OPTIONAL PRACTICAL TRAINING

The Essentials

International Student & Scholar Services
Middlebury College
Fall 2016
OPT Road Map: Where Are We Going?

- OPT Basics: *What is it, When is it needed*
- Eligibility
- Application Planning
- Application Process
- Maintaining Status While on OPT
- OPT Reporting Requirements
- OPT STEM Extension
- Questions
Optional Practical Training:

A form of work authorization that allows F-1 students to engage in temporary employment to gain practical experience in the student’s major field of study.

Request must be adjudicated by U.S. Citizenship and Immigration Services (USCIS).

Pre-Completion OPT  Post-Completion OPT
Optional Practical Training:

**Pre-Completion OPT**
- Available **BEFORE** the student’s program end date
- May apply **up to 90 days before** being enrolled for one full academic year and **no earlier than 90 days before** requested OPT start date
- When classes are in session: must maintain full-time course load and may work up to 20 hours/week.
- During breaks: May work full-time.

**Post-Completion OPT**
- Available **AFTER** the student’s program end date (*Seniors apply for this*)
- Students may apply **no sooner than 90 days before** their program end date and **no later than 60 days after**
- Must work **at least 20 hours per week**
- Unemployment is limited to an aggregate of 90 days
- Reporting to ISSS is required.
OPT Facts

• Standard OPT is available for a **cumulative maximum of 12 months per educational level**. Pre-completion OPT is deducted from this bank of time, leaving what remains for use during post-completion OPT.

• OPT must be **directly related to a student’s major area of study**.

• OPT is **not employer specific**. You don’t even have to have a job to apply, but you need to know that you plan on pursuing employment/training.

• The application process **can take up to 90 days** for approval.
OPT Facts

• You must submit an application and pay a new fee each time you apply for OPT.

• While on post-completion OPT, an extension of 24 months may be available to students who have earned a STEM-eligible degree provided they meet certain requirements. *(We’ll discuss this later.)*

**Note:**
OPT is a benefit of your F-1 Status; it is not a separate status. You remain in F-1 status while pursuing OPT.
When Do I Need OPT?

• Off-campus work authorization is required if you are going to engage in employment (receive a form of remuneration in exchange for your services); must be directly related to your major field of study.

• ISSS may recommend that you consult with an immigration attorney should you have specific questions about a unique opportunity (i.e. starting your own business).

• You should not be treated differently by an employer just because you have an F-1 visa – or be allowed to be unpaid for a position that is usually paid.
Useful Resource

• From http://www.curranberger.com/faq-unauthorized-employment#unauthorizedemployment
  
  - Employment generally refers to a relationship where an individual provides services or labor and is remunerated for these services. Remuneration can include housing, clothing, food or other benefits. Accepting any kind of remuneration for service can result in a violation of visa status if done without work authorization.
  
  - Work authorization is not required for volunteer work. However, state labor and worker’s compensation laws generally do not allow someone to “volunteer” in a position that is generally paid.
  
  - Running a business is a violation of student status, without work authorization.
  
  - Any work done while in the U.S., even for a foreign company and even if paid to a foreign bank account, still counts as employment in the U.S.
When Do I **Not** Need OPT?

- Working **outside** of the United States
- On-campus employment
- **True volunteer activities:** traditionally done by unpaid persons for their own pleasure/fulfillment; acts performed out of good will as a service to the community. No form of compensation.
  - Example: Community kitchen helper vs Coordinator
- U.S. Department of Labor Test for Unpaid Interns: Fact Sheet #71 Internship Programs Under the Fair Labor Standards Act
  [http://www.dol.gov/whd/regs/compliance/whdfs71.htm](http://www.dol.gov/whd/regs/compliance/whdfs71.htm)
  - Outlines six criteria that must apply in determining if interns must be paid or not.
OPT Eligibility Requirements

• Full-time enrollment for one full academic year (defined as 30 weeks of instructional time for a program offered in credit hours)

• Must apply from within the United States (cannot apply while overseas – take note if you have plans to study abroad; you will need to return to campus to pursue it)

• Must be in valid F-1 status
OPT Application Planning

1) Know your application timeline.

Post-completion OPT:

- **December 2016 Graduates**
  
  Program End Date: Dec. 18, 2016
  
  - First Date You Can Apply: September 19, 2016
  - Last Date You Can Apply: February 16, 2017

- **February 2017 Graduates**
  
  Program End Date: Feb. 4, 2017
  
  - First Date You Can Apply: November 6, 2016
  - Last Date You Can Apply: April 5, 2017

- **May 2017 Graduates**
  
  Program End Date: May 28, 2017
  
  - First Date You Can Apply: February 28, 2017
  - Last Date You Can Apply: July 27, 2017
OPT Application Planning

2. **Know the specific start & end dates you want to request.**
   - You do NOT need to have a job offer to apply for OPT.
   - For Post-Completion OPT: You have a 60-day window after your completion date to select a start date.

**December 2016 Graduates**
- Earliest OPT Start Date You Can Request: Dec. 19, 2016
- Latest OPT Start Date You Can Request: Feb. 16, 2017

**February 2017 Graduates**
- Earliest OPT Start Date You Can Request: February 5, 2017
- Latest OPT Start Date You Can Request: April 5, 2017

**May 2017 Graduates**
- Earliest OPT Start Date You Can Request: May 29, 2017
- Latest OPT Start Date You Can Request: July 27, 2017
OPT Application Planning

3. Know your required forms, fees and materials.

- ISSS OPT application form (two pages)
- Form I-765 & required USCIS application fee (paid each time you apply)
  - U.S. $380, if before December 23, 2016, or
  - U.S. $410 if on December 23, 2016 or later.
- All previous Form I-20s, and all of your previous employment authorization cards
- Copies of your passport, visa sticker (if applicable), and entry stamp, plus most recent Form I-94
- Two passport photos (per USCIS requirements)
> To access OPT Information: go/opt
> Read the OPT Instructions.
> Then print and complete the OPT Form I-765 and OPT Application.
OPT Application Process

- Select your OPT start and end dates. Note: You will only be authorized to work during this period of time once your OPT has been approved and your employment authorization card has arrived.

- Read OPT instructions, print out required forms and gather copies of all required documents.

- Email ISSS at isss@middlebury.edu to make an appointment to submit your completed OPT application & supporting materials.

- ISSS will need to review your request, then recommend you for OPT in SEVIS. You will receive an updated Form I-20, a copy of which must be included in your OPT application.

- ISSS will email you to pick up your materials, and you will need to mail them to USCIS. USCIS must receive your documents within 30 days of having been recommended for OPT in SEVIS.
I’ve Applied. Now What?

• A few weeks after mailing your application, ISSS will receive a receipt notice with an assigned case number for you. This document will be sent to you via campus mail. You will use the case number to track the status of your application on www.uscis.gov.

• If you call USCIS to inquire about your case, make sure to state that you do not wish to change your address of record to avoid mailing complications.
Withdrawing an OPT Application

• It is possible to withdraw an application after it has been filed but before it has been adjudicated.

• The adjudicating Service Center must be contacted directly. A withdrawal may not be retracted once the request has been made.

• If the withdrawal is approved – filing fee is not returned. This does not preclude the filing of an application in the future.

• Very difficult/rare for USCIS to revoke a period of previously authorized work authorization, so exercise care when applying.
I’ve Been Approved!!

• When your application is approved, USCIS will mail an approval notice to ISSS. Your employment authorization card (EAC) will be triggered for production at a separate facility and should arrive within 5-7 business days afterwards.

• ISSS will inform you via email when your documents have arrived. We will not mail them outside of the U.S. However, you can request for us to mail them to a U.S. address for a fee or give permission for a friend to pick them up.

• You can begin working as of the start date listed on your EAC or when you have the EAC in hand whichever is later.

• Please note: if you lose your EAC, you will need to file for a replacement card (paying another application filing fee of $380 if before 12/23/16 or $410 if filed on or after 12/23/16).
Maintaining Status While on OPT: EMPLOYMENT

- While on post-completion OPT, F-1 status is dependent upon employment – and a student may not be unemployed for an aggregate of 90 calendar days or more.

Students approved for an STEM OPT extension may not be unemployed for an aggregate of 150 calendar days or more (90 days during the initial period of post-completion OPT, plus an additional 60 days during the STEM extension period).

- To be considered employed, students must work at least 20 hours/week in a qualifying position. For those with variable schedules within a month, it should average to 20+ hrs/wk.
Maintaining Status While on OPT: EMPLOYMENT

• Each day (including weekends) during the period when OPT authorization begins and ends that the student does not have qualifying employment counts as a day of unemployment.

• Time spent outside of the U.S. during an approved period of post-completion OPT counts as unemployment against the 90-/150-day limit, unless the student is either:

  A) employed during a period of leave authorized by the employer (such as vacation or an approved leave) or
  B) traveling as part of employment.
What Counts as Employment?

• Regular paid employment – may change jobs

• Payment by multiple, short-term employers: maintain a list of all gigs, the dates and duration

• Work for hire: perform a service based on a contractual relationship

• Self-employed business owner: must have proper business licenses

• Employment through an agency: maintain evidence of minimum 20 hours per week

• Volunteers or unpaid interns: where the practice does not violate labor laws. Maintain evidence of minimum 20 hours per week.
Travel While on OPT

Pre-Completion:

• Travel as usual because you have not yet completed your program.

• Be sure to have proper documents for reentry.
  – Form I-20 with valid travel signature
  – Valid F-1 visa
  – Valid Passport

Post-Completion:

• It is recommended that you do not travel while your OPT application is pending. If you must travel, discuss with ISSS beforehand.

• Once OPT is approved, you’ll need the following documents for reentry:
  – Form I-20 with OPT endorsement and valid travel signature
  – Valid F-1 visa
  – Valid Passport
  – Valid Employment Auth. Card
  – Letter from Employer
REPORTING REQUIREMENTS

During your approved OPT period, you remain in F-1 student status under the sponsorship of Middlebury College. To maintain your F-1 status, you are required by the U.S. Department of Homeland Security to report certain changes to ISSS at go/opt:
PLEASE NOTE:

FOR THOSE ON POST-COMPLETION OPT AND STEM OPT:

In December 2016, a SEVIS Portal (web-based) will be released.

Students in F-1 Status on Post-completion OPT and STEM OPT Extension will be expected to report the required employment and their residential living addresses, phone numbers and emails to SEVIS. This system will feed into SEVIS.

To learn more about this new SEVIS Portal, you may participate in a SEVP Special Report Webinar: SEVIS Portal on November 17, 2016, from 2:00 pm to 3:00 pm Eastern Standard Time. To register for this, please go to: https://studyinthestates.dhs.gov/stakeholder-webinars.
REPORTING REQUIREMENTS

- Report any changes in your U.S. address or legal name to ISSS within 10 days of the change occurring. Use the **ISSS Address Update Form**.

- Report all new employment by using the **New Employment Update Form**. This includes providing a statement on how your employment is directly related to your Middlebury major field of study.

  ISSS must receive this information in order to report in SEVIS that you are engaged in employment. If you do not report, then it will appear in SEVIS that you are unemployed – and you will begin accruing unemployment time (even if you are really working). After more than 90 days of consecutive unemployment in SEVIS, the system will soon be set up to automatically terminate your record.

- Report all changes in employment (i.e. ending a job, leaving the U.S. and ending OPT) by completing the **Change of Employment Form**.

- **Maintain a valid signature** on page 2 of your Form I-20

- Inform ISSS if you **change to another visa status** or **plan to transfer** to another U.S. academic institution.
Options After OPT

• If you have previously earned a STEM-eligible degree, you may be eligible to apply for an OPT STEM extension. >>>YOU MUST APPLY BEFORE YOUR OPT END DATE.

• Depart from the U.S. within your 60-day grace period. Whether you leave on day 6 or 60, once you leave, you cannot reenter using your Middlebury Form I-20.

• Enroll in another U.S. institution as a full-time student. ISSS would need to transfer your SEVIS record within your grace period. Once your SEVIS record has been transferred, you will lose any remaining OPT time.

• Change to a different visa status. Can be done from within the U.S. but should apply prior to OPT end date.
STEM OPT

• Students in F-1 status who are on post-completion OPT and have earned a STEM degree may apply for a 24-month extension of employment authorization period provided they meet all of the following requirements:

  – Student has completed a degree in a STEM eligible field from a U.S. accredited institution with SEVP certification within the last 10 years and has not yet utilized this degree to apply for STEM OPT. (Science, Technology, Engineering & Math—per USCIS list of eligible majors, based on Classification of Instructional Programs (CIP) codes used by the U.S. Dept. of Ed.)

  – Student must be currently participating in post-completion OPT and working for a U.S. employer in a job that is directly related to the student’s major field of study. The earliest one can apply is no more than 90 calendar days before the current post-completion OPT period ends.

  – Student’s current or prospective employer must be registered in E-Verify & during STEM OPT, all positions must be directly related to the STEM degree.

  – Student and employer must complete, sign and adhere to a training plan (Form I-983) and comply with all reporting requirements.

  – Student may be eligible for two STEM OPT authorizations of 24 months each, provided that the second period of 24-month extension is after a higher-level STEM degree than the first STEM authorization.
## STEM-Designated Degrees at Middlebury

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<thead>
<tr>
<th>Middlebury Major</th>
<th>Middlebury Code</th>
<th>SEVIS Category</th>
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<tr>
<td>Biochemistry</td>
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<td>COMPUTER &amp; INFORMATION Sciences &amp; Support Services</td>
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<tr>
<td>Physics</td>
<td>PHYS</td>
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** All ES Tracks qualify for STEM.
What Counts As Employment While on STEM OPT?

- Payment by multiple, short-term employers: maintain a list of all gigs, the dates and duration
- Work for hire: perform a service based on a contractual relationship
- Self-employed business owner: must have proper business licenses
- Employment through an agency: maintain evidence of minimum 20 hours per week

FOR MORE INFORMATION and HOW TO APPLY FOR STEM OPT, GO TO: http://www.middlebury.edu/international/isss/employment/stem
Other Visa Categories

• Contact ISSS for further discussion and/or to be connected with a legal counsel resource list.
QUESTIONS??

• isss@middlebury.edu
• (802) 443-5858
• Drop-In Advising Hours
  – Thursdays from 4 to 5 PM
  – Fridays from 2 to 4 PM
• By Appointment