OPT CAP-GAP EXTENSION

The so-called “cap-gap” extension is an automatic extension of F-1 immigration status and, usually, OPT work authorization for F-1 students whose employers properly file a timely petition for H-1B work authorization on their behalf.

Cap-Gap Timeline

April 1  The first day H-1B petitions will be accepted by USCIS for employment to start at the beginning of the new federal fiscal year, October 1. Petitions may not be submitted more than 6 months before employment start date. Certain exempted petitions may be submitted at other times.

Early April  Generally within days of the April 1 start date, USCIS announces that it has received the maximum number of H-1B petitions. USCIS will not accept H-1B petitions after the announced date unless exempt from the cap. Once the maximum has been reached, USCIS will conduct a lottery to select the petitions to process.

OPT End Date  If your original OPT end date is on or after the April 1 filing date and your H-1B petition is properly filed before USCIS announces the cap has been met, your OPT work authorization and F-1 immigration status will be extended until September 30, pending results of the lottery and the status of your petition. If your petition is not selected for the lottery or your petition is denied, your OPT and F-1 status end. Note: If you are in your 60-day grace period on April 1, your employment authorization will not be extended, but your F-1 status will be.

September 30  If a change to H-1B immigration status (rather than consular processing) has been approved, this will be the last date in F-1 immigration status. A cap-gap I-20 will list this date as the end of the OPT work authorization.

October 1  The beginning of the federal fiscal year is the first day beneficiaries of a successful H-1B petition are employed in the H-1B immigration status.

Cap-Gap Next Steps

While you automatically receive the cap-gap benefit after your H-1B petition is filed, you may need an updated I-20, such as to renew your driver's license. OISP may require documentation of the status of your H-1B petition to create the cap-gap I-20. Remember, during this time you are still in F-1 status and must comply with regulations to maintain your status. If your H-1B petition is unsuccessful, you are still eligible for the 60-day grace period from the date you are notified.

Helpful Resources