

Broadcast Message: F-1 Student Cap Gap Extension and the Revised H-1B Registration Process

To: DSOs and PDSOs at SEVP-certified schools

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U.S. Citizenship and Immigration Services (USCIS) recently implemented a new registration process for employers seeking to file an H-1B cap-subject petition for a beneficiary, including those currently in F-1 status. The H-1B status allows temporary employment authorization for a nonimmigrant who performs services in a specialty occupation. There is a limit, or “cap,” on the number of individuals who can receive H-1B status every fiscal year, which begins Oct. 1.

Revised H-1B Registration Process

The revised H-1B registration system is designed to streamline the H-1B process to make the H-1B cap-selection process more efficient. USCIS’ new registration system requires employers to register their beneficiaries during the designated registration period in March. USCIS then notifies these employers prior to April 1 if their registrant was selected for filing by issuing an H-1B Registration Selection Notice. The earliest employers subject to the “cap” can file a petition on behalf of their beneficiary is April 1. Employers can be notified of a registrant’s eligibility for filing at any time through Sept. 30.

Receipt of a H-1B Registration Selection Notice

Receipt of an H-1B Registration Selection Notice does not qualify an F-1 student for a cap-gap extension. Federal regulations stipulate that an F-1 student may receive an extension of their authorized period-of-stay or employment authorization if the student is a beneficiary of a filed H-1B petition seeking a change of status with a start date of Oct. 1. Employers who receive an H-1B Registration Notice have 90 days to file a Form I-129, “Petition for Nonimmigrant Worker,” requesting a change of status to H-1B on behalf of the worker. An F-1 student can avail themselves of the cap-gap extension only after the employer files the petition.

Petitions requesting a status change via consular processing do not qualify for cap-gap relief.

Revised SEVIS Process

On May 22, the Student and Exchange Visitor Program (SEVP) revised Student and Exchange Visitor Information System (SEVIS) functionality to accommodate changes in the H-1B process. SEVIS has been modified to automatically add cap-gap extensions to records of eligible F-1 students whose H-1B petition was receipted by USCIS. The “waitlisted” and “rejected” cap-gap

options are no longer available in SEVIS. If the link is missing or if other changes are needed, the designated school official (DSO) must call the SEVP Response Center and request a data fix.

SEVP is aware that USCIS may select and consider registrants until Sept. 30 using any leftover quota. However, an F-1 student is not eligible for cap-gap extension until their employer has filed the H-1B petition on their behalf.

Comments

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