

# International Admissions and Programs

## OPT STEM News

The OPT STEM Extension program is in jeopardy until DHS publishes a final rule in the Federal Register. DHS has until May 10, 2016 to publish the final rule so that the OPT STEM Extension can continue. If the OPT STEM Extension program continues many of the rules regulating this program are likely to change, although DHS has made proposals, the rules won't be finalized until they are published in the Federal Register. A summary of what has happened follows.

Remember that all previous regulations guiding the STEM OPT Extension are still being enforced. If you are currently on OPT or STEM OPT, you should continue working and continue to maintain your F-1 status by [reporting employment and address changes](#) to our office. We will continue to process new OPT and STEM OPT applications as usual. Post-Completion OPT is not impacted by this.

### Summary

On August 12, 2015, a U.S. District Court ruled that the Department of Homeland Security (DHS) did not follow the rules when they enacted the regulation that created the 17 month STEM OPT extension. DHS was given 6 months to fix this mistake. This meant that DHS had until February 12, 2016 to publish a final rule or the regulation allowing for STEM OPT would be vacated/discontinued.

On October 19, 2015, DHS submitted the proposed STEM OPT rule for public comment in the Federal Register. Here is a summary of what is found in the STEM OPT **proposed** rule:

- The proposed rule makes several expansions to the current STEM OPT rule:
  - The proposed rule expands the STEM OPT Extension from 17 months to 24 months
  - The proposed rule will allow for two 24-month STEM OPT Extensions per lifetime. You could not do these back to back, but if you completed a higher level of education and then applied for the OPT STEM Extension after your Post-Completion OPT you could be eligible for a second OPT STEM Extension.
  - The proposed rule would allow a STEM OPT Extension to be used based on a former STEM degree from another U.S. accredited institution. This degree must have been awarded within the last 10 years. (Ex. A student received their Bachelor degree in Software Engineering and then received their MBA. A 24-month STEM OPT Extension could be used after the 12-month OPT for the MBA if the employment was related to Software Engineering.)
- Students must have paid employment on the OPT Extension. Volunteer work will not count towards employment. This compensation must be commensurate with those provided to the employer's similarly situated U.S. workers.
- Students are required to submit a Mentoring and Training Plan filled out by their employer before a STEM OPT Extension is requested and every 6 months throughout the Extension period. (This form is not yet available from DHS.) Each employer must have an Employer Identification Number (EIN) and participate in E-Verify.
- The rule would allow for an increase in the amount of aggregate unemployment days for STEM OPT Extension. Students would be allowed a total of 150 days of unemployment; as before, any days of unemployment on Post-Completion would count towards this 150 days limitation.
- DHS will publish a list of accepted STEM fields and also update the Federal Register when the list changes. Changes to currently approved STEM fields might change.
- Students on a current 17-month STEM Extension may be eligible to apply for the additional 7 months of Extension to equal 24-months once the rule is final.

The public comment period was from October 19, 2015 to November 18, 2015. DHS had planned to publish a final rule after public comments were analyzed.

On December, 2015, after receiving over 50,000 comments on the proposed rule, DHS requested additional time from the court to complete the rulemaking process, train DHS personnel on the new rules, and coordinate the new rules with the regulated community. They requested the court extend the deadline from February 12, 2016 to May 10, 2016.

On January 23, 2016 the court granted an extension to DHS so that all OPT STEM Extensions that have been approved or will be approved prior to May 10, 2016 will not be cancelled. DHS has until May 10, 2016 to publish a final rule. The court has determined that no additional time beyond this will be granted to DHS to publish the final rule.

We continue to suggest that you begin speaking with your employer and a qualified immigration attorney to discuss alternatives to the OPT STEM Extension in the event that DHS is not able to publish the final rules relating to the OPT STEM program.

### **More Information**

- Read the U.S. District Court Order [here](#)
- Read DHS' response to Washington Alliance of Technology Workers' response [here](#)
- Read Washington Alliance of Technology Workers' response to DHS' Motion to Extend [here](#)
- Read DHS' Motion to Extend the deadline [here](#)
- Read the Proposed OPT Extension Rule [here](#)
- Read the full case decision [here](#)

## **Frequently Asked Questions**

### ***When does the court's decision to cancel the OPT STEM Extension go into effect?***

The court decision is effective May 10, 2016. Until that time or until the proposed rule becomes final, the current "cancellation" of OPT STEM (17 months) is in effect.

### ***Is it possible for the Department of Homeland Security to fix this by May 10, 2016?***

Yes, DHS has time to publish the final rule in the Federal Registrar.

### ***Is the new proposed rule that DHS published in effect today?***

**No.** This is only a proposed rule. Until it is final, current OPT STEM Extension rules are in place.

### ***Is the Mentoring and Training Plan form available for me to give to my employer now?***

No. This is in the proposed rule and has not been made available to us from DHS.

### ***I am currently working on OPT. What does this mean for me?***

You should continue working and continue to maintain F-1 status by [reporting employment updates and changes in your residential address](#) to our office.

If you are considering applying for an OPT STEM Extension in the future, you should prepare for the proposed changes listed. This means that you should ensure that you have paid employment and your employer would be willing to fill out and sign the proposed Mentoring and Training Plan that will be created by DHS. Also, if you were not previously eligible for a STEM Extension, but might be eligible for one based on the new criteria above, plan to apply for the STEM Extension. Once the STEM OPT Extension ruling has been made final, contact the Office of International Admissions and Programs (OIAP) at [intladvising@uhcl.edu](mailto:intladvising@uhcl.edu) for additional details.

### ***I am currently working on STEM OPT extension. How does this affect me?***

You should continue working and continue to maintain F-1 status by [reporting employment updates and changes to your residential address](#) to our office.

Under the proposed rule, you may be eligible for an additional 7 months of STEM Extension so that in the end you will receive a total of 24 months of STEM OPT. *This is not approved yet.* If approved, your current employment would need to follow all of the proposed guidelines for the STEM OPT Extension.

To prepare for the proposed changes listed above, you should ensure that you have paid employment and your employer would be willing to fill out and sign the proposed Mentoring and Training Plan that will be created by DHS. Once the STEM OPT Extension ruling has been made final, contact OIAP at [intladvicing@uhcl.edu](mailto:intladvicing@uhcl.edu) for additional details.

### ***My application for OPT or STEM OPT extension is pending. How does this decision affect my application?***

OPT and STEM OPT applications are being reviewed and processed as usual by USCIS. If you experience anything different, please contact your International Student Advisor with details on the issue.

If you are applying for the STEM OPT Extension, to prepare for the proposed changes listed above, you should ensure that you have paid employment, you are working for an E-Verify employer, and your employer would be willing to fill out and sign the proposed Mentoring and Training Plan as set forth by DHS. Once the STEM OPT Extension ruling has been made final, contact OIAP at [intladvicing@uhcl.edu](mailto:intladvicing@uhcl.edu) for additional details.

If you are applying for Post-Completion OPT, your application and future employment will not be affected by these proposed changes. However, in the future, you will want to be aware of what final rules were approved so that if you are eligible for the OPT STEM Extension, you apply and are employed properly. When you are prepared to apply for the OPT STEM Extension (120 days before your Post-Completion OPT ends) please refer to the OIAP website for additional details on the final rule.

### ***My 12 month OPT time is ending soon, and I was planning to apply for the STEM OPT extension. Can I still apply?***

Yes, UHCL will continue to process new STEM OPT applications. You should continue to submit them following the current rule. However, we want you to be aware that if DHS does publish the final rule before May 10, 2016, the OPT STEM rule will be vacated/discontinued on that date. USCIS will not refund any application fee for STEM Extensions.

To prepare for the proposed changes listed above, you should ensure that you have paid employment, you are working for an E-Verify employer, and your employer would be willing to fill out and sign the proposed Mentoring and Training Plan that will be created by DHS. Once the STEM OPT Extension ruling has been made final, contact OIAP at [intladvicing@uhcl.edu](mailto:intladvicing@uhcl.edu) for additional details.

### ***I am a current student who will be graduating soon. What does this ruling mean for me?***

We will continue to process new OPT applications as usual. Remember that attendance at an OPT Information Session is required in order to apply for OPT at UHCL. Information regarding the STEM OPT Extension will be made available in our monthly newsletter and our OPT Session will be updated to reflect the new information as the situation develops. It is important to plan ahead and be aware of how the changes mentioned above will affect you in the future.

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