

By Steve Springer

# Regulatory Agenda Watch: Why It Matters

## International Educators in the United States Should Keep an Eye on the Administration's Regulatory Agenda—and Plan to Comment

**IN THE LAST 2 YEARS, THE TRUMP ADMINISTRATION** has published its Unified Agenda of Federal Regulatory and Deregulatory Actions, usually referred to as the regulatory agenda, each fall and spring, listing the regulatory projects of the approximately 60 departments, agencies, and commissions of the federal government. The semiannual regulatory agenda has included many items that impact international student and scholar programs in the United States. NAFSA follows the agenda closely, provides updates on the Adviser's Manual 360 web page and news feed, and submits comment letters on members' behalf when agenda items are completed and published in the *Federal Register*, the daily journal for the U.S. government, for comment.

Likewise, international educators should continue to follow developments in the regulatory agenda and plan to submit public comments. It is imperative for the international education community to provide the administration with critical analysis of planned changes, describe burdens and likely impacts, and advocate against harmful changes while supporting any items that might facilitate international education.

achieves greater predictability" while serving the overall goal of "more effective and less burdensome regulation." In many cases, the agenda does help to provide some clarity to the direction of relevant agencies; however, in other cases, ambiguity remains. For example, the agenda can be used by the communities likely to be affected by the regulations to then plan for and respond to potential changes. But, the timeline of such changes and the scope of those actions can often be unclear.

The agenda does not describe each item in detail. Rather, it provides a title and an abstract of just a few general sentences, often leaving practitioners with many questions. For example, the fall 2018 agenda item titled "Practical Training Reform" simply states that its purpose is to "improve protections of U.S. workers ... [and] the rule is a comprehensive reform of practical training to reduce fraud and abuse." While it seems safe to anticipate that with this item the Department of Homeland Security (DHS) will restrict practical training, the general language used leaves many questions about the kinds of reforms planned and how they may impact current international students and prospective international students considering studying in the United States.

The agenda also indicates whether a proposed rule or a final rule is expected and when the agency expects to publish it. The timetable for each item includes any prior steps that have been completed. For example, it might indicate that a proposed rule has been published,

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### **Demystifying the Regulatory Agenda**

The regulatory agenda briefly describes key regulatory and deregulatory actions that each federal agency is currently working on, anticipates working on, or has recently completed. The fall publication also includes a general "statement of priorities" from each agency.

The agenda is compiled by the Office of Information and Regulatory Affairs (OIRS) and the Regulatory Information Service Center (RISC) and published at [reginfo.gov](http://reginfo.gov). The OIRS and RISC state that "a clear and accurate Agenda helps avoid unfair surprise and

a comment period has closed, and the agency is preparing a final rule. However, expected completion dates are flexible. They often change, and some items have remained on the agenda for years. Some “long-term” items are not even assigned an expected completion date.

As work proceeds on a long-term item, it may eventually be assigned a specific expected completion date. Conversely, an item on an agenda may simply disappear when a subsequent agenda is published, indicating that the agency may have abandoned the project, no longer considers it a priority, or has determined other ways to accomplish its objectives.

Still, despite the general and flexible nature of the agenda, it is a useful indicator of agencies’ concerns and objectives and their progress in addressing them. Keeping up with it helps international educators plan comment letters, keep campus leadership informed about potential changes, and improve strategic planning.

## Regulatory Items to Watch in 2019

As this article was going to press, the spring 2019 regulatory agenda had not yet been published, but the fall 2018 regulatory agenda has many items of interest that could impact international student and scholar advisers and their institutions in 2019, including:

1. DHS plans to issue a proposed rule by September 2019 that would modify the maximum period of authorized stay for “F-1 and certain other nonimmigrants” (perhaps J-1 visa holders) by assigning a specific end date rather than “duration of status.”
2. DHS plans to issue a proposed rule by March 2019 that would require current and nominated designated school officials to complete an “eligibility check” or background check.
3. Having issued a proposed rule and received comments, DHS plans to issue a final rule by March 2019 to “adjust fees that the Student and Exchange Visitor Program (SEVP) charges individuals and organizations.”
4. DHS’s planned “practical training reform,” a current item on the spring 2018 agenda, was moved to a long-term action on the fall 2018 agenda. DHS’s “strengthening oversight of schools” item, which appeared on the spring 2018 agenda, did not appear on the fall 2018 agenda.
5. DHS plans to make several changes to the H-1B temporary worker program, including a proposed rule “to revise the definition of specialty occupation to increase focus on obtaining the best and the brightest . . . and revise the definition of employment and employer-employee relationship to better protect U.S. workers and wages.”
6. The Department of State plans to issue a final rule amending

the general J-1 exchange visitor regulations (subpart A).

7. The Department of State plans to issue an interim final rule that changes the standards for adjudicating applications for a waiver of the two-year home-country physical presence requirement for certain exchange visitors.

For developments related to these items and many others, please check the NAFSA Adviser’s Manual 360 at [bit.ly/NAFSAAM360](http://bit.ly/NAFSAAM360).

## Why It Matters

Without input from the international education community, these and other planned regulatory changes and their implementation will surely impact the students, scholars, and faculty that the field supports. Under the Administrative Procedures Act, the government must review and respond to significant comments. Even a brief comment, submitted via [reginfo.gov](http://reginfo.gov), pointing out serious problems with a rule and its potential consequences for an institution, can make a difference.

The importance of keeping up with regulatory developments and submitting comments cannot be overstated. Such significant changes should not be implemented without broad and significant input from the international education community, and comment letters from those in the field matter. Sometimes the public comments have little impact, often they result in marginal improvements, and occasionally they result in quite significant improvements to proposed or even interim final rules. ■

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*Editor’s note: At NAFSA, we welcome input for our official comment letters, and we strive to publish our comment letters before they are due so that others can use them to generate ideas for their own letters. Find NAFSA’s comment letters at [bit.ly/NAFSAcommentletters](http://bit.ly/NAFSAcommentletters).*

## RESOURCES

Office of Information and Regulatory Affairs and the Regulatory Information Service Center: [reginfo.gov](http://reginfo.gov)

## NAFSA RESOURCES

Regulatory agenda compilation: [bit.ly/2FdLUYR](http://bit.ly/2FdLUYR)

Comment letter resources: [bit.ly/2QxRg2y](http://bit.ly/2QxRg2y)

AM360: [bit.ly/NAFSAAM360](http://bit.ly/NAFSAAM360)