



# U.S. Citizenship and Immigration Services (USCIS) Current Issues

Fall 2024



# General Updates

- First, Would you please share recent developments and those on the horizon at USCIS that might affect our community?

# STEM OPT CIP Code Challenges

- We have seen a significant increase in the number of Requests For Evidence, Notices of Intent to Deny, and even denials for STEM OPT I-765 applications related to USCIS concerns about the STEM CIP code chosen for a particular program. In these cases, the CIP code on the Form I-20 appears on the [DHS STEM Designated Degree Program List](#), but USCIS questions the student's eligibility because the academic program's title on the diploma or transcript does not exactly match the associated CIP code. For example, RFE language has stated "a review of the evidence you submitted indicates that you completed a Master's in X degree (degree as listed on diploma or transcript), which is not listed on the DHS STEM Designated Degree Program List. The evidence you have submitted does not show how your degree relates to the CIP code listed on your Form I-20 and in SEVIS."

# STEM OPT CIP Code Challenges

- In academia, it is not uncommon for the CIP code title and degree title to differ. According to the Department of Education, CIP codes provide “a taxonomic scheme that supports the accurate tracking and reporting of fields of study and program completion activity.” CIP codes were intended to reflect fields of study, not necessarily specific degrees or majors at U.S. universities. CIP codes will not necessarily match the degree or major, nor is this required. According to the [Institute of Education Sciences/Department of Education](#), schools have the authority and responsibility for choosing the correct CIP code to align with their program requirements. Our institutions have processes in place to ensure that the CIP code is vetted and appropriate for a given program. Such determinations are often made at the university (or even state university system) level, and progress through various levels of approval. Such degree program and CIP code alignment often involves comparison of the program of study to the [U.S. Department of Education \(National Center for Education Statistics\) CIP code descriptions](#).

# STEM OPT CIP Code Challenges

- These RFEs and denials are causing significant burden to schools and applicants.
  - What is causing USCIS to send RFEs about STEM OPT eligibility and CIP code alignment, especially if the CIP code and field of study listed on the I-20 is on the STEM-eligible list?
  - Can USCIS give specific examples of what type of evidence USCIS is looking for in cases where an RFE is sent because the degree/major name on university degree documents does not match the CIP code field of study exactly?
  - Is there anything that schools can do to proactively prevent these RFEs and NOIDs?



# OPT Withdrawals

- USCIS has shared with NAFSAs previously that OPT withdrawal requests are processed at the time of case adjudication. In some cases, however, a student might realize a mistake rendering their OPT application deniable and wish to withdraw that OPT application and refile a corrected I-765 as soon as possible (before their window of eligibility closes). We have advocated with USCIS before to allow some form of expedited processing for these OPT withdrawals, and we had asked USCIS during the 2024 Annual Conference about the possibility of having a withdrawal function through MyUSCIS. Is there any particular expedited process available or in development?

# My USCIS OPT Filing/Application Questions

- DSO Recommendation and I-765: DSOs and students greatly appreciate the efficacy of the online I-765. However, DSOs report that some students continue to submit OPT applications without uploading an I-20 reflecting the DSO's OPT recommendation (an "OPT I-20"). Specifically, students file the I-765 uploading a current I-20, neglecting to ask their DSO for an OPT recommended I-20 at the time of filing. These students eventually realize their mistake and call USCIS for assistance. We have many reports of students being instructed by USCIS to upload an OPT I-20 in the "unsolicited evidence" section. However, 8 CFR 214.2(f)(11)(i)(B)(2) clearly states that the OPT recommendation must be issued prior to filing. USCIS has approved some of these cases, but others are denied or even approved and then revoked.
  - Does USCIS have any plan to upgrade the system to at least add language warning students against filing without the OPT I-20?
  - What course of action should students take if they have already submitted their application and their OPT recommendation was either not yet issued or issued after submission of the I-765?

# My USCIS OPT Filing/Application Questions

- Receipt Notices/Approval Notices not showing up in MyUSCIS
  - Our understanding is that OPT applicants do not receive an electronic receipt notice through MyUSCIS; rather, the receipt notice is mailed. Why is this the case, since many other processes filed through MyUSCIS do result in an immediate electronic receipt notice? Are there plans for an electronic receipt to be issued in the future?



# Premium Processing and the Impact on OPT

- DSOs and students are reporting an increase in processing times for OPT requests filed without Premium Processing. Can you share any data to help us understand how/if OPT processing times have changed since Premium Processing was implemented? Has there been an increase in processing time for applicants who do not request Premium Processing?

# Information Systems Integrations

- CLAIMS (Change of Status and Consular Processing):
  - Each year on October 1, DSOs find a striking number of their F-1 students' SEVIS records have erroneously been completed because the SEVIS system did not accurately capture that their H-1B was approved for consular processing, and not change of status. We have received reports of STEM OPT denials in late 2023 due to a “change of status” being noted in the SEVIS record.
  - Can you speak to the CLAIMS data and why it does not always reliably convey whether an H-1B approval is for consular processing or change of status?
  - During the Annual Conference, USCIS noted that its teams are actively engaged with ICE SEVP to enhance data integration between systems. How often does such engagement occur and what progress has been made so far?

# Information Systems Integrations

- **SAVE:** What does the SAVE system show to DMV stakeholders when an individual is in a period of H-1B portability or has a 240-day extension of work authorization that is common with extensions of many types of nonimmigrant statuses? The issuance of driver's license renewals is inconsistent in such scenarios. Could training be provided to let participating agencies know that such individuals are both authorized to be in the U.S. and authorized to work, as per federal regulations?
- In response to Annual Conference questions, USCIS noted that for specific issues, the [SAVERegistration@uscis.dhs.gov](mailto:SAVERegistration@uscis.dhs.gov) e-mail address could be used with the SAVE verification number. Who is able to use this e-mail address, and what type of assistance can be provided through it?

# SEVIS Transfers While Reinstatement is Pending

- Current SEVIS functionality does not allow any changes to a SEVIS record while reinstatement is pending. Due to lengthy reinstatement processing times, students often finish their program or degree and wish to start a new degree prior to the adjudication of their reinstatement. February 2023 [SEVP transfer FAQs](#) and May 2023 [USCIS FAQs](#) describe revised procedures on transferring a SEVIS record while an application for F-1 reinstatement is pending with USCIS. The guidance indicates the possibility of a student transferring while a reinstatement application is already pending with USCIS. This involves the DSO at the transfer-out school canceling the reinstatement request in SEVIS and transferring the terminated record. Then the DSO at the transfer-in school would enter a reinstatement request in SEVIS. USCIS would need the updated Form I-20 as well as a letter from the DSO indicating support for the transfer to the new school. For this option, the student must have been pursuing a full course of study at the school he or she was last authorized to attend; otherwise, he or she would need to stay at the school that supported the reinstatement (and transfer after approval) or withdraw the reinstatement application.



# SEVIS Transfers While Reinstatement is Pending

- Does USCIS have any information or best practices as to this transfer policy, given that it has been in effect for over a year?
- How does USCIS wish to receive the new I-20 and letter of support from the transfer-in school? If the I-539 was filed via MyUSCIS, USCIS indicated in response to Annual Conference questions that this documentation can be uploaded to MyUSCIS. Should it be uploaded as unsolicited evidence? Would this automatically prompt USCIS to review such evidence?
- What if the I-539 was filed via paper submission? USCIS indicated that the documentation can be mailed to the respective service center prior to final action, but what should we include in the submission to ensure it makes its way into the reinstatement application “file”?



# I-539 Change of Status Approval Dates

- The option to use Premium Processing for I-539 change of status applications has been a very helpful improvement to the process for students and scholars to request a change of status. Understandably, we are now seeing more Change of Status cases adjudicated (and approved) more than 30 days before the Form I-20 or Form DS-2019 start date. USCIS Policy Manual at 2 USCIS PM-F.8 says: "Officers grant the COS with an effective date of the applicant's F-1 status as the day of final adjudication (approval), regardless of whether it falls within 30 days of the academic program start date."
  - Can USCIS provide guidance on how best to communicate with the agency in situations where the student would like their new status to begin on the program start date indicated on the I-20 (e.g. a situation where an H-1B worker plans to work until the end of their authorized period of H-1B status and then begin F-1 status afterwards)?
  - If a change of status is approved with an effective date that is neither the approval date nor the I-20/DS-2019 start date, are there any options available to the applicant to have the effective date shifted?

# MyProgress

- Per USCIS, myProgress provides applicants with access, in their online account, to personalized estimates of their wait time for major milestones and actions on their case, including their final case decision. USCIS notes that these are estimates based on case type and historical patterns, are not a guarantee of timing, and cannot take into consideration all possible unique application processing factors. The purpose is to increase transparency in the adjudication process. However, only student applicants can see this timeline, for example, with an I-765 application for post-completion OPT. Attorneys and DSOs have no such access. In early May, various reports indicated that MyProgress showed an 8-month estimated time until case decision for OPT applicants. However, on [Check Case Processing Times](#), 80% of case completions for the same application are within 3.5 months, a large difference. USCIS also notes that “Applicants will still need to visit the public Check Case Processing Times webpage to determine if they are eligible to file an Outside of Normal Processing Times service request.”

# MyProgress

- How are historical patterns used to estimate case processing timelines through MyProgress? What is the difference between how processing times are calculated via MyProgress versus Check Case Processing Times? Why are there two different systems for such calculations, and is there a plan to eventually discontinue one of these?
- Is there a timeline as to when attorneys may have access to MyProgress?

# Online Filing of H-1Bs

- As online filing for Form I-129, Petition for a Nonimmigrant Worker for H-1B petitions and Form I-907, Request for Premium Processing Service is now available using USCIS Online Accounts:
  - Can USCIS discuss any lessons learned or best practices in the H-1B online filing process?
  - Can USCIS discuss the factors that a college or university should consider in creating and structuring an organizational account so it can file Form I-129 online?
  - Is USCIS planning to allow for templates to be set up or data to be pre-populated for university and other employers, such as name, address, FEIN, etc.?

# Online Filing of H-1Bs

- Is USCIS planning to allow for concurrent I-539s for an H-4 and I-765s for H-4 EAD to be filed online, and is there a particular time frame?
- Can USCIS comment on any future forms or processes which may be available in an online format?
- Are downloaded approval notices (which contain an updated I-94) available to petitioners in MyUSCIS valid for I-9 purposes?



# H-1B Filing Fee Check Issues

- Since the April 1, 2024 implementation of the USCIS fee rule and the change in the filing location for H-1B petitions, we have received some reports that USCIS has been placing a stamp over the payee section of each check before depositing it. Because this stamp is placed in the payee section, it has triggered a problem with different University banks, since the stamp appears to alter the payee of the amount listed in the check. This can create a significant additional administrative burden for university finance departments.
  - Is this practice still occurring, and if so, why is it occurring?
  - If USCIS would like petitioners to enter different information in the payee section of the checks for filing fees, can you please issue updated guidance to this effect?

# USCIS Policy Manual Errors

- How can we notify USCIS and request correction when we find an error in the USCIS Policy Manual? For example, in the STEM OPT guidance in Volume 2, Part F, Chapter 5, the Policy Manual states, “F-1 students may submit a properly filed Form I-765 up to 90 days before the expiration of the F-1 student’s current post-completion OPT EAD and no more than 30 days after their DSO enters the STEM OPT recommendation into SEVIS.” This is contrary to the federal regulation at 8 CFR 214.2(f)(11)(i)(C), which states that “The student seeking such 24-month OPT extension must properly file his or her Form I-765 or successor form with USCIS within 60 days of the date the DSO enters the recommendation for the OPT extension into his or her SEVIS record.”

# Submit Questions and Topics



Submit your questions for future conference sessions and use in agency liaison via the NAFSA-Agency Engagement and Current Issues Session Smartsheet:

[tinyurl.com/2p9x88hh](https://tinyurl.com/2p9x88hh)

