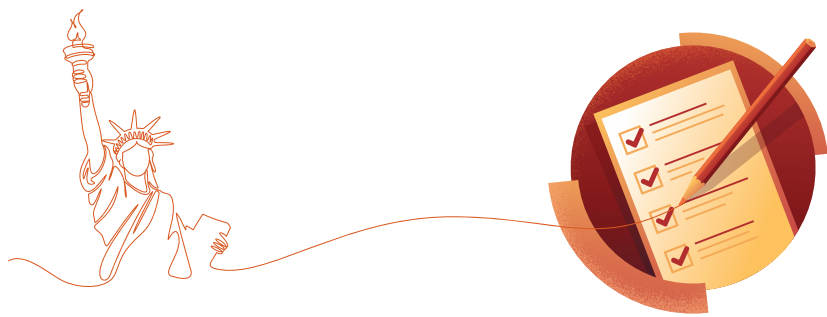




Checklist for F-1 Students Transitioning to Cap-Subject H-1B Status

Many of the foreign nationals who submit H-1B cap lottery registrations each year hold F-1 status. It is critical that those who are selected tie up all loose ends and maintain proper F-1 status to ensure a smooth transition to H-1B status. The following is a checklist for F-1 students transitioning to H-1B status.

1. Make sure your H-1B petition is filed while you are still on F-1 Optional Practical Training (OPT), if possible.



F-1 students can extend their status to cover the gap between their OPT and the start of their H-1B status through a **cap-gap extension**. To qualify, you must still be in valid F-1 status when your employer files the cap-subject H-1B petition; the petition must request a change of status while you remain in the United States (not through consular processing); and it must request a start date in the new fiscal year, which begins on October 1 and runs through September 30.

Filing the H-1B petition (Form I-129) gives you cap-gap protection — not just being selected in the lottery. If the petition is filed while you are still on OPT, your F-1 status and work authorization can continue until April 1 or the date that a decision is made on your H-1B petition, whichever is earlier. If it is filed during your F-1 grace period, you may remain in valid F-1 status during that time, but you cannot continue working.

2. Stay within the OPT unemployment limits.



You can lose your F-1 status if you are unemployed for too many days. Any days of unemployment continue to count during the cap-gap period if your H-1B petition was filed while you were on OPT.

- If you are on regular OPT, you can have up to 90 total days of unemployment.
- If you are on STEM OPT, you can have up to 150 total days of unemployment (combined).

3. If you are on STEM OPT, remember to complete your annual self-evaluations in a timely fashion.



The employer must also sign your annual evaluation, which must be provided to the Designated School Official (DSO) no later than 10 days following the reporting deadline. You will need to complete

two annual evaluations (i.e., 12 months after the approved STEM OPT start date and at the conclusion of the 24-month STEM OPT period).

4. International travel will be restricted during this transition.



If you travel abroad while your H-1B petition is pending, the change of status request may be considered abandoned and end the cap-gap extension. Abandonment will likely also trigger the \$100,000 fee for new H-1B petitions, which many employers are not able or willing to pay. There are exceptions to the \$100,000 fee, but only for “extraordinarily rare” circumstances.

5. Coordinate with the DSO if you want an updated Form I-20 indicating the cap-gap extension.



You may need an updated Form I-20 for employment, a driver's license renewal, or other purposes. The cap-gap extension is automatic for those students who qualify, and SEVIS should automatically update as it receives data about the H-1B petition. If the SEVIS record does not update automatically, the DSO can request that the data be corrected.

6. Keep your DSO updated on any changes.



You must update your DSO within 10 days of any changes to your employment, residential address, legal name, or periods of unemployment. If you fail to do so, you risk your SEVIS record being terminated. If you are on STEM OPT, you are required to confirm that your SEVIS record is accurate every six months with your DSO.

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