

remainder of the pay period shall be subject to the limitations in 5 U.S.C. 6304(a), (b), and (c), as appropriate.

(g) When an employee covered by paragraph (e) of this section moves to a position not covered by paragraph (e) of this section, any annual leave accumulated while serving in the former position that is in excess of the amount allowed for the position by 5 U.S.C. 6304(a), (b), or (c) shall remain to the employee's credit and shall be subject to reduction under procedures identical to those described in 5 U.S.C. 6304(c).

\* \* \* \* \*

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## MERIT SYSTEMS PROTECTION BOARD

### 5 CFR Part 7401

RIN 3209-AA15

#### Supplemental Standards of Ethical Conduct for Employees of the Merit Systems Protection Board

**AGENCY:** Merit Systems Protection Board (MSPB).

**ACTION:** Final rule.

**SUMMARY:** The Merit Systems Protection Board, with the concurrence of the Office of Government Ethics (OGE), is adopting as final, without change, the interim MSPB rule that supplements the executive-branch-wide Standards of Ethical Conduct (Standards) issued by OGE and, with certain exceptions, requires MSPB employees to obtain approval before engaging in outside employment.

**DATES:** This final rule is effective April 8, 2008.

**FOR FURTHER INFORMATION CONTACT:** B. Chad Bungard, General Counsel, Merit Systems Protection Board, fax: (202) 653-6203; e-mail: [mspb@mspb.gov](mailto:mspb@mspb.gov).

**SUPPLEMENTARY INFORMATION:** The MSPB published, with OGE concurrence, an interim rule at 72 FR 26533, on May 10, 2007, governing the conduct of MSPB employees and requested comments. No comments were received. The MSPB has determined, with OGE concurrence, to adopt the interim rule as final without change. The interim rule being adopted as final provides that an MSPB employee, other than a special Government employee, must obtain approval before engaging in outside employment. The rule defines outside employment and sets out the procedures for seeking approval. The rule also provides that the Designated Agency Ethics Official (DAEO) or alternate

DAEO may exempt certain categories of employment from the prior approval requirement.

For a detailed section analysis of this final rule, see the preamble of the interim rule as published at 72 FR 26533.

#### Regulatory Flexibility Act

The MSPB has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. chapter 6, that this rulemaking will not have a significant economic impact on a substantial number of small entities because it primarily affects MSPB employees.

#### Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. chapter 35, does not apply because this rulemaking does not contain information collection requirements subject to the approval of the Office of Management and Budget.

#### Congressional Review Act

The Merit Systems Protection Board has determined that this rule is not a rule as defined in 5 U.S.C. 804, and thus, does not require review by Congress.

#### List of Subjects in 5 CFR Part 7401

Conflict of interests, Government employees.

#### Authority and Issuance

■ Accordingly, the Merit Systems Protection Board, with the concurrence of the Office of Government Ethics, is adopting the interim rule adding 5 CFR chapter LXIV, consisting of part 7401, which was published at 72 FR 26533 on May 10, 2007, as a final rule without change.

Dated: March 19, 2008.

**Neil A.G. McPhie,**

*Chairman, Merit Systems Protection Board.*

Approved: March 31, 2008.

**Robert I. Cusick,**

*Director, Office of Government Ethics.*

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## DEPARTMENT OF HOMELAND SECURITY

### 8 CFR Parts 214 and 274a

[DHS No. ICEB-2008-0002; ICE No. 2124-08]

RIN 1653-AA56

#### Extending Period of Optional Practical Training by 17 Months for F-1 Nonimmigrant Students With STEM Degrees and Expanding Cap-Gap Relief for All F-1 Students With Pending H-1B Petitions

**AGENCY:** U.S. Immigration and Customs Enforcement, U.S. Citizenship and Immigration Services; DHS.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** Currently, foreign students in F-1 nonimmigrant status who have been enrolled on a full-time basis for at least one full academic year in a college, university, conservatory, or seminary certified by U.S. Immigration and Custom Enforcement's (ICE's) Student and Exchange Visitor Program (SEVP) are eligible for 12 months of optional practical training (OPT) to work for a U.S. employer in a job directly related to the student's major area of study. This interim final rule extends the maximum period of OPT from 12 months to 29 months for F-1 students who have completed a science, technology, engineering, or mathematics (STEM) degree and accept employment with employers enrolled in U.S. Citizenship and Immigration Services' (USCIS') E-Verify employment verification program. This interim rule requires F-1 students with an approved OPT extension to report changes in the student's name or address and changes in the employer's name or address as well as periodically verify the accuracy of this reporting information. The rule also requires the employers of F-1 students with an extension of post-completion OPT authorization to report to the student's designated school official (DSO) within 48 hours after the OPT student has been terminated from, or otherwise leaves, his or her employment with that employer prior to end of the authorized period of OPT.

This rule also ameliorates the so-called "cap-gap" problem by extending the authorized period of stay for all F-1 students who have a properly filed H-1B petition and change of status request (filed under the cap for the next fiscal year) pending with USCIS. If USCIS approves the H-1B petition, the students will have an extension that enables them to remain in the United