

**Department of Homeland Security's Response to
Ranking Member Charles E. Grassley's February 17, 2022 Letter**

- 1. Please describe the process by which a USCIS officer adjudicates an application for an Employment Authorization Document submitted by an F-1 student seeking a STEM-based extension of the Optional Practical Training period.**

The U.S. Citizenship and Immigration Services (USCIS) adjudicator verifies that the Classification of Instructional Programs (CIP) code listed in the Student and Exchange Visitor Information System (SEVIS) record, and on the Form I-20, matches the program of study on the diploma/transcript and confirms the CIP code is on the approved Department of Homeland Security (DHS) Science, Technology, Engineering, and Mathematics (STEM) Designated Degree Program List.

- 2. Does USCIS or ICE/SEVP determine, for every OPT STEM extension/EAD application, whether the CIP code alleged by the school or EAD applicant actually corresponds to the student's degree program, or is the applicant's/school's proffered CIP code just accepted without question?**

Educational institutions assign CIP codes for their degree programs in accordance with the specific degree requirements. The process by which schools determine and assign a CIP code may vary by school, and DHS does not redetermine the CIP code for each individual case. For example, as noted in the referenced January 2019 letter from the University of California, Berkeley (UC Berkeley), UC Berkeley explained that "CIP code determinations are made at the University level, not by the Designated School Official (DSO), and have final approval from the University of California Office of the President, after review and approvals by the University Registrar, Office of Planning and Analysis, and (for graduate students) the Graduate Division."

Similarly, at New York University (NYU), any department interested in requesting a CIP code change for a bachelor, master, or doctoral program must submit a formal written proposal to the University Registrar requesting approval from the NYU CIP Code Review Committee.¹ The proposal must contain, at a minimum, the following elements: (1) a completed CIP Code Committee Request Form; (2) evidence that the new code and title are consistent with the existing program curriculum, title, and outcomes; (3) a curriculum grid demonstrating that a reasonable majority of the required courses have titles, descriptions, assessments, and learning outcomes consistent with the proposed CIP code; (4) evidence of sufficient department faculty to offer the courses on the rotation designated in the curriculum document; and (5) evidence that a plan exists to offer current courses to current students without interruption if there is a new curriculum implemented in line with the updated CIP code. The request should also demonstrate support for the change from relevant Deans, Department Chairs, and Academic Program Directors.

¹ NYU CIP Codes, New York University Student Information and Resources - <https://www.nyu.edu/students/student-information-and-resources/registration-records-and-graduation/forms-policies-procedures/CIP-codes.html>.

While DHS does not redetermine CIP codes for each individual case, if schools are found to use inappropriate or fraudulent CIP codes for a degree program listed on an F-1 student's application for STEM Optional Practical Training (OPT), U.S. Immigration and Customs Enforcement (ICE) is authorized to pursue corrective action against the DSO and/or seek withdrawal of the school's certification by the Student and Exchange Visitor Program (SEVP). This type of fraud could be discovered through SEVP-initiated investigations of schools and/or STEM OPT employers. In addition, SEVP regularly reviews the STEM OPT Form I-983, "Training Plan for STEM OPT Students" which could also identify false or misleading information.

3. What is the standard according to which USCIS and/or SEVP determines whether a degree program is described by a CIP code proffered by the school and/or EAD applicant?

As described in detail in the response to Question 2, schools assign CIP codes according to the particular focus of their degree programs. DHS does not redetermine those designations, but the SEVP Analysis and Operations Center works to identify fraud and abuse within the STEM OPT program and coordinates either administrative or criminal investigations as appropriate.

4. The U.S. Department of Education states on its CIP code website:

In some cases, instructional programs may be found in one or more [CIP code] series. For example, a person can receive a degree in Statistics from a program that focuses on mathematical models; this program would be coded under code 27.0501 Statistics, General. On the other hand, a person can receive a degree in Statistics from a program which focuses on the applications of statistical methods to the description, analysis, and forecasting of business data; this degree would be coded under code 52.1302 Business Statistics.

This would appear to be the loophole that U.C. Berkeley has used to assert that the CIP code for its MBA degree programs should be changed from "Business Administration and Management, General," which is definitely not on the STEM OPT List, to "Management Science," which is on the OPT STEM List. U.C. Berkeley claims this is appropriate because its MBA programs "focus [...] on the application of statistical modeling, data warehousing, data mining, programming, forecasting and operations research techniques to the analysis of problems of business organization and performance"; these are, of course, the exact words used to describe the Management Science CIP code.

a. Do USCIS and SEVP agree with U.C. Berkeley that its MBA programs are described by a CIP code on the STEM OPT List?

Although the final STEM OPT rule in 2016 "decline[d] to define STEM fields to generally include patient care and business fields of study" because "these fields do not

generally fall within the rubric of STEM fields,” it adopted some business-related degrees as being eligible for STEM OPT, such as Management Science (52.1301), Business Statistics (52.1302), Actuarial Science (52.1304), and Management Science and Quantitative Methods (52.1399).² In addition, the STEM OPT rule adopted as eligible for STEM OPT specific degrees related to economics such as Econometrics and Quantitative Economics (45.0603) and Pharmacoeconomics/Pharmaceutical Economics (51.2007). Therefore, the fact that not all business management programs are not classified as eligible for STEM OPT does not negate the fact that certain business degree programs fit within traditional STEM criteria.

Schools may design degree programs with specific concentrations or requirements. DHS does not redetermine those decisions and the processes by which they are approved. DHS uses data analytics and other tools to identify and investigate potential abuses of the STEM OPT program and takes enforcement actions when warranted.

b. What, exactly, is the test or standard by which USCIS and/or SEVP assess whether a certain degree program “focuses” in a field of study to such an extent that it can be considered to be described by the CIP code corresponding to the field of study that is the subject of the “focus”?

Individual institutions of higher education determine the curricula and corresponding focus of their degree programs and assign CIP codes based on their institutional guidelines or policies and applicable state or accrediting body standards.

Consistent with the 2016 STEM OPT rule, and as restated in the 2022 DHS STEM Designated Degree Program List update, when assessing a CIP code nomination for inclusion in the STEM OPT program, SEVP assesses “whether the degree is generally considered to be a STEM degree by recognized authorities, including input from educational institutions, governmental entities, and non-governmental entities. SEVP also reviews the National Center for Education Statistics’ (NCES) definition of the CIP code and any supporting material submitted by the nominator such as the required curriculum for the degree and the extent to which it is comprised of core STEM disciplines as well as research, innovation, and development of new technologies using engineering, mathematics, computer science, or natural sciences (including physical, biological, and agricultural sciences).”³

² 81 Fed. Reg. 13040, 13075 (March 11, 2016).

³ 87 Fed. Reg. 3317, 3318 (Jan. 21, 2022).

- 5. In the examples above, the schools announce that they have “redesignated” or “reclassified” certain degree programs as “STEM” degree programs described by CIP codes on the STEM OPT List. Has USCIS or SEVP played any role in those redesignations/reclassifications, or in any way consulted with those or other schools on such redesignations/reclassifications before those redesignations/reclassifications were made?**

No, DHS Components are not involved in decisions by academic institutions to alter their curricula. Rather, DHS is responsible for investigating fraud or abuse with respect to the STEM OPT program, including following school changes in CIP code designations. To assist in this process, DHS uses data analytics to identify trends or anomalies related to degree programs and CIP code designations.

For example, as discussed in the response to Question 8 below, there could be a concern that degrees in Classic Civilizations or Classics and Art History are being redesignated solely to skirt STEM OPT restrictions. The degree programs referenced in Question 8 relating to Classic Civilizations and Classics and Art History are listed under the CIP code for Archeology (45.0301), which is defined by NCES as “a program that focuses on the systematic study of extinct societies, and the past of living societies, via the excavation, analysis and interpretation of their artifactual, human, and associated remains. Includes instruction in archeological theory, field methods, dating methods, conservation and museum studies, cultural and physical evolution, and the study of specific selected past cultures.”⁴ Given this definition, there is a plausible relationship between degrees in Classics and those in Archeology, the latter of which has been a recognized STEM OPT degree for years. With regard to Question 8 below, the degree program at NYU for Classics and Art History places an emphasis on archeology and requires “six 4-point courses in classical archeology.”⁵

DHS has the authority to investigate whether the designation by NYU of its Classic Civilizations or Classics and Art History degrees programs is an abuse of the STEM OPT program. Looking at DHS data from 2010 to 2022, there have been no STEM OPT extensions for students graduating with a classic’s degree, indicating it is not currently being abused as a feeder degree for STEM OPT opportunities.

- 6. Do USCIS and SEVP agree with U.C. Berkeley, per the 2019 letter to adjudicators referenced above, that its bachelor and master’s degree programs in journalism qualify as STEM degree programs under the CIP code for “Digital Communication and Media/Multimedia”?**

As previously stated, schools assign CIP codes that match the specific aspects of their degree programs. In this case, looking at DHS data for all students who participated in the STEM

⁴ Link to National Center for Education Statistics – Detail for CIP Code 45.0301, Archeology - <https://nces.ed.gov/ipeds/cipcode/cipdetail.aspx?y=55&cid=88572#:~:text=Title%3A%20Archeology.,%2C%20human%2C%20and%20associated%20remains.>

⁵ Link to NYU Department of Classics’ description of degree programs - <https://cas.nyu.edu/content/nyu-as/cas/academic-programs/bulletin/departments-and-programs/departments-of-classics/program-of-study-cas-bulletin.html>.

OPT program between 2019–2022, students who had journalism degrees and participated in STEM OPT frequently had a second degree in Computer Science, Econometrics, Chemistry, or another STEM major. The data do not necessarily evince inappropriate degree designations or regulatory violations.

7. Do USCIS and SEVP agree with Georgia State University that its M.A. Economics degree is described by a CIP code on the STEM OPT List?

In this case, looking at DHS data on all Georgia State University students following Georgia State’s redesignation of its Master of Arts (M.A.) in Economics (CIP code 45.0603, titled Econometrics and Quantitative Economics by NCES) as a STEM degree in 2020,⁶ there are no students who have received STEM OPT approval based on that CIP code. There was one student in 2017 who studied for an M.A. in Economics from Georgia State with the CIP code 45.0601 (titled Economics, General by NCES), which is not a qualifying degree on the DHS STEM Designated Degree Program List. However, the student did receive approval for a STEM OPT extension based on their undergraduate degree in Mathematics, General (CIP code 27.0101), which they earned in 2014.

8. Do USCIS and SEVP agree with New York University, per its announcement referenced above, that the following degree programs at NYU are described by a CIP code on the STEM OPT List?

- **BA, Classical Civilization;**
- **BA, Classics and Art History;**
- **BA, Economics;**
- **BA, Journalism; and**
- **MA/MS, Drama Therapy.**

As noted above, DHS does not redetermine those decisions in each individual case. DHS uses data analytics to identify and investigate potential abuses of the STEM OPT program and takes enforcement actions when warranted.

In looking at the SEVIS data for NYU students who have participated in STEM OPT based on a bachelor’s degree in Classical Civilization (CIP code 45.0301, titled Archeology by NCES)⁷ or Classics and Art History (CIP code 45.0301, titled Archeology by NCES), there is no indication of abuse in the program. In fact, no students have received STEM OPT approval based on those CIP codes dating back to 2010, which indicates that NYU’s Classics degrees are not being used inappropriately to promote STEM OPT opportunities.

For a bachelor’s degree in Economics (CIP code 45.0603, titled Econometrics and Quantitative Economics by NCES) at NYU, there were a total of 169 students approved for STEM OPT since 2010.

⁶ Georgia State’s Advanced Economics Degrees Attain STEM Designation, Georgia State News Hub, May 26, 2020, <https://news.gsu.edu/2020/05/26/georgia-states-advanced-economics-degrees-attain-stem-designation/>.

⁷ All CIP code designations listed for NYU are according to NYU’s website at: <https://www.nyu.edu/students/student-information-and-resources/student-visa-and-immigration/alumni/extend-your-opt/stem-opt/nyu-stem-designated-programs-for-f-1-students.html>

For a bachelor's degree in Journalism (CIP code 09.0702, titled Digital Communication and Media/Multimedia by NCES) at NYU, there were only seven students approved for STEM OPT since 2010.

For a master's degree in Drama Therapy (CIP code 42.2703, titled Developmental and Child Psychology by NCES) at NYU, there were only four students approved for STEM OPT since 2010.

The current data indicate that NYU is not utilizing CIP Code designations in degree programs such as Classic Civilizations, Economics, Journalism, or Drama Therapy in an inappropriate or fraudulent manner.

9. Would DHS please provide a breakdown of STEM OPT extensions granted in FY2019, FY2020, and the current fiscal year to date, according to degree program title supplied by the applicant/university (e.g., M.A. Economics), and the CIP code under which it was classified?

The attached Excel file (STEM OPT Extensions FY 2019 to FY 2022) contains SEVIS data on STEM OPT extensions granted to F-1 students by USCIS in Fiscal Years 2019, 2020, 2021, and 2022 to date. Column A in the file lists a student's education level (i.e., a bachelor's degree). Column B lists the CIP code for a student's primary degree major, followed by the title of the major in Column C. Column D contains the CIP code for any secondary degree major listed in SEVIS for students with that primary major, followed by the title of the secondary major in Column E. In the cases of students who had only a primary major, the data points for Columns D and E are listed as "00.0000" and "None." Column F contains the number of students with those primary or primary and secondary majors who were granted STEM OPT extensions during the identified fiscal year.

F-1 students are eligible to apply for the STEM OPT extension if their primary or secondary major⁸ has a CIP code included on the DHS STEM Designated Degree Program List. Eligible students may only apply once per education level, even if both their primary and secondary majors have a CIP code that qualifies for the STEM OPT extension.

⁸ "An extension will be for 24 months for the first qualifying degree for which the student has completed all course requirements (excluding thesis or equivalent), including any qualifying degree as part of a dual degree program, subject to the requirement in paragraph (f)(10)(ii)(C)(3) of this section that previously obtained degrees must have been conferred." 8 *CFR* 214.2(f)(10)(ii)(C).

10. As noted above, in the recent Federal Register notice announcing the addition of 22 new fields of study to the STEM OPT List, DHS discussed how it evaluates potential additions to the list, which includes assessing whether the degree is generally considered to be STEM by “recognized authorities” such as educational institutions, governmental entities, and non-governmental entities. As previously mentioned, DHS either could not or did not point to any other “recognized authorities” that actually classified the vast majority of the 22 new STEM OPT List additions as STEM degrees. For the few new additions where an official STEM classification was cited, DHS generally pointed to classification lists maintained by either the Department of Veterans Affairs or the National Science Foundation.

- a. Assuming DHS undertook the same review process for each of the 22 new additions to the STEM OPT List, please provide the full list of governmental entities and non-governmental entities DHS considered, referenced, or consulted for purposes of assessing whether each of the proposed fields of study qualified as a STEM degree worthy of addition to the STEM OPT List.**

In addition to reviewing nomination materials submitted by educational institutions, governmental entities, and non-governmental entities, ICE referenced resources from the following entities as part of its overall assessment in reviewing degree nominations and determining which CIP codes to add to the DHS STEM Designated Degree Program List in January 2022.

- U.S. Department of Education’s NCES, which defines and publishes the biennial list of CIP codes used by educational institutions.
- U.S. Department of Veterans Affairs, which maintains its own list of CIP codes considered to be STEM.
- National Science Foundation, which maintains its own list of CIP codes considered to be STEM.
- U.S. Department of Defense.
- The White House Office of Science and Technology Policy.

- b. Similarly, please provide the full list of educational institutions DHS considered, referenced, or consulted for purposes of assessing whether each of the 22 proposed fields of study qualified as a STEM degree worthy of addition to the STEM OPT List.**

In preparing the January 2022 update to the DHS STEM Designated Degree Program List, DHS reviewed and assessed all CIP code nominations and supporting material submitted by members of the public, including educational institutions. In accordance with past practice, DHS did not consult with individual institutions of higher education in determining which of the CIP code nominations would be added to the list.

11. In the recent Federal Register notice, DHS also stated that, in assessing whether a degree is worthy of addition to the STEM OPT List, it analyzes the extent to which a degree “is comprised of core STEM disciplines as well as research, innovation, and development of new technologies using engineering, mathematics, computer science, or natural sciences (including physical, biological, and agricultural sciences).”

- a. Please describe, in detail, how DHS determines that a given degree program is sufficiently comprised of core STEM disciplines or “research, innovation, and development of new technologies,” using mathematics, engineering, etc. to warrant inclusion on the STEM OPT List. As an example, do core STEM disciplines have to comprise a specified or minimum number of academic credit hours in the degree curriculum in order for the degree to qualify for the STEM OPT List?**

SEVP evaluates submissions to assess whether the degree is generally considered to be a STEM degree by recognized authorities, including input from educational institutions, governmental entities, and non-governmental entities. SEVP also reviews the NCES definition of the CIP code and any supporting material submitted by the nominator such as the required curriculum for the degree and the extent to which it is comprised of core STEM disciplines as well as research, innovation, and development of new technologies using engineering, mathematics, computer science, or natural sciences (including physical, biological, and agricultural sciences). The degree requirements and curriculum may be assessed across academic institutions to ensure that the core aspects of the degree are sufficiently consistent among educational institutions. A proposed addition does not have to have all supporting elements to be added to the STEM list. DHS assesses the totality of a submission and may approve a proposed CIP code if it presents sufficient evidence and reasoning to establish that the regulatory definition of a STEM field encompasses the degree under consideration.

- b. Does DHS consult with any other authorities or entities when making such determinations?**

DHS does not consult with any other authorities or entities in making its determinations regarding updates to the DHS STEM Designated Degree Program List. For the latest update to the DHS STEM Designated Degree Program List, DHS did reference resources from the following entities as part of its overall assessment in reviewing degree nominations and determining which CIP codes to add to the DHS STEM Designated Degree Program List in January 2022.

- U.S. Department of Education’s NCES, which defines and publishes the biennial list of CIP codes used by educational institutions.
- U.S. Department of Veterans Affairs, which maintains its own list of CIP codes considered to be STEM.
- National Science Foundation, which maintains its own list of CIP codes considered to be STEM.
- U.S. Department of Defense.
- The White House Office of Science and Technology Policy.

12. Finally, in the recent Federal Register notice, DHS stated that degree and curriculum requirements “may be assessed across academic institutions to ensure that the core aspects of the degree are sufficiently consistent among educational institutions.”

- a. For purposes of carrying out this assessment, how does DHS define “core aspects of the degree” and “sufficiently consistent?”**

As stated in the 2022 DHS STEM Designated Degree Program List update, “SEVP evaluates submissions to assess whether the degree is generally considered to be a STEM degree by recognized authorities, including input from educational institutions, governmental entities, and non-governmental entities. SEVP also reviews the NCES definition of the CIP code, and any supporting material submitted by the nominator such as the required curriculum for the degree and the extent to which it is comprised of core STEM disciplines as well as research, innovation, and development of new technologies using engineering, mathematics, computer science, or natural sciences (including physical, biological, and agricultural sciences.”⁹

- b. Did DHS carry out such an assessment on any of the 22 new additions to the STEM OPT List? If so, on which of the 22 new additions was such an assessment conducted?**

ICE determined that such an assessment was not needed for the January 2022 update to the DHS STEM Designated Degree Program List. As noted in the update, ICE “may” make such an assessment. This is not a requirement. The update also notes that “A proposed addition does not have to have all supporting elements to be added to the STEM list. DHS assesses the totality of a submission and may approve a proposed CIP code if it presents sufficient evidence and reasoning to establish that the regulatory definition of a STEM field encompasses the degree under consideration.”¹⁰

- c. For each of the 22 new degrees on which such an assessment was carried out, please list the academic and educational institutions DHS considered, referenced, or consulted.**

DHS determined that such an assessment was not needed for the January 2022 update to the DHS STEM Designated Degree Program List. All degrees added in this recent update are in the 18 identified related fields on the DHS STEM Designated Degree Program List, which are fields involving research, innovation, or development of new technologies using engineering, mathematics, computer science, or natural sciences.

⁹ 87 Fed. Reg. 3317, 3318 (Jan. 21, 2022).

¹⁰ *Id.*