

# H-1B CAP GAP INFORMATION

Information directly from: [USCIS](#)

## IMPORTANT DATES

---

**October 1:** The earliest date a student may start H-1B employment. Employer must request October 1<sup>st</sup> as the start date for the student to be eligible for Cap Gap.

**April 1:** The earliest date an employer can file for H-1B (first day of “H1-B filing season”)

**April 1 – September 30:** If your EAD expires during this period, you can request Cap Gap Extension of Work Authorization if you meet the eligibility criteria listed below.

## WHAT DOES CAP GAP MEAN?

---

Cap Gap refers to the period of time between your OPT end date and your H-1B start date. Cap Gap is when duration of status and/or any post-completion OPT work authorization is automatically extended for an F-1 student who is the beneficiary of a timely-filed H-1B petition requesting change of status and an employment start date of October 1<sup>st</sup>. This applies to all qualified students on OPT, not just STEM students.

## ELIGIBILITY

---

### YOU ARE ELIGIBLE FOR CAP GAP EXTENSION OF WORK AUTHORIZATION IF:

- Your employer files an H-1B petition for you, on or after April 1, and requests a change of status to H-1B with a start date of October 1
- AND**
- You are still within your OPT authorization period, or 60-day grace period following the OPT expiration, at the time your employer submits the H-1B petition on your behalf (on or after April 1).

**If your employer filed your H-1B petition BEFORE your OPT end date**, then your OPT work authorization is extended. You can continue working in F-1 status until the extension date.

**If your employer filed your H-1B petition AFTER your OPT end date**, then your F-1 status is extended **BUT YOUR WORK AUTHORIZATION IS NOT**. You are not allowed to work but you can remain in the US until a decision has been made, this is referred to as **Cap Gap Extension of Stay/Status**.

Your automatic cap-gap extension will begin and continue until your H-1B petition adjudication process has been completed. If your H-1B petition is selected and approved, the extension will continue through September 30. If the H-1B petition is denied, withdrawn, revoked, or is not selected, you will have a 60-day grace period from the date of the rejection notice or program end date, whichever is later, to prepare for and depart the United States.

# H-1B CAP GAP INFORMATION

## PROOF OF STATUS

---

If your employer is requesting proof of status/Cap Gap I-20:

- **H-1B petition has been filed but not receipted:** You must submit a copy of your H-1B petition and proof that the petition was delivered to USCIS (a copy of the proof of delivery/tracking info). Once we receive those documents, we will update your records and your work authorization will be extended to June 1<sup>st</sup>. [Submit form #9 to isao@umkc.edu with your documents for an updated I-20 to be issued.](#)
- **H-1B petition has been waitlisted:** You must submit a copy of the letter USCIS sent to your employer. We will update your records, however the end date is determined each year by USCIS (the date is determined based on how long they think it will take to process petitions). [Submit form #9 to isao@umkc.edu with your documents for an updated I-20 to be issued.](#)
- **H-1B petition has been selected:** USCIS will automatically extend your status to September 30<sup>th</sup>. You should submit a copy of the I-797 Notice of Action with receipt number. [Submit form #9 to isao@umkc.edu with your documents for an updated I-20 to be issued.](#)

## DENIED PETITIONS

---

If USCIS denies, rejects, or revokes an H-1B petition filed on behalf of an F-1 student covered by the automatic cap-gap extension of status, the student will have the standard 60-day grace period (from the date of the notification of the denial, rejection, or revocation of the petition) before he or she is required to depart the United States.

For denied cases the 60-day grace period does not apply to an F-1 student whose accompanying change of status request is denied due to the discovery of a status violation, misrepresentation, or fraud. The student in this situation is not eligible for the automatic cap-gap extension of status or the 60-day grace period. Similarly, the 60-day grace period and automatic cap-gap extension of status would not apply to the case of a student whose petition was revoked based on a finding of a status violation, fraud or misrepresentation discovered following approval. In both of these instances, the student would be required to leave the United States immediately.

## TRAVEL DURING CAP GAP

---

A student granted a cap-gap extension who elects to travel outside the United States during the cap-gap extension period, will not be able to return in F-1 status. The student will need to apply for an H-1B visa at a consular post abroad prior to returning. As the H-1B petition is for an October 1 start date, the student should be prepared to adjust his or her travel plans, accordingly.

## UNEMPLOYMENT LIMITS

---

The 90-day, 120-day for 17-month STEM OPT, or 150-day for 24-month STEM, limitation on unemployment during the post-completion OPT authorization continues during the cap-gap extension.