MEMO

February 2021

RE: STEM OPT I-765 Application & F-1 H-1B Cap-Gap Extension I-20

Dear USCIS Adjudicator:

This student is submitting an F-1 STEM Optional Practical Training Extension I-765 prior to the expiration of their 12-Month Optional Practical Training EAD card. The STEM OPT application for this student includes an I-20 containing inaccurate STEM OPT recommendation dates. Due to the student’s employer’s filing of an H-1B petition for this current filing year, the student’s original 12 month OPT end date has been extended via Cap Gap Extension to Sept 30. We are unable to remove the Cap-Gap Extension from the record, and therefore the STEM Extension recommendation appears with a start date of Oct. 1, which is incorrect.

Due to the concurrent H-1B petition and I-765 STEM OPT Extension filings, we request that the STEM Extension EAD begin immediately upon completion of the initial 12 month OPT as evidenced by the student’s OPT EAD card. Please DO NOT issue a STEM OPT Extension EAD based on the I-20 Cap-Gap Extension end date of 9/30, as this will cause issues with the student’s SEVIS record in cases of H-1B denial, approval of the H-1B after 10/1, or adjustment of the H-1B request to consular processing.

SEVIS Helpdesk indicated that they are aware of the issue, but they will not remove the Cap-Gap Extension from the student’s SEVIS record. We were instructed to do the following: recommend the student for STEM with a 10/01/XXXX start date, include a letter from the DSO detailing the problem, and request that the student’s STEM request be updated to the actual dates with STEM EAD start date directly following the end of the original 12 Month OPT EAD, not Oct 1.

If you have any questions, please feel free to contact a DSO at Berkeley International Office at internationaloffice@berkeley.edu or 510-642-2818.

Sincerely,
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