



OPT: Unauthorized Program that Harms American Graduates

Federal Oversight Agencies: [ICE](#), [USCIS](#)

Dependents: F2

The Basics:

- Optional Practical Training (OPT) is not found in any statute passed by Congress and signed by the President of the United States as required by the Constitution. Instead, it was created by Executive fiat.
- OPT allows [F visa students](#) to seek employment in the area of their studies under the guise that the employment is some sort of training rather than an employment arrangement.
 - OPT workers are exempt from Social Security and Medicare taxes (FICA payroll taxes), which gives employers a steep discount for hiring OPT workers rather than American workers.
- Last year, over [242,782](#) aliens were approved to work on student visas through the OPT program.
- OPT as we know it today can be traced back to the 1950s in some form, but the actual mutation into today's program [began](#) in 2008 under President George W. Bush.
 - Then-DHS Secretary Michael Chertoff coordinated with the tech industry to bypass Congress to transform OPT by significantly expanding the duration of OPT status, allowing unemployed students to maintain status while looking for work, and **allowing OPT workers to maintain F status for the duration of time an employer had an H-1B petition in process with the government.**
 - These changes, never authorized by law, cemented the pipeline that currently feeds F student visa holders into OPT, then to H-1B visas, and finally into the enormous backlog for employment-based green cards.
 - Since the expansion, OPT employers can hire F student visa holders at a discount for up to **2-3 years** (3 years if they are STEM graduates and 1 year for non-STEM graduates) after they graduate, then petition for them to become H-1Bs. If the aliens are selected for H1B visas, the employer has the workers for **six additional years**. Employers can **then sponsor the aliens' adjustment of status to permanent legal resident status.** These aliens can be authorized for employment while their application is pending.
- The program is nominally overseen by the Immigration and Customs Enforcement (ICE) Student and Exchange Visitor Program (SEVP).



- Schools apply with ICE SEVP through a Designated School Official (DSO), and then the F students visa holders and the DSOs upload information themselves on the ICE SEVIS online system. Very little, if any, direct oversight like an audit occurs.

The Problem:

- The expansion of OPT under George W. Bush cemented in regulation the F-to-OPT-to-H1B-to-LPR pipeline that has incentivized dramatic increases in foreign students applying for F visas in the hopes of remaining permanently in the United States, while simultaneously shutting American STEM graduates out of STEM jobs.
 - The promise of OPT leads to the [reality of scams](#), including foreign students attending fake schools and [exploitative employers/recruiters](#).
- From the Government Accountability Office (GAO) in 2014: [ICE has not consistently collected the information and developed the monitoring mechanisms needed to help ensure foreign students comply with OPT requirements, thereby maintaining their legal status in the United States.](#)
- A 2022 GAO [report](#) states that ICE has not even assessed OPT's vulnerability to Chinese espionage, thus establishing **OPT as a national security vulnerability**.

LEGISLATIVE RECOMMENDATION: Eliminate OPT.

ADMINISTRATIVE RECOMMENDATION: Rescind OPT regulations altogether.