

The Trump Administration Weighing Rollback of Optional Practical Training (OPT) Program

Matthew Morse
Fakhoury Global Immigration

Foreign nationals who are in the U.S. in F-1 student status are often eligible to engage in employment after completing their academic program in what is referred to as Optional Practical Training (OPT). As a result of the current high unemployment rate in the U.S., the Trump Administration is currently reviewing the F-1 OPT program, and is considering taking action to suspend or limit the program until U.S. unemployment has declined. Within President Trump's April 22, 2020 proclamation, there was a provision that tasked the U.S. Department of Homeland Security and U.S. Department of Labor to review nonimmigrant visa programs and recommend certain measures be taken to possibly suspend or limiting the F-1 OPT program would likely have a negative impact on the U.S. It would weaken its competitiveness and hinder economic recovery. Foreign nationals who participate in the F-1 OPT program bring skills and talent that are desperately needed, and that the U.S. labor force is unable to provide. In addition, suspending or limiting the F-1 OPT program would result in other countries benefiting from the education provided to these F-1 students by U.S. colleges and universities, and in some cases, may result in these foreign nationals and the overseas companies they may work for to compete against the U.S. and its interests.

d or limit these programs in order to stimulate the U.S. economy and ensure the employment of U.S. workers. As a result, a new Presidential Proclamation possibly limiting the ability of F-1 students to engage in OPT may be issued soon.

Several Republican senators have requested the Trump Administration suspend not only the F-1 OPT program but have requested all guest worker programs be suspended due to the COVID-19 pandemic and its impact on the American economy. On May 7, Senators Tom Cotton (Arkansas), Ted Cruz (Texas), Chuck Grassley (Iowa), and Josh Hawley (Missouri) sent a letter to President Trump specifically requesting a sixty-day suspension on nonimmigrant guest worker visas, followed by a continued suspension for one year or until national unemployment figures return to normal levels.¹

However, a recent study by the National Foundation for American Policy [NFAP] has revealed the OPT program does not reduce job opportunities for U.S. workers.² Moreover, the study found that OPT "is a win-win for foreign students and U.S. employers alike. The program offers employers a chance to see if foreign students are a good fit before sponsoring them for a costly – and scarce – H-1B temporary visa. The OPT program gives foreign students (and their employers) multiple shots at obtaining an H-1B visa"³

¹ https://www.cotton.senate.gov/?p=press_release&id=1358

² Madeline Zavodny. "International Students, STEM OPT, and the U.S. Stem Workforce." NFAP Policy Brief, March 2019: <https://nfap.com/wp-content/uploads/2019/03/International-Students-STEM-OPT-And-The-US-STEM-Workforce.NFAP-Policy-Brief.March-2019.pdf>

³ Zavodny, 18.

Other sources indicate that eliminating the F-1 OPT program could negatively impact the U.S. economy in the long-term. The Business Roundtable has published a study on the contributions of the F-1 OPT program to the U.S. economy, and the potential impact of curtailing the program.⁴ The Business Roundtable found that reducing the issuance of foreign-national F-1 student visas by thirty-five percent (35%) and F-1 OPT participation by sixty percent (60%) would shrink U.S. Gross Domestic Product (GDP) by a quarter of a percentage point by 2028, and lead to the loss of 443,000 jobs. The report defends the F-1 OPT program by arguing that “as new industries emerge that will play an increasingly important role in the 21st-century economy, it is critical that U.S. immigration policies continue to attract the best and brightest students from around the world.”⁵

Many American businesses have expressed their support for the F-1 OPT program, including eBay, Facebook, EY, Microsoft, and Apple.⁶ Businesses support the program because F-1 students on OPT help to fill in critical “skills gaps” that have resulted from a lack of trained U.S. workers in STEM (science, technology, engineering, and math) fields. As one *Forbes* article explains: “[Leading] trends in our higher education suggest that the U.S. is fast approaching a STEM crisis like no other – one that systematically benefits foreign countries and companies, at the expense of our own.”⁷ Moreover, the Society for Human Resource Management reports that “careers in science, technology, engineering, and math (STEM) are at the heart of the skills gap in America.”⁸ Finally, an editorial by a software company manager argues that “restricting OPT would be disastrous for international students in the U.S. and it would discourage students from around the world from studying here. The U.S. is already losing many needed STEM-degree students to other developed countries.”⁹

Universities and educational associations such as the American Council on Education have also endorsed retaining the F-1 OPT program and have argued that the Administration’s concerns over the security risk posed by Chinese students is overstated. They argue that they have effective security protocols and that, as experts in their subject fields, Chinese students help to bolster U.S. research.¹⁰ Moreover, suspending or eliminating the F-1 OPT program would produce severe economic repercussions for universities without significant name recognition,

⁴ Business Roundtable. “The Economic Impact of Curbing the Optional Practical Training Program.” *Business Roundtable*: <https://www.businessroundtable.org/policy-perspectives/immigration/economic-impact-curbing-optional-practical-training-program>

⁵ Business Roundtable.

⁶ Suzanne Monyak. “Postgrad Visa Restrictions Likely To Curb Economic Growth.” *Law360* (June 4, 2020): <https://www.law360.com/articles/1279947/postgrad-visa-restrictions-likely-to-curb-economic-growth>

⁷ Arthur Herman. “America’s High-Tech STEM Crisis.” *Forbes* (September 10, 2018): <https://www.forbes.com/sites/arthurherman/2018/09/10/americas-high-tech-stem-crisis/#689539f8f0a2>

⁸ Rick Lazio and Harold Ford, Jr. “The U.S. Needs to Prepare Workers for STEM Jobs.”

⁹ Marian Faye. “Ending program for foreign students could worsen America’s STEM worker shortage.” *Houston Chronicle* (January 9, 2020): <https://www.houstonchronicle.com/opinion/outlook/article/Ending-program-for-foreign-students-could-worsen-14958935.php>

¹⁰ Edward Wong and Julian E. Barnes. “U.S. to Expel Chinese Graduate Students With Ties to China’s Military Schools.” *New York Times* (May 28, 2020): <https://www.nytimes.com/2020/05/28/us/politics/china-hong-kong-trump-student-visas.html>

who will find it difficult to attract talented students without the possibility of providing them with work authorizations.¹¹

Finally, as a recent Law360 article has noted, there is little overlap between the jobs lost in the wake of COVID-19 and those that F-1 students often engage in while in their OPT period. For instance, in April 2020, over 20 million jobs were lost in the U.S. Of the 20 million jobs lost, 7.7 million of these jobs were in the hospitality and leisure sectors. These are jobs that are in the service industry, and would not be the type of positions that would likely qualify for F-1 OPT employment, since the employment must relate to the academic program the F-1 student completed in the U.S.¹²

Suspending or limiting the F-1 OPT program would likely have a negative impact on the U.S. It would weaken its competitiveness and hinder economic recovery. Foreign nationals who participate in the F-1 OPT program bring skills and talent that are desperately needed, and that the U.S. labor force is unable to provide. In addition, suspending or limiting the F-1 OPT program would result in other countries benefiting from the education provided to these F-1 students by U.S. colleges and universities, and in some cases, may result in these foreign nationals and the overseas companies they may work for to compete against the U.S. and its interests.

¹¹ Monyak.

¹² Monyak.