Waiting for Work Authorization

International students can apply for work authorization 90 days before they graduate, but they're facing application processing times that routinely exceed that.

By Elizabeth Redden

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Colleges are seeing increases in processing times for international students applying for work authorization through the Optional Practical Training, or OPT, program, leaving some students with job or internship offers unable to take up their positions on time.

OPT allows international students to stay and work in the U.S. for up to a year after graduating in a job related to their field of study (students studying science, technology, engineering and mathematics fields can get an extension for a total of three years of OPT). Students can only apply for OPT 90 days before they finish their academic program, but colleges are reporting average application processing times that exceed that.

"What we're seeing are typical processing times between about 100 and 120 days," said Ron Cushing, director of international services at the University of Cincinnati. Cushing said the times increased after January 2017 when U.S. Citizenship and Immigration Services removed an internal rule stipulating that

it would process requests for employment authorization documents within 90 days.

"Our students have reported that when they call to ask about the status, they're told it can take up to five months," Cushing continued. "Obviously to us that is unacceptable. They won't accept [the application] earlier than 90 days prior and they take longer than 90 days to make [the employment authorization card], so something's got to give there. If you're going to take longer to process them, let us submit earlier so these kids aren't stuck with job offers with no work permits when it comes time to start. That's the crux of the issue: they only let you submit it so far in advance and then they take longer than that to make the card."

A U.S.C.I.S. official said the agency "recently experienced a surge in employment authorization requests related to Optional Practical Training. As a result, there is a small backlog of cases that are pending beyond the standard 90-day processing time. U.S.C.I.S. has implemented a plan to address this and return to standard processing times soon." The official said processing for OPT employment authorization documents can currently take from four weeks to five months.

The University of Maryland, Baltimore County reports that the average processing time for their students is about 3.5 months, which Michelle Massey, associate director for International Student and Scholar Services, said is consistent with what the institution saw last year.

"From our perspective, the secret is educating students in making sure they know at the beginning of the process that's the reality so when they're talking to employers they're going to be very straightforward about what their start date is likely to be," Massey said. "Also, we stress that's our best guess but no

one has any control of this process and they give themselves up to five months. Except for incredibly rare outliers, we've not seen any take five months."

"Anecdotally, we are seeing the OPT processing time be around 100 to 110 days for students to receive their approval and [employment authorization document] in the mail. We have updated our communication from the standard 90 days to 100 to 120 days to manage student expectations," said Marcella Johanna Pitcher DeProto, director for International Student and Scholar Services at the University of San Francisco. "Additionally, the risk of denials and [requests for evidence] have gone up. The longer it takes U.S.C.I.S. to process the application, the more likely the student will not be able to reapply for OPT in case of a denial based on simple paperwork errors."

Sherif Barsoum, associate vice president for global services at New York University, said that while in previous years processing times for OPT applications were in the 70- to 90-day range, this year they're stretching to 80 to 120 days. Barsoum said about 1,000 graduating NYU students submitted their OPT applications on the first day they were eligible this spring and participated in "pack-up" sessions in which staff helped review applications for potential errors before submitting them. Barsoum noted that the form students submit to apply for OPT -- the Form I-765 -- was recently lengthened from two to seven pages.

The New York Times reported earlier this month on the delays, including how they are affecting continuing students seeking to participate in internships this summer through pre-completion OPT work authorization: students can use a portion of their total 12-month OPT benefit for summer employment before they graduate. Faced with delays that left them unable to start their

internships on time, students at several Ivy League universities submitted petitions and open letters to their universities calling on them to authorize their summer employment through Curricular Practical Training, or CPT, instead. Unlike OPT, CPT can be authorized by a university official without a petition (and without payment of a fee) to U.S.C.I.S.

As first reported by the *Yale Daily News*, and confirmed by a Yale spokesman, Yale University established a practicum course through which students can gain CPT authorization this summer. The spokesman declined *Inside Higher Ed*'s interview requests and suggested *Inside Higher Ed* could attribute quotes of senior officials to the *Yale Daily News*'s reporting. The student paper quoted the dean of Yale College, Marvin Chun, who said the course was already in the works but that its introduction was accelerated due to the OPT delays.

"My plan was to bring this course proposal to the Yale College faculty in the fall, since the faculty's final meeting for approving courses, in early May, had passed by the time the proposal was complete," Chun said. "But due to the urgency created by unprecedented delays in approving optional practical training, I was able to use the authority entrusted to me every summer by the Yale College faculty to approve courses in its absence."

Many other colleges already offer practicum courses through which international students can gain CPT authorization to participate in summer internships. Whereas the regulations stipulate that OPT can only be approved for employment "directly related to the student's major area of study," the regulations governing CPT are stricter and say it must be "an integral part of an established curriculum."

"There are some ambiguities -- the regulations don't define what constitutes 'an integral part of an established curriculum' -- but more and more colleges are starting curricular practical training for international students not solely because of these new U.S.C.I.S. restrictions but also because work is now understood to be more integral to a person's education generally," said Stephen Yale-Loehr, a professor of immigration practice at Cornell University. Scott Cooper, an immigration lawyer and owner of Immigration Compliance Associates, a firm focused on compliance for student and exchange visas, described the slowdown in OPT processing as "part of a broader effort by this administration to slow if not stop any form of legal immigration."

"This is not negligence, but rather design," Cooper said. He noted that the agency recently changed its mission statement to delete a reference to customer service.

New international enrollments at American colleges have fallen for two straight years, and many in higher education have expressed concerns about what they see as the U.S.'s unwelcome stance toward immigrants and international students.

Many advocates for international students have worried in particular about potential changes to the OPT program, which has come under criticism from advocates for restricting immigration. The STEM OPT extension is also the subject of an ongoing lawsuit filed by a technology workers' union that argues that it poses unfair competition for American workers because students on OPT and their employers don't pay Medicare and Social Security taxes, making them "inherently cheaper to employ."

In its spring regulatory agenda, the Trump administration said it plans to introduce a new proposed rule "to revise the practical training options

available to nonimmigrant students on F and M visas." The neutral, vague language represented a departure from [language included in previous versions](#) of the agenda, when the administration said it planned to introduce a rule "to improve protections of U.S. workers who may be negatively impacted by employment of nonimmigrant students" and "to reduce fraud and abuse." In any case, introducing a new rule governing OPT does not seem to be a top priority of the administration; the planned proposed rule is characterized as a long-term action with no target date.

"The bigger issue is why for goodness sakes is it taking so long," Joanna Regulska, the vice provost and associate chancellor of global affairs at the University of California, Davis, said of OPT processing times. Regulska said Davis is seeing OPT processing times averaging 100 days.

Regulska participated in [a March meeting the White House convened](#) with universities, higher education groups and employers focused on international students and their ability to work in the U.S. after graduation. "The issue of OPT came up several times in the discussion," she said. "The universities were really stressing how important OPT is, and it's important not only for students but it's important for employers. It's important for the image about the United States, it's important for attracting students."

"These delays don't help us, especially now in a situation when the enrollments are going down. This is yet another negative factor that will contribute to our image."

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