

**Update for Employees and Fellows with EADs for OPT and STEM OPT  
From the MIT International Scholars Office  
1/5/2016**

In August, 2015, we informed you about the court case in which the U.S. District Court determined that the U.S. Department of Homeland Security (DHS) did not follow proper administrative procedure in 2008, when it issued regulations on F-1 student Optional Practical Training. These regulations allow F-1 students with degrees in STEM fields to apply for a 17-month OPT extension, and for F-1 students on OPT to extend their OPT during a gap between the end of the OPT and the beginning of an approved H-1B visa petition. The court gave DHS a deadline of February 12, 2016 to republish the regulations and allow for public comments. After that date, the old regulations would be revoked or “vacated.”

In October 2015, DHS released new proposed regulations called “Improving and Expanding Training Opportunities for F-1 Nonimmigrant Students With STEM Degrees and Cap-Gap Relief for All Eligible F-1 Students.” The rule proposes to expand STEM OPT from 17 months to 24 months, expand the list of educational fields eligible for STEM extensions, require accurate reporting of the employment/activity in which students on OPT STEM extensions are engaged, and other requirements:

<https://www.federalregister.gov/articles/2015/10/19/2015-26395/improving-and-expanding-training-opportunities-for-f-1-nonimmigrant-students-with-stem-degrees-and>

***On December 22, 2015, DHS requested an extension from the court until May 10, 2016, to allow current F-1 regulations to remain in place while the agency completes review of over 50,000 comments received*** in response to the proposed rule. We feel very optimistic that the court will grant such an extension, but cannot guarantee it. If the extension is granted, the old regulations will likely remain in effect, meaning that the EAD cards of students on STEM OPT will continue to be valid for work and that students eligible to apply for STEM OPT extensions will still be able to do so.

To read the DHS motion for “limited relief” (extension) from the court, see:

[http://www.pacermonitor.com/view/PUVGIAA/WASHINGTON ALLIANCE OF TECHNOLOGY v US DEPARTMENT OF HOMELAND SECURITY dcdce-14-00529 0047.0.pdf](http://www.pacermonitor.com/view/PUVGIAA/WASHINGTON%20ALLIANCE%20OF%20TECHNOLOGY%20v%20US%20DEPARTMENT%20OF%20HOMELAND%20SECURITY%20dcdce-14-00529%200047.0.pdf)

If the extension is granted, DHS hopes to take the comments received into consideration and republish the STEM OPT regulations by the new deadline of May 10, 2016. The regulations will likely be released as a final or interim final rule.

For background on the STEM OPT issue, see:

[http://www.nafsa.org/Find Resources/Supporting International Students And Scholars/ISS Issues/Issues/Focus On STEM OPT/](http://www.nafsa.org/Find_Resources/Supporting_International_Students_And_Scholars/ISS_Issues/Issues/Focus_On_STEM_OPT/)

**PLEASE NOTE:**

- DHS **has not** taken action to revoke the work permission of students currently on STEM OPT. If you have an EAD that allows you to work, you may continue do so. If the extension requested by DHS is granted by the District Court until May 10, 2016, DHS will likely allow anyone on STEM OPT to continue on STEM OPT until that date.

- If you have not yet applied for STEM OPT, you may do so before February 12, 2016 (and possibly May 10, 2016 if the extension is granted by the court). And you may be able to request a further extension in the future if STEM OPT is expanded to 24 months.
- There are currently over 100 international scholars on F-1 STEM OPT who are on appointment at MIT as postdocs and in other positions. For those of you currently on STEM OPT whose EAD cards expire within the next six to seven months, our office is already in contact with your departments, laboratories and centers to discuss whether or not your appointments will be extended, and if so, to determine what your next visa status should be.
- For those of you who have imminent travel plans and want to change status through travel, or who are considering forfeiting STEM OPT time you have left, please contact the ISchO to speak with an advisor about J-1 visa considerations.

Please continue to read the web postings, emails and tweets of the international office at the university that originally authorized your OPT / STEM OPT, as it may post important updates, advice and information. The MIT International Scholars Office will also try to keep you informed of the latest developments.