

INTERNATIONAL OFFICE

H-1B CAP-GAP EXTENSION

A cap-gap extension automatically extends an eligible F-1 student's status to bridge the gap between the end of OPT (F-1 status) and start of H-1B status, thereby allowing the student to remain in the U.S. The cap-gap extension is available to F-1 students who were either on approved OPT or in their 60-day grace period and have a pending or approved change of status H-1 Petition with the USCIS.

ELIGIBILITY FOR CAP-GAP EXTENSION

F-1 students in all fields of study are eligible for the cap-gap extension as long as the following items are all applied to the student:

- I-129 Petition for a Nonimmigrant Worker must be **timely filed*** for the student **by the employer**.
- The employer must be subject to H-1B CAP (check with your employer or immigration lawyer).
- The employment start date must be October 1.
- Student must receive a USCIS Receipt/Approval Notice or any other evidence as a proof of I-129 filing.
- Student must maintain their F-1 visa status and must not accrue more than 90 days of unemployment during the Post-Completion OPT.

***Timely filed:** An H-1B petition was filed during the H-1B acceptance period, while the student's authorized duration of status (D/S) admission was still in effect, including any period of time during the academic course of study, any authorized periods of post-completion OPT, and the 60-day departure preparation period, commonly known as the grace period.

OUTCOME OF CAP-GAP EXTENSION

A cap-gap extension will produce one of two outcomes, depending on your situation:

1. Extension of your OPT work authorization and F-1 visa status until September 30

This happens if your OPT end date (on your EAD card) is April 1st or later. If your H-1B petition is rejected, denied or withdrawn, you will have the 60-day grace period from the date of the rejection notice to depart the U.S. However, if a denial is based on a discovered status violation, no such grace period exists and the student must leave the U.S.

2. Extension of your F-1 status until September 30, without work authorization

This happens if your OPT expired before April 1st. In this case, **you are not authorized to work until the H-1B petition is approved and goes into effect on October, 1.** If your H-1B petition is rejected, denied, or withdrawn, you will have **the 60-day grace period from the date of the rejection notice to depart the U.S.** However, if a denial is based on a discovered status violation, no such grace period exists and the student must leave the U.S. immediately.

HOW TO APPLY

In order to receive a CAP GAP I-20 Form from the International Office, please submit the following:

- Copy of the U.S. Citizenship & Immigration Services Receipt/Approval Notice (I-797) or any other evidence as a proof that your employer has filed H-1B Non-immigrant Petition;

Your request will be reviewed within one week. The International Office will notify you once your request has been processed. Our office hours are 8 a.m. to 5 p.m., Monday through Friday.

If you are currently living and working outside of the San Marcos area, please request to mail your CAP GAP I-20. Then arrange to use [EShipGlobal \(https://study.eshipglobal.com/\)](https://study.eshipglobal.com/) to have the packet express mailed to you.

INTERNATIONAL OFFICE

FAQ

Q: What happens if my H-1B is denied after receiving the cap-gap extension?

A: If the student's H-1B is denied, the student will have the standard 60-day grace period from the date of the rejection notice to depart the US. *However, if a denial is based on a discovered status violation, no such grace period exists and the student must leave the US immediately.*

Q: What if my OPT expires before April 1st? Will the cap-gap extension extend my OPT?

A: Although your F-1 status would be extended, your OPT employment period is expired, and the cap-gap does not serve to reinstate or retroactively grant employment authorization. You would be required to stop working until Oct. 1st.

Q: How can I know I have received a cap-gap extension?

A: When your request is approved, the outcome (either F1 extension of stay or both employment eligibility and F1 extension of stay) will be noted on page 3 of your I-20. The program end date listed on the first page of your I-20 will remain unchanged.

Q: Can I travel during the cap-gap extension?

A: It is recommended that a student NOT travel outside the United States during the cap-gap extension as USCIS will consider a change-of-status application to be abandoned if the applicant leaves the country while the application remains pending.

Even after the H-1B change of status petition has been approved, but before October 1, it is not recommended that a student travels outside the U.S. during the cap-gap extension.