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VIA EMAIL: OIRA_submission@omb.eop.gov

Re: Docket No. ICEB-2015-0002

Dear Ms. Westerlund,

I write today on behalf of NAFSA: Association of International Educators in response to the notice of proposed rulemaking published at 80 Federal Register 63375 (October 19, 2015): Improving and Expanding Training Opportunities for F-1 Nonimmigrant Students with Science, Technology, Engineering, and Mathematics (STEM) Degrees and Cap-Gap Relief for All Eligible F-1 Foreign Students. NAFSA is the world's largest professional association dedicated to international education and exchange, with over 10,000 members at approximately 3,500 colleges and universities throughout the United States and around the world.

NAFSA supports the proposed rule extending STEM optional practical training (OPT) to 24 months. The new rule strikes a reasonable balance by distributing requirements among all who participate in the STEM OPT program: foreign students, institutions of higher education, and employers. Although higher education institutions retain exclusive responsibility to maintain the foreign student participants' records in the Student and Exchange Visitor Information System (SEVIS), the rule appropriately recognizes the relationship between the foreign students and the employers. The required Mentoring and Training Plan executed and signed by students and employers will clearly state the students' learning objectives while also detailing the employers' obligation to meet those objectives and protect foreign students and American workers from exploitation.

NAFSA applauds the Department of Homeland Security (DHS) for acting to finalize the rule before the court-ordered deadline imposed in *Washington Alliance of Technology Workers v. U.S. Department of Homeland Security*, which vacated the current OPT rule on procedural grounds. Furthermore, NAFSA supports Immigration and Customs Enforcement's efforts to

mitigate court-created uncertainty while at the same time implementing the President's Executive Action calling for the extension and expansion of STEM OPT. The attached addendum provides NAFSA's specific recommendations to improve the proposed rule so as to enhance the academic benefit of STEM OPT while protecting against adverse effects to U.S. workers and exploitation of foreign students.

1. Provide Extended OPT Opportunities to All Fields of Study

Learning through experience is distinct from rote or didactic learning that takes place in the classroom. Experiential learning opportunities have become an integral part of U.S. higher education in all fields of study, and must not be reserved only for American students or, in the case of foreign students, only for STEM degrees.

The proposed rule makes clear that an expanded period of OPT will only be available to STEM degree graduates at this time. However, to address the changing nature of U.S. higher education and the demand for longer periods of experiential learning in other areas of study, a process should be identified to make expanded OPT opportunities available to foreign students pursuing areas of study outside of STEM fields.

Furthermore, as noted in the rule's supplemental information, the United States is in competition for foreign students and is losing market share to other countries as a study abroad destination, even as more students are studying outside their home countries. Foreign students' positive impact on the U.S. economy, international standing and influence extend well beyond those students who obtain STEM degrees; therefore, NAFSA urges DHS to propose new rules to expand OPT to all fields of study.

2. Ensure Flexibility in STEM Categorization

NAFSA agrees that DHS must have flexibility to identify STEM degrees for which an extended period of OPT is available to allow for potential changes as fields of study with changes in technology, academic programs, and trends. However, this flexibility is not achieved through incorporating by a footnote reference the STEM categories, or "summary groups," of a 2009 *Stats in Brief* document developed by the Department of Education's National Center for Education Statistics (NCES), Institute of Education Services (<http://nces.ed.gov/pubs2009/2009161.pdf>). While it may be preferable to identify the categories of study that fall under the individual STEM areas, unfortunately there is not a preexisting categorization that is sufficient for the STEM OPT rule. The STEM categorization must be designed to meet the dynamic needs of the STEM areas, U.S. higher education, innovation, and the goal of extending STEM OPT to more degrees. While NAFSA supports using the Department of Education Classification of Instructional Program (CIP) taxonomy to serve as the basis for degrees that qualify for STEM OPT extension, we urge DHS not to limit the STEM categories to those identified in the 2009 *Stats in Brief*.

For more than a decade, academics and policy makers have been concerned about the ability of the United States to maintain its competitive advantage in the global economy, increasing interest in STEM education. The 2009 *Stats in Brief* report was written to understand the profile of undergraduates who pursue and complete certain STEM degrees identifying categories of STEM

on which to focus the study. The categories identified were: mathematics, natural sciences, physical sciences, biological/agricultural sciences, engineering/engineering technologies, and computer/information sciences. The goal of the 2009 report was to identify outcomes of the students studying in degrees falling under those categories. Repurposing this categorization in the NPRM will unnecessarily limit the STEM degrees for which foreign student are eligible for an extended period of STEM OPT. For example, it is uncertain that numerous fields on the current DHS list, such as Naval Science, Social Psychology, and Archeology would be included under the proposed categorization. The addition of “related fields” to the limited categories does not adequately broaden the fields, nor does it provide a level of clarity or certainty needed for the rule.

A further limitation of the report is that it is based on undergraduate STEM experience, which is too narrow to capture graduate level STEM fields, especially those being pursued by students who obtained their baccalaureate-level education outside the United States, and who have come here for more specialized STEM education.

As STEM areas of study are considered the cornerstone of innovation, cutting edge research and transformational discoveries, it seems logical that STEM categorization would be dynamic as well. Therefore, the way DHS identifies degrees that make foreign students eligible for an extended period of OPT should capture the construct of STEM that is important to academia, innovation, business, or are in the national interest. The 2009 *Stats in Brief* report was a snapshot useful for a different purpose. STEM fields and education are dynamic, and the rubric from the 2009 report should not determine the scope of the STEM categories. DHS must allow for a more flexible and dynamic definition of STEM categories and degrees.

3. Assign Appropriate DSO Review of Mentoring and Training Plan

DHS fails to assign a level of review designated school officials (DSOs) must apply in the review of the new formal Mentoring and Training Plan. NAFSA recommends that DHS specify a level of review, ensuring that it is appropriate to the role of the DSO. DSO's, who maintain SEVIS data and advises foreign students, are not able to become experts in each area of STEM education or the practical application of such study. Nor are DSOs able to identify efforts to commit fraud. The level of review DSOs must apply should be similar to that which is required of the Department of Labor (DOL) when reviewing Labor Condition Applications: completeness and obvious errors or inaccuracies. To require a higher standard than the one that applies to DOL – experts in labor law – would place an undue burden on institutions of higher education as a whole and DSOs specifically. Responsibility for the accuracy and veracity of the Mentoring and Training Plan must fall to the employer and the student. Responsibility for detecting any fraud and ensuring compliance with the Mentoring and Training Plan should fall to DHS.

4. Require Appropriate Wages and Documentation

NAFSA fully supports mandating employer compliance with Federal and State requirements relating to employment. Foreign students must be paid the same as similarly situated U.S. workers. However, requirements should not be so onerous as to dissuade employers that do not already participate in the H-1B program from participating in the STEM OPT program. To meet the stated goals of expanding and extending OPT, requirements for proof of an appropriate wage must not be

so burdensome as to deter small employers or those new to the OPT program from participating in the program.

5. Ensure SEVIS Functionality

The rule will require updates to SEVIS. To support the success of the program, NAFSA urges DHS to ensure the updates are in place as soon as possible after the rule is final. NAFSA looks forward to working with the Student Exchange Visitor Program to produce guidance to the field on the SEVIS updates and the implementation of the new rule.

6. Hold Foreign Students Harmless if Deadline is Not Met

As a result of DHS's efficiency during this rulemaking process, we expect the final rule will be implemented before the February 12, 2016 deadline imposed by the court. If, however, this is unsuccessful and the current STEM OPT program ends, foreign students must be held harmless. Relief must be provided that allows STEM OPT students to maintain lawful status and continue to work until a final rule is in place.

Thank you for the opportunity to comment. If you have any questions concerning our recommendations above or in the attached addendum, please do not hesitate to contact me.

Sincerely,



Marlene M. Johnson
Executive Director and CEO

ADDENDUM

Proposed Revisions and Technical Comments

Below, please find NAFSA: Association of International Educator's proposed revisions and technical comments to the Notice of Proposed Rulemaking published at 80 Federal Register 63375 (October 19, 2015): Improving and Expanding Training Opportunities for F-1 Nonimmigrant Students with Science, Technology, Engineering, and Mathematics (STEM) Degrees and Cap-Gap Relief for All Eligible F-1 Foreign Students.

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1. Expand Employment Authorization Filing Deadlines

The proposed rule retains the current requirement that an Application for Employment Authorization (Form I-765) for standard post-completion OPT be properly filed with United States Citizenship and Immigration Services (USCIS) within 30 days of the DSO's recommendation in the Student and Exchange Visitor Information System (SEVIS), while it expands that deadline to 60 days for students applying for a STEM OPT extension.

NAFSA supports the decision to lengthen the I-765 filing window to 60 days for students applying for a STEM OPT extension, and agrees that a longer filing period "would reduce: (1) The number of USCIS denials on Forms I-765 that result from expired Forms I-20, (2) the number of associated data corrections needed in SEVIS, and (3) the number of students who would otherwise need to ask DSOs for updated Forms I-20 to replace those that have expired."

These same conditions, however, apply in equal measure to students applying for *standard* post-completion OPT, who would continue to be hampered by the existing limited 30-day filing period. Having two different I-765 filing windows serves no useful purpose, and also has the potential of confusing both students and adjudicators. Therefore, NAFSA recommends the I-765 filing period

also be extended to 60 days for students applying for standard post-completion OPT and the I-765 instructions be updated to be consistent with the regulation.

2. Allow Work Authorization while STEM OPT Extension is Pending

Like the current rule, the proposal allows a student who timely files a STEM OPT extension application to continue working while the STEM OPT application is pending, for up to 180 days beyond the expiration of the student's standard post-completion OPT. This 180-day period, however, is inconsistent with a similar provision for other nonimmigrants that recognizes a 240-day period of interim work authorization when a timely application for extension of stay is filed.

NAFSA recommends that the 180-day period of interim work authorization proposed at proposed section 274a.12(b)(6)(iv) be changed to 240 days. Employers are familiar with this timeframe from section 274a.12(b)(20), and having a common timeframe of 240 days will help employers more efficiently maintain their obligations the verify eligibility of employees to work in the United States through the I-9 Employment Eligibility Verification process, as well as accommodate lengthy USCIS processing times.

3. Allow Students to Travel while STEM OPT Extension is Pending

Current policy does not allow foreign students to travel during the pendency of an OPT extension request. This restriction is unnecessary, and hampers a student's mobility for months, given current USCIS processing times.

NAFSA recommends that DHS permit students with this interim work authorization to travel outside the United States and reenter after a period of temporary absence. To that end, NAFSA recommends the final paragraph of proposed section 214.2(f)(11)(C) be subdivided into two subparagraphs:

(C) ... If a student timely and properly files an application for such 24-month OPT extension with USCIS ~~and timely and properly requests a DSO recommendation, including by submitting the fully executed Mentoring and Training Plan to his or her DSO~~, but the Employment Authorization Document (Form I-766, or successor form) currently in the student's possession expires prior to the decision on the student's application for the OPT extension:

- (i) the student's Form I-766, or successor form, is extended automatically pursuant to the terms and conditions specified in 8 CFR 274a.12(b)(6)(iv); and
- (ii) the student, if otherwise admissible, may return to the United States to resume employment after a period of temporary absence, notwithstanding the EAD requirements specified in 8 CFR 214.2(f)(13)(ii)."

4. Recognize U.S. Accredited Institutions Abroad

The proposed rule adds a new requirement to limit eligibility for a STEM OPT extension to students with degrees from "an accredited U.S. educational institution" (i.e., accredited by an accrediting agency recognized by the Department of Education).

NAFSA recommends that DHS clarify that the term "accredited U.S. educational institution" includes accredited U.S. institutions located abroad and programs offered by accredited U.S. institutions at international branch campuses or other locations abroad, so long as the location or program located outside the United States falls under the school's institutional accreditation.

Additionally, NAFSA recommends that DHS consistently use the term "accredited U.S. educational institution" to reduce ambiguity. That term is used at proposed section (f)(10)(ii)(C)(3), but at proposed (f)(10)(ii)(C)(1), the term "educational institution accredited by an accrediting agency recognized by the Department of Education," without the qualifier "U.S." This ambiguity may create unnecessary challenges in both DSO determinations and USCIS adjudications.

5. Clarify STEM OPT Extension Based on a Previously Obtained STEM Degree

NAFSA supports the proposal to permit students to use a STEM degree other than the degree that provided the basis for the period of post-completion OPT authorized under 8 CFR 274a.12(c)(3)(i)(B), as a basis for a STEM OPT extension.

NAFSA recommends DHS clarify that this eligibility would apply to:

- a student who completes a STEM degree and then subsequently completes a non-STEM degree,
- a student who completes a double major or who receives dual degrees, one major or degree of which is in a STEM field and one of which is not, and
- a student who completes a STEM degree after a non-STEM degree, while on post-completion OPT for the non-STEM degree (e.g., the student was concurrently enrolled in two degree programs, and finishes the non-STEM program first, obtains post-completion OPT on the completed non-STEM program, then subsequently completes the STEM program while on OPT).

To further clarify eligibility, NAFSA recommends deleting the words "previously" and "previous" in proposed section 214.2(f)(10)(ii)(C)(3) and amending as follows:

(3) ~~Previously obtained~~ STEM degree(s) [other than the degree that provided the basis for the period of post-completion OPT authorized under 8 CFR 274a.12\(c\)\(3\)\(i\)\(B\)](#). The degree that is the basis for the 24-month OPT extension under paragraph (f)(10)(ii)(C) of this section may be, but is not required to be, the degree that is the basis for the post-completion OPT period authorized under 8 CFR 274a.12(c)(3)(i)(B). In either case, the degree that is the basis of the 24-month OPT

extension must have been conferred by an accredited U.S. educational institution and must be contained within a category on the current STEM Designated Degree Program List at the time of the DSO recommendation. If an application for a 24-month OPT extension under paragraph (f)(10)(ii)(C) of this section is based upon a degree ~~obtained previous to~~ other than the degree that provided the basis for the period of post-completion OPT authorized under 8 CFR 274a.12(c)(3)(i)(B) that ~~previously obtained~~ other degree must have been conferred within the 10 years preceding the student's application date, and the ~~student's most recent degree~~ degree that serves as the basis for the period of post-completion OPT authorized under 8 CFR 274a.12(c)(3)(i)(B) must also be from an institution accredited by an accrediting agency recognized by the Department of Education.

NAFSA also recommends that SEVP develop clear and reasonable guidance for DSOs who are facilitating a STEM OPT extension for a student on the basis of a degree obtained at another institution.

6. Clearly Distinguish “Degree” from “Major Area of Study”

The list of DHS-approved “STEM Designated Degree Program List” is actually a list of major areas of study. It is important the regulations preserve this distinction, especially to cover the circumstances of students with dual majors. Therefore, amend the definition at proposed section 214.2(f)(10)(ii)(C)(2) as follows:

(2) *DHS-approved degree.* The degree that is the basis for the 24-month OPT extension is a bachelor's, master's, or doctoral degree in one of the ~~degree programs~~ program categories determined by the Secretary, or his or her designee, to qualify within a science, technology, engineering, or mathematics field.

The use of the term “program categories” is also consistent with the language at proposed section 214.2(f)(10)(ii)(C)(2)(ii).

7. Provide for Reinstatement to Pursue or Reinstate OPT

Reinstatement to foreign student status should be available to allow foreign student to pursue or reinstate OPT. This is also a recommendation of the Homeland Security Academic Advisory Council. Doing so would meet the goal of making OPT available to more STEM graduates while correcting a current gap in policy.

8. Clarify Cap-Gap Extension Duration and Allow Travel during Cap-Gap Period

The proposed rule includes the current rule's cap-gap provision virtually unchanged. Under that provision, DHS would temporarily extend an F-1 student's duration of status and any current employment authorization if the student is the beneficiary of a timely filed H-1B petition and requests a change of status with a start date of October 1. As under the current rule, the cap-gap extension would extend the OPT period until October 1 (with a functional expiration date of September 30). NAFSA believes that there is an opportunity to address two issues that have unnecessarily complicated the situation for students who benefit from cap-gap treatment:

1. DHS and DOS policy regarding travel and reentry to the United States in cap-gap scenarios has been inconsistent and somewhat fractured. This rulemaking provides an excellent opportunity to clarify that during the cap-gap period, an F-1 student and the student's F-2 dependents remain eligible for an F visa and for reentry to the United States after a temporary absence abroad;
2. In some cases, USCIS processing of an H-1B/change of status petition may take longer than September 30 to adjudicate. In those cases, cap-gap employment authorization and duration of status extension terminates before the H-1B status takes effect. This rulemaking should extend H-1B status to include that additional adjudication time period.

NAFSA requests clarification as [SEVP OPT Policy Guidance](#) [9.4.2] states that "SEVP recommends that a student not travel outside the United States during the cap-gap extension, if possible, as USCIS will consider a change-of-status application to be abandoned if the applicant leaves the country while the application remains pending." See also [INS memo HQ 70/6.2.9](#), Tom Cook (June 18, 2001). The SEVP guidance does not, however, address the situation where a student with cap-gap benefits would like to travel and reenter in F-1 status *after* the H-1B change of status petition has been approved, but *before* October 1.

The current regulation causes confusion as it allows a student on post-completion OPT "who has an unexpired EAD" to reenter the United States "to resume employment after a period of temporary absence (8 CFR § [214.2\(f\)\(13\)\(ii\)](#))." Some have interpreted the reference to "an unexpired EAD" to mean that a student who has a cap-gap extension of employment authorization cannot reenter after travel abroad, simply because the EAD card itself is not extended on its face in a cap-gap benefit scenario.

The guidance in the Department of State's Foreign Affairs Manual at [9 FAM 41.61](#) N13.5-2 Cap Gap Extensions of F-1 Status and OPT, could serve as the basis for a unified DOS/DHS policy that allows travel and re-entry during the cap-gap period:

[9 FAM 41.61](#) N13.5-2: "If an F-1 student is the intended beneficiary of a timely filed I-129 petition for a cap-subject H-1B to start on October 1, the F-1 status and any OPT authorization held on the eligibility date is automatically extended to dates determined by USCIS allowing for receipt or approval of the petition, up to September 30. The

Cap Gap OPT extension is automatic, and USCIS will not provide the student with a renewed EAD. However, F-1 students in this situation can request an updated I-20 from the DSO, annotated for the Cap Gap OPT Extension, as well as proof that the I-129 petition was filed in a timely manner. Consular officers must verify that the electronic SEVIS record has also been updated before issuing a visa.”

NAFSA recommends DHS revise proposed section 215.2(f)(5)(vi) to address the above issues as follows:

(vi) *Extension of duration of status and grant of employment authorization.* (A) The duration of status, and any employment authorization granted under 8 CFR 274a.12(c)(3)(i)(B) or (C), of an F-1 student who is the beneficiary of an H-1B petition and request for change of status shall be automatically extended until [the later of the date the application for change of status is approved or](#) October 1 of the fiscal year for which such H-1B visa is being requested where such petition:

(1) Has been timely filed; and

(2) States that the employment start date for the F-1 student is October 1 of the following fiscal year.

(B) The automatic extension of an F-1 student's duration of status and employment authorization under paragraph (f)(5)(vi)(A) of this section shall immediately terminate upon the rejection, denial, or revocation of the H-1B petition filed on such F-1 student's behalf.

(C) In order to obtain the automatic extension of stay and employment authorization under paragraph (f)(5)(vi)(A) of this section, the F-1 student, according to 8 CFR part 248, must not have violated the terms or conditions of his or her nonimmigrant status.

(D) An automatic extension of an F-1 student's duration of status under paragraph (f)(5)(vi)(A) of this section also applies to the duration of status of any F-2 dependent aliens.

(E) If otherwise admissible, a student who has been granted an automatic extension of duration of status under paragraph (f)(5)(vi)(A) of this section, and any F-2 dependent aliens, may be readmitted to the United States in F status after a period of temporary absence, notwithstanding the EAD requirements specified in 8 CFR 214.2(f)(13)(ii).

(F) A student and any F-2 dependents who are readmitted to the United States pursuant to paragraph (E) will be seen as resuming their application for change of status.

9. Clarify CIP Code Mapping to STEM Categories

The proposed rule would define "STEM field" by reference to those fields included in the Department of Education Classification of Instructional Programs (CIP) taxonomy within the summary groups containing: mathematics, natural sciences (including physical sciences and biological/agricultural sciences), engineering/engineering technologies, and computer/information sciences, and related fields. If DHS retains these summary groups, NAFSA recommends it clarify how it will map CIP codes to each of the listed summary groups. Neither the Notice of Proposed Rulemaking nor the Department of Education document provide enough detail to compare the proposed list to the current list, or to provide feedback on the scope of the proposed change.

NAFSA recommends that, since the STEM OPT benefit will be linked to CIP codes, DHS consider identifying eligible CIP codes by the two-digit series of the CIP taxonomy, rather than the current six-digit series. The two-digit series represents "the most general groupings of related programs." In cases where such series is overbroad, DHS could consider using the four-digit series of the CIP taxonomy, which "represent intermediate groupings of programs that have comparable content and objectives." Even if the 2-digit series may seem to be "overbroad," designating areas of study at that level is internally limited by the fact that education at the Bachelor's level is unavailable in some fields within that series. That being the case, drilling down to the 4-digit series would only be necessary when Bachelors – Doctoral degrees are available in a field within that series that would not reasonably be considered "STEM." Referring to CIP series higher than the six-digit references currently used would efficiently identify a "STEM field" in a way that balances transparency, breadth, specificity, and flexibility.

Applying this concept to the summary groups listed in the proposed rule notice could yield, for example:

Summary Group Listed in Proposed Rule Notice	Mapping to CIP 2010 2-Digit Series
Mathematics	<ul style="list-style-type: none"> • 27) MATHEMATICS AND STATISTICS.
Natural Sciences	<ul style="list-style-type: none"> • 26) BIOLOGICAL AND BIOMEDICAL SCIENCES. • 40) PHYSICAL SCIENCES. • 41) SCIENCE TECHNOLOGIES/TECHNICIANS.
Engineering/Engineering Technologies	<ul style="list-style-type: none"> • 14) ENGINEERING. • 15) ENGINEERING TECHNOLOGIES AND ENGINEERING-RELATED FIELDS.
Computer/information sciences	<ul style="list-style-type: none"> • 11) COMPUTER AND INFORMATION SCIENCES AND SUPPORT SERVICES.

The proposed rule currently adds a final “or related fields” clause to the above list of summary groups. NAFSA recommends that this clause be read as broadly as possible, to include STEM-related fields at the 2-digit level in social sciences, health sciences, agriculture, natural resources, and conservation, and military sciences as well, for example:

Suggested “Related” Summary Groups	Mapping to CIP 2010 2-Digit Series
Social Sciences	<ul style="list-style-type: none"> • 42) PSYCHOLOGY. • 45) SOCIAL SCIENCES.
Health Sciences	<ul style="list-style-type: none"> • 51) HEALTH PROFESSIONS AND RELATED PROGRAMS. • 60) RESIDENCY PROGRAMS.
Military Sciences	<ul style="list-style-type: none"> • 28) MILITARY SCIENCE, LEADERSHIP AND OPERATIONAL ART. • 29) MILITARY TECHNOLOGIES AND APPLIED SCIENCES.
Agriculture, Natural Resources, and Conservation	<ul style="list-style-type: none"> • 01) AGRICULTURE, AGRICULTURE OPERATIONS, AND RELATED SCIENCES • 03) NATURAL RESOURCES AND CONSERVATION

To account for the increasingly multidisciplinary nature of education, the needs of the STEM pipeline and STEM industry infrastructure, and other technically-based areas of national interest, NAFSA suggests that DHS also include relevant 4-digit codes from the following the STEM-related 2-digit series:

- [04\) ARCHITECTURE AND RELATED SERVICES.](#)
- [25\) LIBRARY SCIENCE.](#)
- [30\) MULTI/INTERDISCIPLINARY STUDIES.](#)
- [43\) HOMELAND SECURITY, LAW ENFORCEMENT, FIREFIGHTING AND RELATED PROTECTIVE SERVICES.](#)
- [52\) BUSINESS, MANAGEMENT, MARKETING, AND RELATED SUPPORT SERVICES.](#)

10. Clarify Specifics of the Mentoring and Training Plan

A. Change the form number. NAFSA recommends that the proposed Mentoring and Training Plan be renumbered to something other than “910.” Students must pay a SEVIS fee on Form I-901, and the 0 and 1 could easily become transposed, creating confusion for students, schools, and adjudicators in distinguishing between I-901 and I-910.

B. Proposed Changes to the Mentoring and Training Form and Instructions. Information required in the Mentoring and Training Plan must be provided by the parties involved. NAFSA

recommends that the proposed Mentoring and Training Plan Instructions be reconfigured to more clearly delineate the information that is the responsibility of the various information sources involved in the process to avoid confusion. For example, the proposed configuration creates ambiguity for students whose STEM OPT extension is based on a prior degree. The Mentoring and Training Plan instructions should clarify the sources the student should consult to obtain the information that is not within his or her access.

Suggested amendments to the form and form instructions include:

Form Instructions

- **Employer Information, General. Students:** Complete this section of the form with information obtained from the employer. Employers: please provide this information to the student you will be mentoring and training pursuant to this plan, so the student can accurately complete this form.
- **Employer's Information:** Enter the Employer's (company's) name, mailing address, Web URL (if available), Employer Identification Number (EIN) used for tax purposes, and a valid E-Verify company identification number (or, if the Employer is using an employer agent to create its E-Verify cases, a valid E-Verify client company identification number). Both the EIN and the E-Verify number are required for employers of STEM OPT extension students.
- **Number of Full-Time Employees and Other Company Information**
 - Provide the number of full-time employees in the United States
 - State whether the Employer is classified as a Small Entity (Yes or No). Information as to whether the Employer is classified as a small entity by the Small Business Administration can be found on the SBA's website at <https://www.sba.gov/content/small-business-size-standards>. Such a determination is based either on the Employer's income level or number of employees, depending on the industry.
 - Enter the company's North American Industry Classification System (NAICS) code. Information on NAICS codes can be found on the U.S. Census Bureau website at <http://www.census.gov/eos/www/naics/>. Federal statistical agencies use the NAICS code to classify business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

Form

- **Reduce ambiguity of information source on the form.** The form should also separate different aspects and sources of information to reduce ambiguity. For example:

SECTION 1: STUDENT INFORMATION

Student Name (Surname/Family Name, Given Name)	
Student SEVIS ID Number	Student Email Address

SECTION #: INFORMATION ON CURRENT STANDARD PERIOD OF OPT	
Name of School that Recommended Current OPT	DSO Name and Contact Information
School Code (including 3-digit suffix)	Current Post-Completion OPT EAD Dates From: (mm-dd-yyyy) Expires: (mm-dd-yyyy)
USCIS number listed on the front of OPT EAD	

SECTION #: INFORMATION ON DEGREE ON WHICH THIS STEM OPT EXTENSION IS BASED	
The degree on which this STEM OPT extension is:	
<input type="checkbox"/> A. The same degree on which my current period of standard OPT is based <input type="checkbox"/> B. Another degree obtained at the same institution <input type="checkbox"/> C. Another degree obtained at a different institution	
Level of Qualifying Degree Bachelors Masters Doctoral	Date Awarded (mm-dd-yyyy)
Major and Qualifying CIP Code Major: _____ Qualifying CIP Code: _____	
INFORMATION ON SCHOOL WHERE STEM-EXTENSION QUALIFYING DEGREE WAS OBTAINED (If different than school identified in Section #)	
School Name and Campus Name	

School Code (including 3-digit suffix)

- **Eliminate unnecessary fields.** Remove the field “Training Field” found in the “Employer Site Information” block of the Mentoring and Training Plan. This field is unnecessary, since a detailed description of the training opportunity is already required in other fields. The term “Training Field” is also very ambiguous, especially since the proposed instructions state that the “type of training” should be indicated in this field, which doesn’t match the label “Training Field.”
- **Provide link to correct website.** The proposed form requests the “School Code (including 3-digit suffix),” which we believe corresponds to a school’s SEVIS code. The instructions, however, direct the form-filler to a Department of Education financial aid webpage in the fafsa.ed.gov domain, which supplies a 6-digit “Federal School Code” used for financial aid purposes, rather than a SEVIS School Code.
- **Revise Form Related to Student Evaluation.** NAFSA recommends that DHS reconsider the process for the students to submit their six-month evaluations to their DSO. For example, since the six-month evaluation blocks are contained within the body of the proposed form, it is not clear whether a student would have to entirely complete pages 1-4 and secure signatures on those pages each time a six-month evaluation is submitted. Instead, NAFSA suggests that DHS revise the proposed Form I-910 to include an evaluation-feedback *supplement* that can be submitted separately, and which could be linked to the plan already on file with the school. For example:

Form I-910 Supplement: Six-Month Evaluation/Feedback On Student Progress
Pursuant to 8 CFR 214.2(f)(10)(ii)(C)(9), the student must submit this supervisor-approved self-assessment to the student’s DSO within 10 business days of each six-month reporting date established during the student’s STEM OPT extension period.
Provide a self-assessment of your performance, using the measures previously identified, in applying and acquiring new knowledge, skills, and competencies identified in the STEM Mentoring and Training Plan. Discuss accomplishments, successful projects, overall contributions, etc., during his review period. Address whether there are any modifications to the objectives and goals for projects, or new areas for skill and competency development.

Range of Evaluation Dates (mm-dd-yyyy): From _____ To _____	
Signature of Student _____	
Printed Name of Student _____	Date (mm-dd-yyyy) _____
SEVIS ID of Student _____	
Signature of Supervisor _____	
Printed Name of Supervisor _____	Date (mm-dd-yyyy) _____
Employer Name _____	

C. Prepare for future improvements to the forms. NAFSA recommends that DHS consider systematizing the collection of evaluation data on the proposed Form I-910. Doing so will aid in accessing the data for future improvements to the form.

D. Update regulations to reflect form requirements. NAFSA recommends DHS amend the regulations to add any elements that appear in the student and employer attestations on the proposed Form I-910, but do not have clear parallels in the regulations themselves. Two examples of an attestation element without a regulatory parallel are as follows:

- The Employer Certification (section 4) of the proposed Form I-910 requires employers to certify that they “will notify the DSO at the earliest available opportunity regarding any material changes to or material deviations from this Plan, including, but not limited to, a change in supervisor.”
- The Student Certification (section 2) and the Supervisor Certification (section 6) of the proposed Form I-910 both contain an element regarding the student’s and the supervisor’s responsibility to “notify the DSO at the earliest possible opportunity if I believe that [the Student] is not receiving appropriate mentorship and training as delineated in this Plan.”

NAFSA suggests that this element could be addressed by subdividing proposed section 214.2(f)(10)(ii)(C)(6), and adding provisions that address employer reporting. (6) *Employer reporting*. A student may not be authorized for employment with an employer pursuant to paragraph (f)(10)(ii)(C)(2) of this section unless the respective parties agree, by signing the Mentoring and Training Plan, to report the following:

(i) the employer agrees to report the termination or departure of an OPT student to the DSO at the student's school, if the termination or departure is prior to the end of the authorized period of OPT. Such reporting must be made within 48 hours of the termination or departure. An employer shall consider a student to have departed when the employer knows the student has left the practical training opportunity, or if the student has not reported for his or her practical training for a period of five consecutive business days without the consent of the employer, whichever occurs earlier;

(ii) the employer agrees to notify the DSO at the earliest available opportunity regarding any material changes to or material deviations from this Plan, including, but not limited to, a change in supervisor; and

(ii) the student and the mentoring/training supervisor designated by the employer agree, by signing the Mentoring and Training Plan, to notify the DSO at the earliest possible opportunity if either believes that the Student is not receiving appropriate mentorship and training as delineated in the Mentoring and Training Plan.