



# EXPANSION OF STEM FIELDS AS AN EXAMPLE OF ADMINISTRATIVE FIXES FOR A BROKEN IMMIGRATION SYSTEM

Posted on May 13, 2011 by Cyrus Mehta

## By Cyrus D. Mehta

I was pleased to see the announcement below. Immigration and Customs Enforcement, (ICE) of all agencies, expands immigration benefits to students who have graduated in science, technology, engineering and math degree programs (STEM) fields. ICE, which has been deporting non-citizens in high numbers in recent times, ironically acknowledges that this is a "continued commitment to fixing our broken immigration system and expanding access to the nation's pool of talented high skilled graduates in science and technology fields."

The 17 month extension of Optional Practical Training for STEM graduates is a good example of how the Administration can fix problems within our broken immigration system in the face of Congressional inaction. The 17-month extension was in response to the crisis caused by the H-1B cap in previous years. Even if presently, under the FY2012 H-1B cap, there are still plenty of H-1B visas, the quota is likely to get filled prior to the end of FY 2012. The expansion of STEM fields will benefit both employers and foreign students when they are next confronted with the filling of the H-1B cap. The 17-month STEM OPT extension rule was promulgated in the absence of any Congressional action. The rule also withstood a court challenge by the Programmers Guild in the Third Circuit on the ground that Congress acquiesced by never objecting to the concept of practical training whenever it previously legislated on immigration. See [Programmers Guild, Inc. v. Chertoff](#), 338 Fed. Appx. 239 (3rd Cir. 2009).

In [The Tyranny of Priority Dates](#) by Gary Endelman and Cyrus D. Mehta, we have forcefully

argued that the Administration has the power to creatively fix our immigration system administratively, and used the STEM OPT extension as an example. What is intriguing about this ICE announcement that it comes closely on the heels of President Obama's speech on immigration in El Paso on May 10. While many think that Obama's recent meetings on immigration and his El Paso speech do not amount to much, the fact that his administration expanded STEM fields after the speech reveals that he may still have a nuanced plan to change the game on immigration. Expanding STEM fields is a baby step, and he can do a lot more administratively such as halting deportations for [DREAM students](#). The President can justify such administrative fixes as our immigration system no longer works and is not what Congress intended when it enacted the preference system in 1965, which was expanded in 1990., but is unable to cope with present day realities. By taking bold administrative steps now, he can force Congress to bless them later either through acquiescence (by taking no action) or by affirming through legislation.



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### **ICE announces expanded list of science, technology, engineering, and math degree programs**

*Qualifies eligible graduates to extend their post-graduate training*

WASHINGTON - U.S. Immigration and Customs Enforcement (ICE) today published an expanded list of [science, technology, engineering, and math \(STEM\)](#) degree programs that qualify eligible graduates on student visas for an Optional Practical Training (OPT) extension-an important step forward in the Obama administration's continued commitment to fixing our broken immigration system and expanding access to the nation's pool of talented high skilled graduates in the science and technology fields.

The announcement follows President Obama's recent remarks in El Paso, Texas, where he reiterated his strong support for new policies that embrace talented students from other countries, who enrich the nation by working in science and technology jobs and fueling innovation in their chosen fields here in the United States, as a part of comprehensive reform.

By expanding the list of [STEM](#) degrees to include such fields as Neuroscience,

Medical Informatics, Pharmaceutics and Drug Design, Mathematics and Computer Science, the Obama administration is helping to address shortages in certain high tech sectors of talented scientists and technology experts-permitting highly skilled foreign graduates who wish to work in their field of study upon graduation and extend their post-graduate training in the United States.

Under the OPT program, foreign students who graduate from U.S. colleges and universities are able to remain in the U.S. and receive training through work experience for up to 12 months. Students who graduate with one of the newly-expanded STEM degrees can remain for an additional 17 months on an OPT STEM extension.