Optional Practical Training (OPT) for Foreign Students in the United States

Optional Practical Training (OPT) is temporary employment for foreign students and recent graduates in the United States in F-1 or M-1 *nonimmigrant* (i.e., temporary) status. Established through regulation, the employment must be directly related to the student's major area of study. In calendar year (CY) 2024, there were 1.58 million F-1 and M-1 students and recent graduates in the United States. Twenty-six percent (418,781) of those were authorized to work via OPT.

OPT participation has increased in recent years (**Figure 1**) and debate has arisen over the program's merits and legality. Some policymakers have expressed an interest in restricting or eliminating the program, arguing that it operates as a foreign worker program without congressional approval, displaces U.S. students and recent graduates, and is susceptible to national security risks. Others argue that OPT should be continued or expanded (or that other options for foreign students to remain and work in the United States after graduation should be bolstered), because it allows educated foreign nationals to contribute to the U.S. economy and makes the United States a more attractive destination for students and skilled workers.

Background

F-1 visas are for full-time academic study and are the most common visas issued to foreign nationals coming to the United States to study. M-1 visas are for vocational study. Students in F-1 or M-1 status are permitted to remain in the United States for the duration of their studies. When they have completed their programs, most return to their home countries. Many of those who remain in the United States after graduation do so through OPT.

Since 1947, regulations have provided that foreign students may work "in cases where employment for practical training is required or recommended by the school" and approved by immigration officials. Current regulations provide that F-1 students are eligible to participate in OPT after their first academic year; M-1 students are eligible after completing their program of study. To participate in OPT, a student must get approval from the school and then file an application for employment authorization with the Department of Homeland Security's (DHS's) U.S. Citizenship and Immigration Services (USCIS). There is no numerical limitation on the number of F-1 or M-1 nonimmigrants who may participate in OPT. The vast majority (98%-99%) of OPT participants are in F-1 status.

Generally, an F-1 nonimmigrant may work up to 12 months in OPT, which may occur before and/or after graduation. In 2008, the George W. Bush Administration extended the maximum period of OPT from 12 months to 29 months for F-1 students who had completed a degree in science, technology, engineering, or mathematics (STEM). In 2016, the Obama Administration further extended the maximum OPT period to 36 months for those with STEM degrees. Both Administrations cited the economic, cultural, and academic contributions of foreign students, as well as national security concerns related to U.S. economic and technological competitiveness, as justification for the extensions. DHS maintains a list of degrees that qualify for the STEM OPT extension. M-1 students are eligible for up to six months of OPT after completing their program.

F-1 nonimmigrants are eligible to participate in OPT once per degree level (i.e., bachelor's, master's, or doctorate), but may not receive more than two STEM OPT extensions. STEM OPT employers must attest that any STEM OPT employee they hire is not replacing a U.S. worker and that the duties, hours, and compensation are commensurate with those for their U.S. employees. STEM OPT employers are required to use the E-Verify electronic employment eligibility verification system and submit a formal training plan that identifies learning objectives and a plan for achieving those objectives.

For foreign students who want to extend their stay and work in the United States after graduation, obtaining OPT authorization is typically faster and easier than changing to a temporary or permanent employment-based immigration status—such as H-1B (for temporary workers in specialty occupations) and lawful permanent resident (LPR)—that is numerically limited and oversubscribed. In this way, OPT often serves as a bridge for students on F-1 visas to transition to other immigration statuses, both temporary and permanent. For example, working for three years under STEM OPT provides an F-1 nonimmigrant with multiple chances of winning the annual H-1B lottery. OPT can also provide an interim status for recent graduates whose employers are sponsoring them for LPR status.

OPT Trends

Participation in the OPT program has more than doubled since 2007 (the earliest year for which DHS produces comparable data). The implementation of the STEM OPT extension in 2008 and its expansion in 2016 have allowed more students to stay past graduation for longer periods of time. In CY2007, there were 154,522 nonimmigrants who were OPT authorized. This number increased every year from 2011 through 2019, declined during the COVID-19 pandemic, and then rose to 418,781 in CY2024 (**Figure 1**).

Figure 1. Nonimmigrants Authorized for OPT, CY2007-CY2024
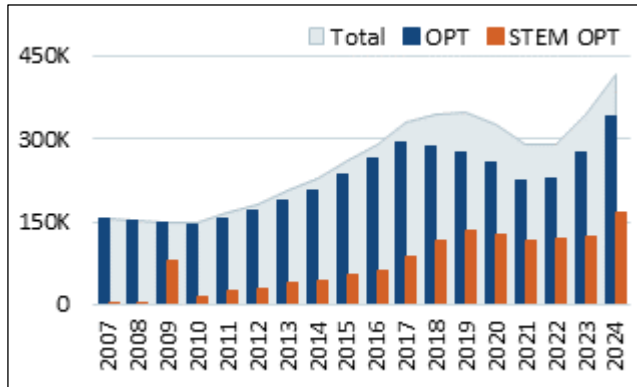
Source: Presentation of unpublished data provided to CRS by DHS.

Note: Numbers represent the stock of F-1 and M-1 nonimmigrants who had OPT authorization at any time during the calendar year. Individuals whose authorizations spanned more than one calendar year are counted in each calendar year in which they had OPT authorization. Individuals who were authorized for OPT and STEM OPT in the same year are counted in each of the bars for the same year but only once in the shaded area.

More than two-thirds of the OPT authorized population are citizens of Asian countries. From 2020-2024, the top 10 places of origin for OPT participants were India, China, South Korea, Taiwan, Nepal, Canada, Nigeria, Vietnam, Brazil, and Mexico. India and China accounted for 35% and 24%, respectively, while South Korea, the next highest country, accounted for 3%.

Nonimmigrants with OPT authorization are concentrated in STEM fields. More than a quarter (31%) of those authorized for OPT in 2024 majored in computer science, with another 18% in engineering. Business majors accounted for 15%. Other top majors were mathematics/statistics, biological/biomedical sciences, social sciences, visual and performing arts, health professions, physical sciences, and communication. Companies employing the largest numbers of OPT workers are large technology firms such as Amazon, Google, Microsoft, and Meta, and large university systems such as the University of California and Arizona State University.

Policy Issues

As the number of nonimmigrants using OPT has grown—along with the length of time OPT participants may work in the United States—some observers have argued that what was initially designed as a way to give students some work experience in their field has become a large-scale temporary worker program without safeguards in place for protecting U.S. workers and students. They argue that OPT serves as an end-run around the numerical limitations and more lengthy application processes associated with the H-1B program or LPR status.

Opponents also point out that OPT provides U.S. employers with a financial incentive to hire recent graduates who are foreign nationals over those who are U.S. citizens because

employers are not required to pay certain payroll taxes for OPT employees.

There are also concerns about OPT workers' access to U.S. technology and intellectual property, particularly nationals of China, Iran, Russia, and other countries of concern. This exposure could help develop expertise that is then used to build capabilities in these countries. A 2020 report by the USCIS Ombudsman's office stated that OPT "may be exploited by foreign governments with interests adverse to those of the United States" and that the OPT program "is currently being used by government actors such as the PRC [People's Republic of China] as a means of conducting espionage and technology transfer."

Supporters argue that OPT helps the United States attract international students in an increasingly competitive global market. U.S. universities have increasingly come to rely on foreign students for their out-of-state tuition payments and academic contributions, particularly in STEM fields. Supporters also contend that OPT provides a mechanism for those with in-demand skills to remain in and contribute to the U.S. economy, including in emerging technologies deemed critical to national security. They also assert that there is no evidence that OPT workers take jobs that would otherwise be filled by American students, and that OPT allows employers to screen workers for permanent employment.

Legal Challenges

Some OPT opponents assert that DHS lacks statutory authority to permit F-1 nonimmigrants to remain and work in the United States after graduation on the grounds that F-1 status is statutorily limited to pursuing a course of study at an academic institution. This argument was rejected by the U.S. Court of Appeals for the D.C. Circuit in *Washington All. of Tech. Workers v. DHS*, 50 F.4th 164 (D.C. Cir. 2022). In the suit, brought by a labor union representing domestic technology workers, the court held that OPT was a valid exercise of DHS's authority under the INA to set the time and conditions of a nonimmigrant's stay in the United States in ways that "reasonably relate" to the visas they used to enter the country. The court also recognized DHS's authority under the INA to provide U.S. work authorization, including for nonimmigrant students. The labor union sought review by the Supreme Court, and the Court denied the petition in October 2023.

Congressional Considerations

Some Members of Congress have proposed eliminating the OPT program, reducing the length of time students and graduates are permitted to stay and work, and restricting its use in sensitive technology fields. Proposals have also been made over the years to allow STEM graduates from U.S. universities to obtain permanent status more directly, thus removing the incentive for them to use OPT and/or H-1B status as stepping stones to LPR status.

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