



# Internet Association

Katherine Westerlund, Policy Chief (Acting)  
Student and Exchange Visitor Program  
U.S. Immigration and Customs Enforcement  
500 12th Street SW  
Washington, DC 20536

November 18, 2015

**Re: Notice of Proposed Rulemaking: “Improving and Expanding Training Opportunities for F-1 Nonimmigrant Students with STEM Degrees and Cap-Gap Relief for All Eligible F-1 Students” DHS Docket No. ICEB–2015–0002**

**DHS Docket No. ICEB-2015-0002**

Dear Chief Westerlund:

The Internet Association is the unified voice of the Internet economy, representing the interests of leading Internet companies<sup>1</sup> and their global community of users. The Internet Association is dedicated to advancing public policy solutions to strengthen and protect Internet freedom, foster innovation and economic growth, and empower users. Immigration policies that support our member companies’ ability to grow and innovate by attracting and retaining well-qualified STEM graduates are important to our mission.

We write to express our support for the Optional Practical Training (OPT) program and to provide feedback on the above referenced notice of proposed rulemaking to improve and expand training opportunities for nonimmigrant (F-1) students with STEM (science, technology, engineering, and mathematics) degrees. It is our experience that OPT trainees play a vital role in the continuing growth and development of our industry through innovation, and are critical to the advancement of the U.S. economy more generally.

Recent estimates show that foreign-born individuals make up about 20% of today’s U.S. STEM workers with bachelor’s degrees and 40% of those with advanced degrees. The effects of their contribution ripple throughout our economy. One quarter of U.S. high tech firms established since 1995 have had at least one foreign-born founder. These new companies employ approximately 450,000 people and generate more than \$50 billion in sales. Immigrants or their children founded 40% of today’s Fortune 500 companies, including firms behind seven of the ten most valuable global brands. Yet these success stories cannot be taken from granted: analysis done using data from our member company LinkedIn suggests that skilled foreign-born professionals increasingly view the U.S. as a less attractive country to work in.<sup>2</sup>

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<sup>1</sup> The Internet Association’s members include Airbnb, Amazon, auction.com, Coinbase, Dropbox, eBay, Etsy, Expedia, Facebook, FanDuel, Gilt, Google, Groupon, Handy, IAC, Intuit, LinkedIn, Lyft, Monster Worldwide, Netflix, Pandora, PayPal, Pinterest, Practice Fusion, Rackspace, reddit, Salesforce.com, Sidecar, Snapchat, SurveyMonkey, TripAdvisor, Twitter, Yahoo, Yelp, Uber, Zenefits, and Zynga.

<sup>2</sup> *Migration of Professionals to the U.S., Evidence from LinkedIn Data*, Bogdan State et.al, (2014).  
[http://zagheni.net/uploads/3/1/7/9/3179747/migration\\_professionals\\_linkedin.pdf](http://zagheni.net/uploads/3/1/7/9/3179747/migration_professionals_linkedin.pdf)



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We commend DHS for the timely publication of the proposed rule and for its many improvements over the 2008 rule. The new rule would extend the STEM OPT period to 24 months; allow an additional period of OPT for subsequent degrees; and provide STEM OPT eligibility for a prior degree. Importantly, the rule also clarifies which occupations qualify, and leaves open the possibility of adding eligible fields in the future. These changes are critical to attracting foreign students to our colleges and universities, and to encourage the pursuit of practical training from leading, innovative businesses in the United States. U.S. businesses that provide STEM OPT training opportunities benefit from this program through employee retention and a strengthened market position both domestically and abroad.

We are, however, concerned about the practical effect of some of the new provisions. We believe that DHS may have underestimated the time-burden, and therefore the costs, to the employer in terms of the role it must play in developing the mentoring and training plan and conducting the periodic evaluations. While the student is tasked with drafting the mentoring and training plan, it is the employer that must determine what is feasible. Therefore, it appears that 30 minutes is insufficient to complete the necessary review. Similarly, in order to be meaningful, the required evaluations will take more than the estimated 15 minutes. Therefore, we urge DHS to require only a final evaluation and to replace the written mentoring and training plan with an additional employer attestation that training will be provided as with similarly situated new hires, with the proviso that said training will relate directly to the STEM field.

In addition, as the proposed rule makes clear, the purpose of the STEM OPT program is training. However, trainees are not typically compensated at the same level as a fully productive employee. Therefore, we urge DHS to allow employers acting in good faith to factor the impact of training time on productivity when setting the salary.

We believe that it is in every employer's best interest to conscientiously mentor and train all workers engaged in training programs, regardless of whether the program benefits U.S. students – such as through internships and externships – or foreign students through OPT. The proposed rule does much to further this goal and to enhance OPT program for all those involved.

We thank DHS for taking these important steps and our member companies look forward to participating in the expanded OPT program when the final rule is implemented.

Sincerely,

Michael Beckerman  
President & CEO  
The Internet Association