



UNIVERSITY OF SOUTH FLORIDA
Office of the President

26 October 2020

The Honorable Chad F. Wolf
Acting Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Ave, NW
Washington, DC 20528

Ms. Sharon Hageman
Acting Regulatory Unit Chief, Office of Policy and Planning
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street SW
Washington, DC 20536

RE: Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media (DHS Docket No. ICEB-2019-0006)

Dear Acting Secretary Wolf and Acting Regulatory Unit Chief Hageman,

On behalf of the University of South Florida (USF), I submit this comment letter to share strong concerns about the U.S. Department of Homeland Security's proposed rule, "*Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media* (DHS Docket No. ICEB-2019-0006)," published September 25, 2020. Due to the potential negative repercussions to the academic success of our students, our business practices, and the competitiveness of U.S. higher education in general, I urge that duration of status remain in effect as the standard practice for students and scholars admitted to the United States on F and J visas.

I. International students and scholars (exchange visitors) make important contributions to our campuses, communities, and country.

The University of South Florida is a top public, research institution with a rich history of welcoming international students and scholars to our campuses. Students of diverse backgrounds bring new perspectives to the classroom, innovation to research, and contribute needed skills to our economy. International students are approximately 9% of the total USF student population and represent the second largest population of international students in the State of Florida. In Fall 2019, our international student population totaled 6,444 students from 141 countries; 6,200 were F-1 students. These students were enrolled in degree programs (Bachelors, Masters, and Doctoral),

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Pathway programs, and English Language programs or in the U.S. engaging in Optional Practical Training following graduation from a degree program.

USF's international student population makes it possible for our domestic students to discover the world in the classroom and in extracurricular activities. Through partnerships with Students Affairs offices, the Global Citizens Project, and the Graduate School, we offer students opportunities to meet each other and share cultures. This access is important to the understanding of other countries and cultures and creates a foundation for success in a global market for employment and ideas. In addition to students, USF has hosted 303 J-1 Exchange Visitors as research scholars and graduate medical residents from 28 countries. The J-1 Scholar's main research areas are Health Sciences, Engineering, and Natural Sciences. Scholars are engaged with faculty on common projects, collaborative research, innovative teaching, and other creative scholarly activities.

According to NAFSA's 2018 International Student Economic Value Tool, across the 13th, 14th, and 16th U.S. Congressional Districts, USF international students contributed \$170.5 million to the Tampa Bay area and supported 1,886 jobs in our local economy.¹ They are part of the 45,957 international students studying in the State of Florida who contributed \$1.6 billion and supported 16,458 jobs in the State. Nationally, international students contributed \$41.0 billion and supported 458,290 jobs across the country. For every seven international students, three U.S. jobs are created and supported by spending in the higher education, accommodation, dining, retail, transportation, telecommunications, and health insurance sectors.²

II. The proposed rule will significantly impact the autonomy of academic decision-making.

As written, the proposed rule will inhibit institutions of higher education from deciding when it is academically necessary and appropriate to grant students additional time to complete a degree program. There are countless intricacies specific to degrees and programs; the nuances of which are well understood by colleges and departments. "Compelling academic reasons," as outlined in 8 CFR 214.2(f)(7) (iii), are not clearly defined and could lead to USCIS officers making determinations without a full understanding of academic circumstances. While the proposed rule includes language to allow a student to apply for an extension of his or her studies, the current model serves our students well.

At USF, we have a strict procedure in place to approve additional semesters of study that results in the approval of students who legitimately need an extension of their academic timeline. Our Designated School Officials (DSOs) take their role in this process very seriously. The academic department makes the determination that the student is achieving normal academic progress based on the student's academic record and institutional policy. Additionally, students must demonstrate that they have the financial ability to continue as full-time students at USF. International students must demonstrate that they have enough funds for any approved, additional time toward degree completion. If students do not qualify for an extension, our DSOs carefully guide students on transition to community college or advise them to return home. Before students get to the point of

¹ USF International Student Economic Impact sourced from NAFSA, the Association of International Educators: <https://www.nafsa.org/isev/reports/district?state=FL&district=14&year=2018>.

² National Financial Contribution: <https://www.nafsa.org/sites/default/files/media/document/isev-2019.pdf>.

needing an extension, several offices on campus work together to help students identify a successful path to timely graduation. Academic institutions are well suited to manage this process. The proposed rule could interrupt legitimate progress to a degree.

The proposed rule's language to restrict international student enrollment in language training programs to a lifetime aggregate of 24 months (including breaks and an annual vacation) is also concerning and would inhibit many students from completing an English as a Second Language (ESL) program. The length of time students require in ESL programs varies and can extend beyond 24 months. At many institutions, including USF, these students transition from language programs to full-time degree study. There are valid reasons why a student might need more than two years to complete English language study including personal or medical reasons. Under the proposed rule, these students would not be eligible to apply for an extension, even if they have valid reasons for not completing the program in 24 months.

III. The proposed change from the current Duration of Status policy to a date-specific admission does not conform to academic program timelines and lacks flexibility.

Duration of status as defined in 8 CFR 214.2(f)(5) allows F-1 and J-1 visa holders admission to the U. S. for an unspecified period of time to complete their studies or research. This regulation includes the flexibility necessary for students to pursue their degrees or scholars to engage in research. The proposed rule does not provide an admission period beyond 2 or 4 years. For doctorate programs, four-year admission limits are impractical and do not conform to traditional academic program lengths. The majority of doctoral international students take an average of 5.3 years from entering a program to completion, while those who combine the Masters and Doctorate in one program take an average of 7.5 years from entering graduate school to completion.³ The rule does not recognize today's reality of the time needed for degree completion in many academic programs, including doctoral students, medical programs, joint degree programs, and those pursuing accelerated combined programs such as Bachelors/Masters degrees.

While the majority of international students at USF obtain their B.A. within 4 years, the proposed rule will limit the options of students who may want to switch their majors, add a minor, or take courses outside of the major, all-important aspects that make a U.S. education attractive to international students. The new proposed rule would hold international students to a different standard influenced by an enforcement-forward strategy.⁴ For instance, international students would only be able to request time off due to "compelling academic reasons," including medical conditions, natural disasters, or other major events. Overall, imposing a four-year visa limit will increase the economic burden of international students and increase the uncertainty about successfully completing their programs. This additional bureaucratic barrier should not be added to their degree completion requirements.

The proposed rule also negatively impacts visiting J-1 research scholars who are permitted by the Department of State up to 5 years to complete their research. The research scholars who utilize

³ 2018 NSF Survey of Earned Doctorates: <https://www.nsf.gov/statistics/srvydoctorates/#tabs-2>.

⁴ Redden, Elizabeth. "Major Changes to Student Visa Rules Proposed." *Inside Higher Ed*, September 25, 2020. <https://www.insidehighered.com/news/2020/09/25/trump-administration-proposes-major-overhaul-student-visa-rules>.

longer stays are in the biomedical sciences fields. These premier researchers are engaging in groundbreaking research aimed at curing major diseases and solving public health risks. At our institution, post-doctoral scholars are typically given a one-year offer letter with the expectation to continue for at least another two years. It is unclear under the proposed rule if these scholars could simply extend within the 4-year window or if they would be given a one-year stay at entry and are required to apply for an extension after a single year. In particular, the proposed rule will negatively impact students in the Graduate Medical Education program or those seeking ECMFG J-1 visas. These medical residencies and fellowships can last from one to seven years depending on the medical specialty or subspecialty being pursued.

IV. The proposed rule limits the admission period to a maximum of 2 years for broad groups of international students and scholars.

The proposed rule would impose a maximum two-year admission period for international students from certain countries. The justification for this significantly shorter admission period is based on some countries' purported historic overstay rates as cited by the Department of Homeland Security (DHS) in the DHS 2019 overstay report.⁵ This report has been shown to be based on flawed data and targets students from Africa.⁶ At USF, we are fortunate to host students from over 140 countries each year. As previously stated, these students add to the rich fabric of our campus life and contribute to the diversity of the student body. Our enrollment could potentially be affected by this section of the proposed rule. Over the past ten years, we have worked diligently to increase the number of students from African countries enrolled at USF. It would be a loss to any institution's commitment to diversity to constrain education opportunities in the United States for African students.

It is not clear if students in the "designated groups" would be subject to denial if they applied for an extension of stay. This uncertainty, coupled with the fact that most degree programs are more than two years, will most certainly deter some of the best minds from pursuing higher education in the United States. In particular, doctoral programs in STEM majors will experience a lower enrollment if this section of the proposal rule remains.

V. The proposed rule would create a new Extension of Stay process that may exacerbate current processing delays at USCIS and adds complexity and uncertainty.

The proposed rule would add unnecessary complexity to the process of allowing a student additional time to complete a degree program. Students who need to apply for an extension will face new expenses, slower processing, and possible disruption of their academic success. Currently, the process has no cost. Under the proposed rule, students will pay a filing fee, biometric fee, and possibly additional legal fees. The filing fees alone could reach in excess of \$500, with additional fees for each dependent.

⁵ DHS Fiscal Year 2019 Entry/ Exit Overstay Report source from:

https://www.dhs.gov/sites/default/files/publications/20_0513_fy19-entry-and-exit-overstay-report.pdf.

⁶ Anderson, Stuart. "Disputed Policy on Foreign Students Uses Flawed Report." *Forbes*, September 28, 2020.

<https://www.forbes.com/sites/stuartanderson/2020/09/28/disputed-immigration-policy-on-foreign-students-uses-flawed-report/#579f0f6b3fc5>. Anderson finds that the DHS overstay report (at the time, used to justify the proposed rule on the accrual of unlawful presence of F, J, and M visas) includes individuals DHS was unable to confirm had departed the U.S.

USCIS will likely experience backlogs when thousands of “extension of stay” applications are submitted. Given current processing times, adding additional workflow to an agency that is already experiencing delays could be detrimental to timely processing of newly required extension of stay requests, which would be necessary for most international students to complete their degree programs. The proposed rule contains no details for implementation and operation. It will require updates to the SEVIS system and add to university SEVIS reporting responsibilities.

The proposed rule will also have an impact on Optional Practical Training (OPT). Students seeking post-completion OPT will have to apply for an extension simultaneous to the OPT application. According to the proposed rule, a student may not begin OPT employment until the extension is granted. Students will need to trust USCIS to process both applications in a timely manner in order to ensure they can begin their OPT by the given start date. If USCIS is not efficient, it could discourage potential employers from making offers to international students who have earned their degrees in the United States because of the uncertainty surrounding timely processing.

Students who change degree levels will also be required to apply for an extension of stay. This is extremely problematic for our institution. Each semester, we process hundreds of change of level I-20's for students matriculating from our non-degree Pathway programs to a degree program and for students entering a higher degree level – from undergraduate study to graduate programs.

Finally, the proposed rule notes that extensions would only be granted at DHS's discretion, based on academic, medical, or other grounds, and denials may not be appealed. If the extension is denied, the international student (as well as his or her dependents) must immediately depart the U.S. For students, this new process adds additional expenses and the very real possibility of being unable to finish a degree. This increased uncertainty will drive students to other markets for their higher education.

VI. The SEVIS system is already sufficient to accomplish DHS's goals rendering the rule duplicative.

Although F and J non-immigrants are admitted for duration of status, unlike “most other non-immigrant categories,” none of the “other categories” are connected to a massive electronic reporting system like SEVIS. The SEVIS system gives DHS immediate access to detailed information related to almost every student and exchange visitor event that could affect a student or exchange visitor's compliance with the regulations. For information not directly submitted in SEVIS, DHS also has the authority to request, “on any individual student or class of students upon notice,” all information and documents that schools are obligated under 8 CFR 214.3 to retain throughout the student's enrollment and for a period of 3 years beyond that time.

In the course of an extension of stay application, students are required to submit information that they will need to request from their schools or programs—information or documentation that the schools and programs already provide directly through SEVIS or are required to retain by regulation. Requiring a student submit to USCIS the same or equivalent information that DHS already has access to is redundant and creates an additional administrative burden for students and universities. DHS can effectively enforce the current immigration laws by using its resources to engage in data-driven

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initiatives that focus on risk factors, rather than subjecting entire non-immigrant categories to an expensive, cumbersome, and time-consuming extension of stay process that largely duplicates the efforts that schools and exchange visitor programs will continue to engage in to comply with existing SEVIS reporting obligations.

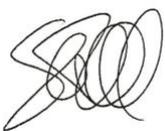
VII. The rule jeopardizes the competitiveness of US higher education on the world stage.

Our interconnected world and global economy have grown from our efforts to learn about and from each other. Higher education in the U.S. has advanced the human connection by fostering mutual understanding and respect through education abroad programs and inviting international students and scholars to our campuses. Through our efforts, individuals have learned to work together for peace and security. By placing barriers on international students and scholars, we diminish our place in the world and pull away from students, scholars, and researchers who have the ability to contribute to critical knowledge generation. The diversity that we see in our classrooms, our communities, and our workplaces is our strength as a nation.

The uncertainty students will face with regard to degree completion and the additional expenses may discourage many international students from applying to higher education institutions in the U.S., may deter international students and research scholars from accepting offers from institutions in the U.S., and for those who are already here, will make it more uncertain for employers to hire them. If U.S. colleges and universities are unable to provide incoming or prospective students and postdocs with the confidence that they will be able to complete their academic program with said school, these students may decide to study in another country. The U.S. will then lose a critical pipeline of advanced STEM knowledge and talent, potentially to competitor nations.

In conclusion, given the above detailed concerns, USF encourages DHS to maintain the current duration of status model. The proposed rule will create significant procedural uncertainty for international students and universities and damage our nation's ability to attract talented international students, scholars, and researchers. While the proposed rule raises issues of fraud and abuse by a small minority of international students, the creation of an entirely new process overly complicates a process that, for the vast majority of students, works as intended. DHS has the existing tools, resources, and capacity to investigate and handle fraud and abuse concerns. Working with institutions of higher education and the SEVIS database system, DHS can address the issues and strengthen the U.S. educational system and research enterprise simultaneously.

Sincerely,



Steven C. Currall, Ph.D.
President and Professor