

1. What happens if an employer timely files a cap-subject H-1B petition for an F-1 OPT student?

Typically, the student is eligible for the cap-gap extension.

2. What is the “cap-gap extension”?

Cap = The limit on the number of individuals who can gain H-1B status each fiscal year.

Gap = The period between the end date of F-1 OPT or grace period and start date of H-1B.

Cap Gap Extension = Extension of the student’s F-1 status until the start of H-1B status, thus, bridging the gap between the two statuses.

3. Who is eligible for the cap-gap extension?

The cap gap extension is available to students with the following:

If the employer timely files a cap-subject H-1B petition with USCIS, on or after April 1, and requests a change of status to H-1B beginning in October, and the F-1 student is still within OPT period or 60-day grace period when the employer submits the H-1B petition, and USCIS issued a Notice of Receipt, the student is eligible for an automatic extension through September 30th. If USCIS has not issued a Notice of Receipt, the student is eligible for an automatic extension through June 1st.

Furthermore, if the student was in valid OPT work authorization at the time the petition was filed, then the student has an extension of both work authorization and legal stay. If the student was in the 60-day grace period at the time the petition was filed, then the student has an extension of legal stay only (cannot work).

Cap-subject H-1B petitions filed for Consular Processing DO NOT qualify for the cap-gap extension.

4. How should the student obtain the cap-gap extension?

Usually, the student’s F-1 record is updated by the Department of Homeland Security. The student should contact their Designated School Official (DSO) to request the cap-gap extension I-20.

***This material is not intended to substitute as legal advice.**

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5. What happens if the student is not selected under the lottery?

The student will have a 60-day grace period from the end of their F-1 OPT to depart the US, transfer to a new program of study, apply for the STEM OPT extension if eligible, or apply for a change of immigration status.

6. Can the student travel abroad during the cap-gap period and return with the F-1 visa stamp?

We strongly recommend that students DO NOT travel abroad during this period as this travel may invalidate the H-1B change of status petition and the student might not be permitted to re-enter the U.S. without obtaining an H-1B visa at a consular post. The student may only enter the U.S. up to ten days prior to October 1st,

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