



October 26, 2020

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

Reference: [DHS Docket No. ICEB-2019-0006](#)
Submission Via: <http://www.regulations.gov>

Dear Ms. Hageman:

I write on behalf of the American Association for the Advancement of Science (AAAS) on the 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 in the *Federal Register* on September 25. To be succinct, the proposed rule would create an onerous and unnecessary set of policies and procedures that would have profound and long-lasting negative impacts on the U.S. scientific innovation enterprise. We urge DHS to retract the proposed rule.

As we noted in our request to extend the public comment period, these proposed changes are life-changing for foreign nationals currently studying and working in the United States as well as those who aspire to study in the United States.

For decades, the U.S. has relied on foreign-born talent to help meet its science and engineering (S&E) job needs. A considerable proportion of U.S. S&E degrees – especially at the doctorate level (34%) – go to international students, many of whom remain in the U.S. after graduating. However, [data](#) show a troubling shift: foreign student enrollment in U.S. colleges and universities has declined since 2016. For more information see Sudip Parikh’s [testimony](#) before the House Budget Committee on July 8, 2020.

Internationally mobile students [still choose the U.S.](#) more than any other country for their higher education degrees. Students today also have more choices than ever before as nations actively court globally mobile talent. Unfortunately, U.S. actions on legal immigration over the course of 2020, combined with the travel restrictions brought about by COVID-19 and compounded by the recent Notice of Proposed Rulemaking (NPRM), threaten a key ingredient to our scientific innovation ecosystem.

The NPRM even acknowledges this risk and goes as far as to state, “if these students and exchange visitors choose another country over the United States because of this proposed rule, then the reduced demand could result in a decrease in enrollment, therefore, impacting school programs in terms of forgone tuition and other fees, jobs in communities surrounding schools, and the U.S. economy.”

The concerns outlined here by AAAS are echoed by other higher-education organizations such as the Association of American Universities, American Council on Education and the Association of American Medical Colleges. It is these same concerns that led our organizations to urge an extension to the public comment period. It is these same concerns that have led thousands of individuals to submit their own comments on the harmful impacts the proposed rule would have on foreign national students and scholars.

Foreign National Students and Scholars Make Positive Contributions

History has demonstrated that our nation’s desire to explore the boundaries of science, to harness discoveries that drive innovation, and to tackle global crises through research and invention directly benefits from the talent brought by immigrants and nonimmigrants alike.

A [study of U.S. Nobel Prize laureates](#) found that since 1901, 143 U.S. immigrants have won a Nobel Prize, representing 15 percent of all Nobel laureates and 34 percent of all Nobel Prizes awarded to U.S. winners. In 2019 alone, fifty percent of the U.S. Nobel Prize winners were foreign born.

As we noted earlier, many foreign nationals who come to study in the U.S. remain here after completing their studies, and they continue to contribute to our innovation ecosystem and our economy through research, education, and entrepreneurship. Some examples:

- The Association of International Educators conducted a [study](#) on the economic return of international students across multiple sectors and found that “students studying at U.S. colleges and universities contributed \$41 billion and supported 458,290 jobs to the U.S. economy during the 2018-2019 academic year.”
- The [Business Roundtable](#) notes that a “1 percent increase in immigrant college graduates leads to a 15 percent increase in patents per capita.”
- Another [study](#) found that over 44 percent of Fortune 500 companies were founded by immigrants or by their children. These companies reflect a broad range of sectors of the U.S. economy accelerating invention and entrepreneurship.

Today our nation is facing numerous challenges from COVID-19 and natural disasters, and the scientific enterprise is critical to addressing and mitigating these crises. AAAS represents over 100,000 scientists, many of whom are fighting the pandemic through their research and inventive approaches to solving this epic challenge. We have seen daily the significant contributions that scientists from all nations provide in addressing global challenges.

Proposed Rule Creates an Onerous Bureaucracy

We recognize the importance of having an immigration system that protects national security interests and minimizes the ability of foreign nationals to abuse that system. However, we believe that the proposed rule would create an onerous and unnecessary system that threatens to create disincentives for most foreign nationals from seeking to come to U.S. institutions of higher education. More broadly, the proposal to change the duration of status to either a fixed two- or four-year timeframe collides with the time necessary to complete a course of study to matriculation.

The proposal to set a two-year fixed duration of status for nations that have an overstay rate of over ten percent would place a greater burden on smaller countries that may not see a large volume of students seeking nonimmigrant visas to come to the United States. The students from these countries may ill afford the costs associated with filing an extension of stay every two years.

Furthermore, DHS proposes to annually update the list of countries with overstay rates of ten percent, potentially creating a scenario where students and scholars from the same country could be subject to either a two-year or four-year fixed duration of status depending on when they applied for a nonimmigrant visa. Would DHS retroactively extend the duration of status for a student subject to a two-year restriction if their country of origin is in good standing the following year?

The average time it takes to complete a PhD course of study in science and engineering fields vary. For example, it takes an average of six years to complete a PhD in physics, between five to seven years to earn a PhD in engineering, and approximately five years to earn a PhD in biology. The proposed rule, as currently written, would place an additional burden on almost all talented PhD students from other nations, forcing the added burden of filing an extension of stay regardless of their country of origin or overstay rate.

This burden would be compounded by the additional requirement to file both an extension of stay and a work authorization form if a student wished to participate in the Optional Practical Training (OPT). AAAS agrees with the concerns articulated by the Association of American Universities related to the challenges and risks of the proposed changes to OPT and the onerous process it risks setting in place.

Finally, the proposed rule is unnecessary as the Student and Exchange Visitor Information System (SEVIS) maintained by DHS allows the department to maintain active records on nonimmigrant students during their stay in the U.S., including data on their country of origin, their course of study, their institution of study including transfers, and completion of study.

It would appear that the only goal that DHS would accomplish with the NPRM would be to increase the risk of students falling into a state of noncompliance so that the student could be required to leave the U.S. rather than to enhance security and willful misuse of our immigration system.

Conclusion

The U.S. risks encouraging talented foreign nationals who might dream of studying in the U.S. to choose other countries to study and obtain their PhDs. These same countries are increasing their investments in research and development and creating programs to attract more nonimmigrant students and scholars to study and work at their universities and laboratories.

It is essential to be reminded that the global challenges we face as a nation include human capital. We must not cede our leadership in drawing talent from all corners of the globe by undermining our ability as a nation to encourage students and scholars from studying in the United States. AAAS strongly opposes the rule and urges a full retraction by DHS.

Sincerely,

A handwritten signature in black ink, appearing to be 'SP' followed by a long horizontal flourish.

Dr. Sudip Parikh
Chief Executive Officer and
Publisher, *Science* Family of Journals