 hours a week) employment.
- A student who has not completed his/her program of study is only eligible to apply for part-time OPT. This will restrict the student to working an aggregate total of 20 hours per week. (*This rule does not apply to those graduate students who have completed their degree coursework and are currently working toward the completion of a thesis or dissertation.*)
- A student on OPT is still considered by the USCIS to be in F-1 student status.

OPT Application Procedures

- **Recommendation:** The USCIS will not adjudicate an application for OPT unless it has been recommended by the WFU Center for International Studies. All recommendations/requests for OPT are made through the SEVIS system.
- **Submission Date:** There is not a specified limit in terms of the number of days prior to the beginning of the intended start date of the period of OPT that an application may be submitted to the Service. Due to processing delays at the Texas Service Center, however, students are strongly encouraged to submit the OPT application 90-120 days prior to the completion of their program of study. Candidates for a graduate degree who have successfully completed all class requirements but who are still working on a dissertation or thesis are still eligible to submit an application for and receive a period of full-time OPT. **F-1 students are no longer eligible to apply for OPT once they have completed their program of study. Regardless of when the request for OPT was made in the SEVIS system, Service Center officials have stated that they will not process an application for OPT if it is received after the end date of the student's program of study.**
- **Cost:** The filing fee for Form I-765 is now \$340. This fee can only be paid by personal check or money order. Checks should be made payable to "Homeland Security."
- **Receipt Notice:** Once your application has been received by the USCIS, you will receive a receipt notice. This is a very important document and should be placed in a secure location where it will not become lost. Should your Employment Authorization Document (EAD) not arrive in a timely manner, this is the only proof that you have that a petition was actually submitted to the USCIS Texas Service Center.
- **Address:** The address that you list on Form I-765 will be the address where your receipt notice and EAD card will be sent. It usually takes between 2-3 months for the USCIS to adjudicate/process an OPT application. If you are not going to be at your present place of residence in 2-3 months or you would like for your card to be sent to an official in your school, you should keep this in mind when filling out the address portion of the I-765. If you want your card to be sent to the WFU Center for International Studies, you should complete the form as follows:

**Your Name
P.O. Box 7385
Winston-Salem, NC 27109**

Please do not put "Center for International Studies" in the mailing address. In certain instances, the USCIS has refused to send EAD cards to international offices on university campuses

- **Past 90 Days:** If your EAD card does not arrive within 90 days of the date listed on the receipt notice, you should contact the WFU Center for Int'l Studies. A fax inquiry will be sent to the Texas Service Center on your behalf.

- **On-Line Status Check:** The status of your application can now be checked on-line by accessing www.uscis.gov and inputting your I-765 receipt notice in the “check case status” box located on the bottom, right-hand side of the page.
- **Processing Delay:** If the USCIS requires additional evidence or your application is returned for some other reason, the processing time will be increased significantly. For this reason, it is imperative that you do not make any careless mistakes when completing and assembling the application.
- **Applying After Completion of Program:** The USCIS now states that students are not allowed to apply for a period of OPT during the 60-day grace period that is granted to all F-1 students who successfully complete a program of study. All OPT applications must be RECEIVED and RECEIPTED by the Service prior to the completion date listed on the I-20 form. Keep in mind that it usually takes the USCIS a few days to receipt a petition.

Beginning and End Dates

- **Beginning Date:** When you apply for OPT, you are allowed to choose a beginning date for your period of employment. The earliest you are able to begin your OPT is the date when all academic requirements for your course of study have been fulfilled. The latest that you are allowed to begin is 60 days after the completion date listed on the I-20 form. (Example: John Wang completes his studies on May 15 and this is the completion date shown on his I-20. The absolute latest that he is allowed to begin his period of OPT is 60 days from this date.)
- **Beginning Employment:** You are not allowed to begin employment until the beginning date listed on the EAD card. Please keep this in mind when talking/negotiating with prospective employers. The USCIS has stated that it is illegal for a nonimmigrant to perform a period of so-called unpaid “volunteer” employment if the employer has the intention of employing the nonimmigrant at a later date as a paid employee. **The rules and regulations state that a position cannot be classified as being “volunteer” if an eligible U.S. worker would be paid to do the same type of work being performed on a volunteer basis by the nonimmigrant volunteer.**
- **End Date:** All employment must cease on the end date listed on the EAD card. The nonimmigrant may remain in the U.S. for a period of 60 days following the end date of the OPT, but no employment may be performed during this period.
- **Beyond OPT:** If you have the intention of remaining in America after you have completed your OPT, you will need to file for a change of status prior to the expiration date of your OPT. For most nonimmigrants, the next step along the visa avenue is to apply for and obtain an H-1B1 visa for a specialty occupation. If you plan on taking this course of action, you will need to find an employer who is willing and able to sponsor you for the H-1B1 visa.

Cancellation Policy

- If you apply for OPT and then decide that you would like to cancel or change the dates of your application, you will need to have your international student advisor inform the Texas Service Center before your application is adjudicated. **Once your application is approved and an EAD card has been issued, there is absolutely no way that you can cancel or change the period of OPT that you originally applied for.**

Mistakes on the Card

- In the past, the USCIS has made mistakes in the spelling of names, birth dates, gender, etc. If you find one of these so-called “trivial” mistakes on your card, you have the option of returning the card to the USCIS and hoping that the mistake is corrected and the card is returned in a timely manner, or you can simply ignore the mistake. The Center for International Studies suggests that you take the latter option. If it is a misprint of larger proportions, such as a mistake in the beginning or end dates, etc., you will need to contact the Center for International Studies so that an inquiry can be made to the USCIS on your behalf.

Lost EAD Card

A lost EAD card will result in your having to submit a new I-765 petition and filing fee in order to receive a replacement card from the Texas Service Center. When you receive your card from the USCIS, make sure that you make a copy for your records.

Entering and Exiting the Country While on OPT

- It used to be the case that F-1 students were strongly advised against making a departure from the U.S. prior to receipt of the actual EAD card, but the USCIS seems to have changed their policy on this matter. The USCIS now states that a student who has applied for OPT will be readmitted to the U.S. after a temporary absence as long as the student is in possession of a valid visa, valid passport, Form I-20, and a USCIS receipt notice that was issued in connection with a submitted Form I-765.
- When you take possession of your EAD card, you are free to make multiple entries to the U.S. as long as you have three things with you when you apply for readmission to the U.S. after a temporary absence:
 - 1) **Valid visa stamp**
 - 2) **Valid passport**
 - 3) **I-20 that has a valid signature on page three of the form (signature is valid for one year from date listed)**
 - 3) **Proof of present employment (letter from employer, etc.)**

USCIS rules now state that a student with an approved period of OPT who leaves the country prior to finding a job will not be eligible for reentry after a temporary absence. At this point and time, you can take solace in the fact that immigration officials at the point of entries don't seem to be enforcing this rule. This is, as with all things USCIS, subject to change. As of yet, the CIS has not heard of any reports of a student being denied entry to the U.S. simply because he/she did not have a job/offer of employment at the time of entry.

If you do have an offer of employment but the actual employment will not begin until your return to the U.S., you should carry a letter from your future employer that confirms this. The CIS does advise all students on OPT that do have a job to have a letter from their employer when they apply for readmission to the U.S. after a temporary absence. If you need a validating signature while on OPT, you may mail the I-20 to the Center for International Studies. You are strongly urged, however, to have your form signed prior to leaving campus after graduation.

- If you exit and then reenter the U.S. in another nonimmigrant visa category, your remaining period of OPT will be cancelled immediately upon receipt of the new visa classification. This rule also applies to those eligible students who enter the U.S. on the visa waiver program.
- If you remain outside of the U.S. for a period of time that exceeds **five months**, you will lose current F-1 status along with any period of OPT that was approved prior to your departure. (**Caution:** *If you leave the U.S. for an extended period of time (i.e. 2-3 months) and then try to make a reentry,, it is likely that you will be closely questioned by an immigration official who is interested in determining your ultimate intentions as they pertain to residing in the U.S.)*

Social Security and Medicare Taxes

As an F-1 student, you are not required to pay Social Security or Medicare taxes. In all likelihood, your employer will not be aware of this provision. You should inform someone in your payroll department about this special clause for all F-1 students. If these taxes are withheld in error, you will most likely be required to file an application with the IRS in order to have them refunded. This requires a lot of paper work and time (six months in some cases). If your employer requires proof of this provision, you can have them contact the WFU Center for Int'l Studies. The Internal Revenue Code allowing for this provisions is IRC 3121 (b)(19)

Traveling While on F-1 with Approved H-1 Petition

If you have an approved H-1 petition that will not become valid until October 1, you are allowed to exit and reenter the U.S. using your I-20 in conjunction with your EAD card. Be advised, however, that some people caution against doing this since you will be switching from a nonimmigrant category (F-1) that does not allow for dual intent to a category that does (H-1).

Dependents

All dependents in F-2 status traveling without the primary F-1 visa holder will need the following documents when they reenter the U.S. after a temporary absence:

- 1) Copy of the F-1's EAD card
- 2) Form I-20 that has been validated for travel with a signature on page three
- 3) Copy of the F-1's Form I-20
- 4) Copy of the F-1's passport data page
- 5) Letter from employer that verifies that the F-1 is currently employed or has a standing offer of future employment

