

STEM OPT Site Visits

by Ieva Aubin

US companies that employ foreign students in F-1 STEM (Science, Technology, Engineering and Math) Optional Practical Training (OPT) status should be aware of a recently announced practice by Immigration and Customs Enforcement (ICE) to implement on-site visits at employers sites for the purpose of investigating the nature of the STEM employment and training. We know that many of our clients take advantage of the STEM OPT Optional program. Through this program, an international student pursuing a degree in a STEM field can obtain employment authorization for a specific employer for up to 24 months beyond the 12 months of employment permitted under “regular” OPT. The STEM OPT employment is meant to provide training directly related to the student’s course of study in the United States.

Recently ICE has substantially increased its efforts and activities related to on-site visits for STEM OPT workers. ICE has always had the authority to visit STEM OPT worksites, but it seems that recently the frequency of these visits has substantially increased.

This means that you should be prepared for a potential visit from ICE officers if you employ international students on STEM OPT. Here are some useful notes and strategies to prepare for a potential site visit from ICE:

1. First – anticipate an ICE visit by being prepared. Employers are required to set forth the STEM OPT Training Program when completing the Form I-983, which must be signed by the student and a representative of the company. Take care to articulate the specific goals and evaluation methods that will be implemented in the training program and follow and be sure the manager carefully records the progress and adheres to the training protocols. STEM OPT students and their managers should take time to review these plans and be able to articulate the training goals, how progress towards the goals is being assessed, and how the student’s course of study relates to the training plan and STEM OPT employment.
2. ICE should provide 48 hours advance notice to the employer prior to any site visit, unless the visit is triggered by a complaint or other evidence of noncompliance with the STEM OPT regulations. In such cases, ICE can conduct a site visit without notice.

Related People

- Ieva Aubin

Related Capabilities

- Labor & Employment
- Labor & Employment Guides
- Immigration

3. Employers should establish a protocol to follow in the event of a site visit. Ensure that all front desk personnel understand the protocol and know to whom they should refer an ICE officer before allowing the officer to proceed into the workplace.
4. It appears that ICE is largely asking basic questions about the employment to confirm compliance. This is where completion and adherence to the Training Plan set forth on Form I-983 will help minimize adverse consequences.
5. If you employ STEM OPT workers at a 3rd party worksite, you should be able to explain and potentially document how you, the employer, and not the 3rd party, are providing and overseeing the STEM OPT worker's training. Note that the site visit will likely occur directly at the 3rd party worksite.

Finally, if you are contacted by ICE or any other federal agency with immigration oversight (USCIS, Department of Labor, Department of State), the first thing you should do is contact your immigration attorney at Dorsey & Whitney and we will be able to provide case-specific advice.