

NAFSA: Association of International Educators
Updated February 2024

U.S. Department of Homeland Security (DHS)

Below are recommendations for advancing international education priorities:

- **Effectively Coordinate Within the Agency and Across Bureaus.**
Ensure coordination of policy and practice within DHS bureaus and programs to allow for greater efficiencies in decision making and determinations of immigration benefit eligibility.
- **Effectively Coordinate with Other Federal Agencies.**
Ensure coordination with the Department of State (DOS) and other federal agencies and their component bureaus relating to all aspects of immigration benefits and programs to reduce confusion and to provide confidence to foreign students and scholars that one agency's policy will align with, and be recognized by, other agencies' policies.
- **Restore the Homeland Security Academic Advisory Committee (HSAAC).**
This committee included members of the U.S. higher education community, as well as interagency representatives (the Departments of State, Education, and Justice). When the Committee was functional and held public meetings, it allowed DHS to regularly engage with U.S. higher education stakeholders on a range of relevant topics, including concerns related to international students. HSAAC should be reconstituted with the same structure as during the Obama administration, with a clear focus on higher education and international students.

UPDATES:

- *On January 12, 2022, the Department of Homeland Security [published a Federal Register notice](#) announcing the reestablishment of the Homeland Security Academic Advisory Council (HSAAC).*
- *On April 13, 2023, the Department of Homeland Security [published a Federal Register notice](#) announcing the HSAAC will be renamed the Homeland Security Academic Partnership Council (HSAPC) and amending its charter removing specific reference to international students.*

U.S. Citizenship and Immigration Services

U.S. Citizenship and Immigration Services (USCIS) should focus on the mission given to it by Congress when it was written into law: to provide service. USCIS must prioritize providing efficient and fair service, use available resources wisely and effectively, and act as a good steward of funds paid by those seeking service. Nonimmigrants and immigrants must navigate confusing, multi-step processes often without legal counsel. This means USCIS should allow for reasonable flexibility that favors the assumption of maintenance of legal immigration status when available.

- **Reestablish and Revitalize Stakeholder Engagement.**

Communicating with stakeholders about the agency's policies and processes is essential. USCIS and its stakeholders and customers have benefitted greatly from engagement and effective communication in the past. Stakeholders and customers must understand the agency's policies and processes, and especially changes to them, in order to access the agency's services effectively. The agency gains valuable information from stakeholders about trends and issues in adjudications and customer service. USCIS should immediately return to the practice of apprising stakeholders of changes to the Policy Manual and accepting feedback about such changes.

UPDATE: USCIS has initiated stakeholder meetings. NAFSA applauds those efforts and urges a robust schedule of regular stakeholder engagement activities.

- **Prioritize Deferred Action for Childhood Arrivals (DACA) Adjudications.**

With the restoration of DACA as of January 20, 2021, USCIS should prioritize expeditious processing of DACA renewals and new applications along with the related work authorizations and travel documents.

UPDATES:

- ***On September 28, 2021, USCIS issued a [notice of proposed rulemaking](#) to clarify eligibility for DACA protections and travel documents (advance parole). The proposed rule decouples filing for DACA protections and work authorization.***
- ***On November 29, 2021, NAFSA joined with 46 international and higher education organizations to submit a [comment letter](#) urging DHS to expand DACA eligibility and provide greater certainty for those who receive relief under the program.***
- ***On August 30, 2022, DHS published a final DACA rule that went into effect on October 31, 2022. Read the DACA final rule published at [87 FR 53152 \(August 30, 2022\)](#). However, a prior court-imposed order currently limits the October 31, 2022 effective date. USCIS describes this limitation in an update to its [DACA FAQs](#): "The final rule is effective Monday, October 31, 2022. However, while a July 16, 2021, [injunction](#) from the U.S. District Court for the Southern District of Texas remains in effect, DHS is prohibited from granting initial DACA requests and related employment authorization under the final rule. Because that injunction has been partially stayed, DHS presently may grant DACA renewal requests under the final rule."***

- **Clarify the Status of Nonimmigrants Who Timely File a Change or Extension of Status Application.**

Revise the regulations or issue policy guidance to allow explicitly a change or extension of status applicant to remain in the United States and maintain status while an application

is pending, so long as the applicant was in status when the application was submitted. This appears to be a longstanding DHS practice, but the lack of clear regulations or guidance introduces much uncertainty into the change or extension of status process.

- **Eliminate the Practice of Searching for “Preconceived Intent” in Change of Status Applications.**

Accurately judging possible “preconceived intent” in change of status applicants is beyond the scope or abilities of adjudicators and may lead to improper denials. Individuals may have multiple intentions when applying for a visa and entering the United States, so applying the outdated DOS concept of “preconceived intent” in scrutinizing their applications is ineffective. Change of status applications should be granted as a matter of course, absent a showing of fraud.

UPDATE: On December 20, 2023, USCIS [added](#) F and M student content to its Policy Manual that consolidates existing policy on a variety of topics including guidance to clarify that though F and M students must have a present nonimmigrant intent to be eligible for an international student visa, students may be the beneficiary of a permanent labor certification application or immigrant visa petition and still be able to demonstrate their intention to depart after a temporary period of stay.

- **Improve USCIS Processing Times.**

USCIS should prioritize predictable processing times and implement technological improvements to accomplish this. Reasonable and reliable processing times are critical for nonimmigrants and immigrants, their families, and employers, because they all rely on decisions made by USCIS to plan their lives and to ensure the maintenance of legal immigration status.

- **Expand Premium Processing Program.**

Continue expansion of USCIS’ existing “premium processing” program to be available for the fullest variety of benefit applications, including, but not limited to, all applications for change of status and applications for an employment authorization document. Although paying the premium fee should not take the place of reducing processing times, its availability is important for time-sensitive applications and petitions.

UPDATES:

- *On March 1, 2021, NAFSA joined AILA and 15 other organizations on [a letter to USCIS](#) urging the agency to implement the Emergency Stopgap USCIS Stabilization Act provisions that authorize USCIS to expand premium processing to additional form types. Additionally, the [Fall 2021 Regulatory Agenda](#) included a December 2022 target date to set new fees for benefit requests currently eligible for premium processing and expanded USCIS authority to establish and collect additional premium processing fees.*

- *On January 12, 2023, [USCIS announced a timeline](#) for its plan to expand fee-based premium processing to F-1 students seeking optional practical training (OPT) and certain students and exchange visitors filing for initial and pending applications to extend or change nonimmigrant status.*
 - *On March 6, 2023, USCIS announced the expansion of premium processing to certain F-1 students seeking the initial one-year of OPT and for those seeking the STEM two-year OPT extension who have pending applications for employment authorization (I-765).*
 - *On June 12, 2024, [USCIS announced](#) the expansion of premium processing for applicants filing Form I-539, Application to Extend/Change Nonimmigrant Status, and seeking a change of status to F-1, F-2, M-1, M-2, J-1, or J-2 nonimmigrant status.*
- **Allow Visitors (B-1 and B-2 status), and the Dependents of Foreign Students (F-2 status) to Begin Full-Time Study Immediately Upon Filing an Application for Change of Status.**

Prior to the implementation of U.S. Immigration and Customs Enforcement's SEVIS database, there was no coordinated way to track nonimmigrants seeking to change status to F-1. However, today, U.S. colleges and universities are required to create SEVIS records for nonimmigrants who are admitted to their institutions and are seeking F-1 status. Allowing for study during the pendency of the change of status increases the ability of U.S. Immigration and Customs Enforcement to track nonimmigrants and eliminates an unnecessary delay in the process of beginning study in the United States. (8 CFR 248.1(c)(3) and 8 CFR 214.2(f)(15)(ii)).
 - **Promulgate Unlawful Presence Regulations Modeled After USCIS's 2009 Guidance.**

Promulgate regulations modeled after USCIS's May 6, 2009, policy memorandum, *Consolidation of Guidance Concerning Unlawful Presence for Purposes of Sections 212(a)(9)(B)(i) and 212(a)(9)(C)(i)(I) of the Act*. This guidance has already governed interpretation of the unlawful presence provisions for over 20 years. Under this prior policy, individuals admitted for duration of status do not begin accruing unlawful presence until an immigration judge finds a status violation in the course of an immigration proceeding, or an immigration officer finds a violation of status in the course of an application for an immigration benefit.
 - **Allow Provisional Adjustment of Status to Respond to Immigrant Visa Backlogs.**

Revise the regulations to allow filing of a provisional adjustment of status application for employment-based applicants facing immigrant visa backlogs (8 CFR 245.1(a) and (g)). This allows would-be legal permanent residents and their families more certainty and flexibility to make life decisions (e.g., change employers and to travel abroad more freely) while waiting in the backlog.
 - **Apply Policy and Operational Changes to Attract the Talented Entrepreneurs Who Want to Start and Grow Their Business in the United States.**

Through regulation or policy guidance, expand the ability for entrepreneur-graduates from U.S. institutions of higher education to form small or sole-owner business entities and allow them to self-petition for H-1B status and permanent residence.

- **Withdraw from Consideration Any Rulemaking Activity Stemming Out of the Strengthening the H-1B Nonimmigrant Visa Classification Program Initiative That Began Under the Prior Administration.**

Attempts to rewrite multiple regulatory definitions to restrict the eligibility of H-1B visas holders for various jobs severely limits the ability of U.S. colleges and universities to hire key faculty and research positions. International student graduates of U.S. higher education institutions would also be largely ineligible for H-1B status under the prior administration's regulatory construct, further deterring international students from studying in the United States and damaging U.S. higher education and the economy.

UPDATES:

- *On October 23, 2023, USCIS published a proposed rule titled, “Modernizing H-1B Requirements, Providing Flexibility in the F-1 Program, and Program Improvements Affecting Other Nonimmigrant Workers” (See [88 FR 72870 \(October 23, 2023\)](#)). Comments were due December 22, 2023.*
- *On December 18, 2023, NAFSA submitted a [comment letter](#) in response to the USCIS proposed rule to “modernize and improve the efficiency of the H-1B program, add benefits and flexibilities, and improve integrity measures”. NAFSA supports the proposed expansion of F-1 to H-1B “cap gap” to avoid disruptions in status and employment authorization for F-1 students while their qualifying H-1B petition is pending. NAFSA also joined comment letters from the [American Council on Education](#) and as part of a [multi-sector coalition](#).*
- *On February 2, 2024, DHS published a final rule effective March 4, 2024, entitled “Improving the H-1B Registration Selection Process and Program Integrity,” to implement the portion of the October 23, 2023, proposed rule for the H-1B program’s registration and selection process before the beginning of the new fiscal year. See [89 FR 7456 \(February 2, 2024\)](#). Changes offered in the October 23, 2023, proposed rule regarding the definition of specialty occupation, F-1/H-1B Cap-Gap Flexibility, etc. were therefore not part of the February 2, 2024 final rule. Further analysis of the proposed rule is available [here](#) on the NAFSA website.*

- **Fully Restore and Expand the MAVNI Program.**

DHS should work with the U.S. Department of Defense to fully restore and expand the status of Military Accessions Vital to the National Interest (MAVNI) program to ensure proper background and security checks for program participants. DHS should promulgate clear regulations that protect the immigration status of individuals as they are processed through the program.

- **Establish a “Trusted or Frequent Filer” Program to Reduce the Burden on Employment-based Immigrant and Nonimmigrant Petition Filers.**
DHS should create a “trusted or frequent filer” program where applicants who file frequently and are well-known to agencies are provided with expedited processing.

UPDATE: A related item, RIN [1615-AC35](#), “Implementing a Known Employer Program for Certain Employment-Based Nonimmigrant and Immigrant Visa Classification,” was last seen in the Spring 2022 regulatory agenda. With the publication of the Fall 2022 regulatory agenda, it no longer appears.

Adopted USCIS Recommendations

- **Prioritize Issuance of Receipt Notices for Filings at USCIS Lockboxes.**
Foreign students are experiencing months long delays in receiving receipt notices from USCIS lockboxes for work authorization requests based on F-1 Optional Practical Training. Foreign students are losing opportunities as employers are unwilling to hold positions until receipt notices are issued. The delays not only impact current foreign students, but also discourage future students for fear they too could be subject to capricious agency actions.

***ADOPTED:** On February 26, 2021, USCIS announced steps it will take to remedy the ill effects of delays in processing work authorization requests at USCIS lockboxes. On June 10, 2021, a USCIS news alert described additional temporary filing flexibilities for benefits filers impacted by USCIS lockbox delays.*

- **Rescind Policy That Requires Unnecessary "Bridge" Applications When Changing to F, M, or J Nonimmigrant Status.**
Return to the longstanding precedent policy of approving change of status applications to F, M, or J status for nonimmigrants if the program start date (on the Form I-20 or DS-2019 provided by the U.S. institution or program) is within 30 days of the expiration of the applicant’s status at the time the change of status was filed. USCIS has applied a general immigration benefits provision to deny applications to change status to the F-1 student classification when the prospective student’s Student and Exchange Visitor Information System (SEVIS) program start date has been deferred to a date that is more than 30 days beyond the expiration of the nonimmigrant status from which the student is applying. The policy requires the prospective student to file a “bridge” application to extend that status to the newly deferred SEVIS start date. This departs from longstanding precedent, in which USCIS regularly approved change of status applications without requiring a bridge application, as long as the program start date of the Form I-20 originally submitted in support of the change of status application had been within 30 days of the expiration date of the applicant's status at the time the change of status application was filed. At most, USCIS would ask applicants to submit a copy of a new Form I-20 that reflected a deferred start date, to document the fact that the student remained eligible for F-1 status at the time of adjudication.

ADOPTED: *On July 20, 2021, USCIS eliminated its prior policy that had required applicants applying to change their status to F-1 student to file "bridge" applications while their change of status applications were pending. Although NAFSA had urged USCIS to rescind the bridge application policy for all SEVIS categories (F, M, and J), only change of status to F-1 is covered by the new policy.*

- **Reestablish the Longstanding Effective Policy of Deference to Prior Decisions in Extension of Status Filings.**

An October 23, 2017, USCIS memo rescinded a 14-year-old policy that had given deference to prior eligibility determinations when adjudicating an extension of stay petition "involving the same parties (petitioner and beneficiary) and the same underlying facts." This change created additional unnecessary work for USCIS, delayed processing, and increased backlogs. Ending the deference policy led to less consistency and reliability for U.S. employers and their nonimmigrant workers. USCIS should revert to the prior effective deference policy.

ADOPTED: *On April 27, 2021, USCIS announced a revision to the USCIS Policy Manual to clarify that USCIS gives deference to prior determinations when adjudicating extension requests involving the same parties and facts unless there was a material error, material change in circumstances or in eligibility, or new material information that adversely impacts the petitioner's, applicant's, or beneficiary's eligibility.*

- **Engage with Stakeholders to Ensure Equitable Implementation of the H-1B Cap Selection Final Rule.**

On January 8, 2021, DHS issued a final rule amending the H-1B cap selection regulations based on the highest Occupational Employment Statistics (OES) prevailing wage level (86 FR 1676). The final rule, titled "Modification of Registration Requirement for Petitioners Seeking to File Cap-Subject H-1B Petitions," is subject to a court challenge arguing the prioritization is not permitted under the Immigration and Nationality Act's statutory language and, even if lawful, proposes a prioritization construct that would be damaging to the economic success of the nation. On February 4, 2021, DHS delayed the effective date of this rule to December 31, 2021. DHS should use this delay period to engage international student and higher education stakeholders to ensure, if implemented, the rule allows for prioritization that does not exclude well-compensated early-career professionals who are recent foreign student graduates from U.S. colleges and universities.

ADOPTED: *On December 22, 2021, DHS published a Federal Register notice withdrawing the January 8, 2021, final rule. DHS may revisit the issue with a new proposed rule in the future; NAFSA will continue to monitor. On February 2, 2024, DHS published a final rule effective March 4, 2024, entitled Improving the H-1B Registration Selection Process and Program Integrity, to enact that portion of its proposals. See [89 FR 7456 \(February 2, 2024\)](#).*

U.S. Customs and Border Protection

The policies and actions of U.S. Customs and Border Protection (CBP) should include ensuring that the U.S. ports of entry are welcoming. We must treat people with civility and respect when transiting through our ports of entry. Doing so is not incompatible with security. No security gain is achieved when people who want to have a relationship with the United States go through a negative port of entry experience and vow never to return as a result.

- **Publicize CBP Data, Policies, and Procedures Related to Foreign Students (F and M status) and Exchange Visitors (J status).**

To increase transparency and understanding of the operational procedures that guide CBP officers in the entry process, CBP should publicize non-law enforcement sensitive policies and procedures related to foreign student and exchange visitor entry. Data should be made public related to foreign student and exchange visitor entry at land, sea, and air ports of entry, to include rates of admission, denial, and deferred inspection.

- **Add F, M, and J Visa Modules to CBP Training.**

Incorporate F, M, and J-specific modules into training for new and continuing inspecting officers and other officials who administer admission of nonimmigrants into the United States.

- **In Cooperation with DOS, Clarify Entry Visa Validity Period for Admission of F-1 and J-1 Visa Holders into the United States.**

DOS' Bureau of Consular Affairs and CBP have issued varying guidance on the visa validity period for F-1 and J-1 nonimmigrants who have transferred to a new program or will return after a leave of absence, creating uncertainty for returning foreign students and scholars. Both agencies' regulations and guidance must clearly establish that an entry visa is presumed valid for the duration period and number of entries for which it was issued and can be used to apply for future admission to the United States in the same nonimmigrant category during the period of validity, given valid SEVIS documentation, even after a transfer to a new academic or exchange visitor program.

U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE) should use smart enforcement strategies to effectively combat fraud and abuse, provide efficient and effective service, and reduce application adjudication delays.

- **Protect the Immigration and SEVIS Status of Foreign Students Impacted by the Response to COVID-19.**

Implement policies to protect the immigration and SEVIS status of any foreign student otherwise admissible or admitted in F-1 or M-1 status who takes some or all classes via online or electronic means during the 2020-2021 academic year as a personal, institutional, or logistical response to COVID-19. This policy is to be conveyed to CBP to allow for admission to the United States.

UPDATE: On May 11, 2023, the Student and Exchange Visitor Program (SEVP) terminated its Coronavirus Disease (COVID-19) guidance to coincide

with the end of the COVID-19 National Emergency and Public Health Emergency. An updated FAQ provides answers to frequently asked questions from SEVP stakeholders about the impact of the termination of COVID-19 flexibilities. [See NAFSA's page.](#)

- **Streamline and Expand the Special Student Relief (SSR) Program by:**

- **Clarifying and Expanding SSR.**

DHS should establish reduced course load authorization and employment as independent benefits under SSR, clarify that "emergent circumstances" covers both domestic and international emergencies of any kind, and unify the finding of emergent circumstances for F, M, and J students under the authority of the DHS secretary.

- **Applying SSR During the COVID-19 Pandemic and its Aftermath.**

SSR regulations allow DHS to suspend or alter rules regarding F-1 and M-1 duration of status, full course of study, and employment eligibility, for specific groups of students from parts of the world that are experiencing emergent circumstances (63 FR 31872 (June 10, 1998)). As a pandemic, COVID-19 qualifies as a "emergent circumstance," therefore, it is appropriate to apply SSR to all F-1 and M-1 students for the duration of the emergency.

UPDATE: WITHDRAWN as the COVID-19 pandemic is no longer active.

- **Coordinating SSR with DOS.**

DOS has similar authority for J-1 students but has not developed regulations as has DHS. DHS should coordinate with DOS to establish a unified recognition of emergent circumstances that places recognition authority under the DHS secretary.

UPDATE: DHS has improved the regular announcement of SSR in the Federal Register when also announcing Temporary Protected Status (TPS).

- **Allow Use of Available Funds to Improve the Student and Exchange Visitor Program.**

Use available SEVP funding from user fees to hire staff necessary to process Form I-17 school certification updates and recertification applications and student record data fixes in a timely manner, to enhance the SEVIS database, and other SEVP initiatives.

- **Streamline Long-delayed Adjudication of Requests from SEVIS-certified U.S. Higher Education Institutions to Offer New Programs.**

As part of ICE, SEVP conducts extensive reviews and vetting before certifying U.S. schools to admit foreign students. After certification however, a separate adjudication is required to admit foreign students to newly created programs or majors. This process can take months, during which time the school may not offer the programs or major to any foreign students. This unnecessary re-review process wastes SEVP resources and limits access to new study options.

- **Provide Flexibility for U.S. Higher Education Institutions to Admit Foreign Students for Innovative and Evolving Educational Programs.**

Immigration policy should be modernized to keep pace with current U.S. education delivery models, including low residency programs, online courses, and programs requiring multiple study abroad experiences. Current foreign student regulations recognize only a long-gone narrow mode of education. They should be updated to recognize the modern programs offered by U.S. higher education to ensure that the regulations do not impede innovation in higher education and our ability to compete with other countries. Regulations should:

 - Recognize that U.S. higher education programs have varying “in-residence” requirements and allow institutions to determine what constitutes a “full course of study,” as the regulations currently allow for graduate programs, for all programs.
 - Recognize that online education is increasingly a key component of U.S. higher education and revise the “full course of study” requirement in the regulations to allow additional online courses.

- **Promulgate Regulations or Issue Policy Guidance to Ensure Students Who Take a “Leave of Absence” Abroad Are Not Penalized or Dissuaded from Returning to the United States to Resume Their Studies.**

Recognize that foreign students travel, often in furtherance of their education in the U.S. (such as to conduct field work, etc.), and revise the regulations or issue policy guidance to eliminate the restrictive “five month leave of absence” provision so that they are not penalized for doing so.

- **SEVP Should Return to Prior Practice of Publishing Draft Policy Guidance for Public Comment.**

Receiving stakeholder feedback prior to implementation of policy guidance is crucial. Publishing draft SEVP guidance for stakeholder comment often greatly improved the final guidance to the benefit of both SEVP and the field. SEVP should return to this practice.

- **SEVP Should Communicate Policies and Processes More Effectively to Stakeholders.**

Rather than rely on the SEVP Response Center (SRC) to respond to common and widespread questions about an agency policy or process to each individual who contacts the SRC, SEVP management should monitor inquiries, and publish policy guidance or responses to “Frequently Asked Questions” through SEVIS Broadcast Messages or the Study in the States web site. Such guidance and FAQs should be clear, thorough, and based on existing regulation.

- **Provide the Spouses of F-1 Students the Opportunity to Obtain Employment Authorization.**

Revise current regulations to make U.S. higher education more attractive to students with spouses by allowing spouses to engage in a wide range of full-time educational activities and part-time employment that will allow them to maintain or develop educational and professional qualifications.

- **Revise the Regulations or Issue Policy Guidance to Make Study in the United States Less Burdensome for Disabled Students and Those with Chronic Medical Conditions.**
Recognize that some of the “best and brightest” may have disabilities and chronic medical conditions and revise the restrictive “full course of study” and “reduced course load” regulations that may currently prevent them from studying in the United States.
- **Revise Regulations and Policy Guidance to Allow Explicitly Certain, Limited Educational Activities in B-1/B-2 and Other Nonimmigrant Statuses.**
Often foreign students abroad need only to return to the United States briefly in furtherance or completion of an academic program (e.g., return for a commencement ceremony or defend a dissertation.) Also, many people who travel to the United States for cultural activities do not intend to enroll in a full course of study but would like to participate in short-term educational activities such as brief English language training. These activities may not be sufficient to qualify for an F-1 visa and certainly should not require an F-1 visa. Revising the B-1/B-2 visa regulations or issuing policy guidance explicitly allowing a wider range of educational activities would better facilitate these circumstances.
- **Promulgate F-3 and M-3 Regulations.**
Pursuant to the Border Commuter Student Act of 2002. [Pub.L. 107-274 (November 2, 2002), issue regulations to implement the F-3 and M-3 categories. DOS promulgated such regulations in 2003 and began issuing visas, despite DHS assurances that it should not. The lack of corresponding DHS regulations leads to many issues, problems, questions, and concerns about the F-3 and M-3 visa classifications.

Adopted ICE Recommendations

- **Withdraw the Proposed Rule to Eliminate Duration of Status for Foreign Students and Exchange Visitors (F and J Status).**
For decades, foreign students and exchange visitors have been granted immigration status that lasts for the time they are engaging in their studies and practical training or exchange program, known as duration of status or D/S. Alarming, on September 25, 2020, ICE published a proposed rule to eliminate D/S for F students and their dependents, J exchange visitors and their dependents, and I media representatives. (85 FR 60526). USCIS should work with ICE to withdraw the proposed rule. Maintaining D/S policy is necessary because the time for study or research can fluctuate given the changing goals and actions of the student or researcher. For example, prior to starting a degree program, a student may take full-time English language courses to improve proficiency or a student who begins studying at a community college may transfer to a 4-year institution. Providing ongoing immigration status – D/S – as long as the foreign student complies with the law reflects the reality of study. USCIS will be unable to timely adjudicate the filings that a change of D/S policy would generate. USCIS already struggles with long backlogs and delays. USCIS average processing times have increased by 46% over the past two fiscal years and 91% since fiscal year 2014. Ending D/S would exacerbate an

existing problem by adding an enormous number of new extensions of status filings without accomplishing a goal that would warrant this policy change.

ADOPTED: *On July 6, 2021, the Department of Homeland Security officially withdrew its proposed rule to eliminate duration of status (D/S) for F students and their dependents, J exchange visitors and their dependents, and I media representatives.*

- **Preserve Experiential Learning Opportunities Like Optional Practical Training (OPT) for Foreign Students.**

ICE should not pursue regulations to scale back or eliminate OPT and should continue to pursue legal action to protect it. ICE should divert from the prior administration's policy and delete from the next release of the Unified Agenda of Regulatory and Deregulatory Actions amending and revising practical training programs. Experiential learning, curricular and optional practical training for foreign students, is a key component of U.S. higher education. Access to this opportunity attracts foreign students, and our competitor countries use their similar programs to attract students away from the United States. ICE should, in collaboration with the Student and Exchange Visitor Program (SEVP), issue an affirmative statement of the value of international students to the United States and the critical role of experiential learning programs like OPT is to the U.S. higher education experience.

ADOPTED: *On June 14, 2021, the Biden administration reported it would withdraw its proposed “Practical Training Reform” entry [from its Unified Regulatory Agenda, and “will evaluate and reconsider any necessary changes to existing regulations and the practical training options available to nonimmigrant students on F and M visas.”](#)*