

DURATION OF STATUS: POTENTIAL INSTITUTIONAL HARMS¹

A non-exhaustive guide for identifying facts that may support an institutional declaration

Important: The examples below are directional, not exhaustive. An institution may experience a relevant harm that does not fit neatly within these categories. If an institution believes a consequence may be significant, it should raise the issue with litigation counsel rather than screen itself out.

Purpose and framing

This resource is intended to help colleges and universities identify concrete institutional harms associated with the new fixed-period admission framework replacing Duration of Status (D/S), as well as the rule's restrictions on academic mobility, including limits on changing programs or institutions and pursuing degrees at the same or a lower academic level. Institutions should consider how both the fixed-period admission framework and the academic mobility restrictions will affect their operations, academic programs, students, and institutional mission. This resource is a discussion guide, not a declaration template or legal advice. Litigation counsel will determine which facts are appropriate to include and how they should be presented.

For purposes of possible preliminary-injunction relief, the most useful facts generally describe harms that:

- Demonstrate why the court must act urgently to pause implementation of the rule while the litigation proceeds;
- are occurring now or are expected to occur soon;
- are supported by specific experience, records, data, or communications rather than generalized predictions;
- are caused or worsened by the rule; and
- would be difficult to reverse or fully repair after they occur.

Student impacts and institutional harms: The institutional harm does not have to be independent of harm to students. A declaration may describe student decisions or experiences when it also explains the resulting harm to the institution. The key is to make that second connection explicit.

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Potential categories of institutional harm

1. Recruitment, enrollment, and retention

The rule may affect whether prospective, admitted, newly enrolled, or continuing international students choose or remain at the institution.

- **Changes in student behavior.** Withdrawal of an application or acceptance; failure to enroll or return; late deregistration; requests to defer; or communications indicating that a student is considering another country or institution because of uncertainty created by the rule.
- **Loss of a desired candidate.** The institution loses a student it sought to recruit for a specialized program, laboratory, cohort, artistic program, athletic program, or other limited opportunity.
- **Durable enrollment decisions.** Once a student commits to a program elsewhere, the institution cannot realistically recover that student even if the rule is later set aside.
- **Reduced competitiveness.** The institution is less able to compete with institutions abroad for a limited pool of qualified applicants or to maintain a broad and varied international student population.

2. Teaching, research, and other mission-critical functions

Student and scholar decisions may impair the institution's academic and research mission, especially where international participation is concentrated or highly specialized.

- **Specialized talent.** Loss of a graduate student, researcher, scholar, fellow, or other participant whose expertise is difficult to replace.
- **Laboratory or project disruption.** Delayed, reduced, or abandoned research; loss of continuity in a lab or research team; or inability to staff work already underway.
- **Teaching capacity.** Reduced availability of graduate assistants, teaching assistants, research assistants, or other personnel essential to courses and programs.
- **Durable teaching, research, and other academic and research decisions.** Inability to recover a student or scholar who commits to a program elsewhere, even if the rule is later set aside, resulting in lasting harm to teaching, research, or other academic functions.
- **Program viability and campus environment.** A smaller or less varied cohort diminishes the academic experience, cross-cultural learning, or the institution's ability to sustain a program dependent on international enrollment.
- **Professional participation.** Students or scholars decline international conferences, fieldwork, research travel, or collaborative activity because travel could affect their immigration position, with resulting harm to institutional research, reputation, or partnerships.

3. Structural changes to academic programs

An institution may need to redesign programs or practices built in reliance on D/S and academic mobility, and those changes may be difficult to unwind.

- **Program redesign.** Changing program sequencing, degree pathways, combined bachelor's/master's arrangements, research timelines, clinical placements, or other academic structures.
- **Reduced or altered offerings.** Postponing, shrinking, or discontinuing a program, track, mobility opportunity, or cohort because anticipated participation is no longer workable.
- **Long-term commitments.** Renegotiating faculty workloads, partner agreements, grant plans, course schedules, staffing, or facilities based on the changed structure.

4. Student and scholar mobility, housing, and campus operations

Changes in travel behavior if students are afraid to travel because of the uncertainty of the D/S rule may create immediate operational consequences for institutions with mobile populations or programs spanning multiple locations.

- **Unexpected housing demand.** Students remain on campus during academic breaks or alter planned arrival patterns, requiring housing, dining, staffing, transportation, or emergency support that is difficult to add on short notice.
- **Disrupted study-abroad or mobility models.** Students decline or change plans to study abroad, international rotations, fieldwork, conferences, or programs in which students begin abroad and later enter the United States.
- **Capacity constraints.** Preexisting housing commitments, or vendor contracts prevent the institution from quickly accommodating changed patterns.
- **Administrative response.** Increased demand on international offices, academic departments, student affairs, housing, counseling, emergency support, or other campus units.

5. Compliance, staffing, and systems

Implementation may require immediate expenditures and operational changes.

- **New staffing needs.** Hiring additional personnel, consultants, or temporary support to manage anticipated extension filings, advising, monitoring, and student communications.
- **Reallocation of existing staff.** Diverting DSOs or other employees from recruitment, advising, compliance, student support, or other core duties.
- **Systems and process changes.** Reworking data systems, forms, workflows, training, recordkeeping, policies, communications, or coordination across offices.
- **Scale or capacity mismatch.** A small office lacks personnel to absorb even a modest increase in cases, or a large institution faces a volume that requires material restructuring.
- **Nonrecoverable commitments.** Costs, contracts, hiring decisions, or system investments must be made now and cannot readily be recovered or reversed later.

6. Completion, graduation, and institutional outcomes

The rule may affect students who need additional time to complete degree requirements, with resulting consequences for institutional commitments and outcomes.

- **Near-term completion risk.** Current students approaching a program end date may be unable or unwilling to complete required theses, research, clinical work, or other degree requirements under the institution's ordinary timeline.
- **Graduation and retention measures.** The institution anticipates near-term effects on completion, retention, graduation rates, or other performance measures.
- **Unequal disruption of established programs.** A program commonly requires more than the nominal completion period for both domestic and international students, but the rule creates a distinct institutional problem for the international cohort.
- **Unfulfilled institutional commitments.** The institution cannot provide the academic pathway, mentorship, research opportunity, or completion support it planned and promised.

7. Financial and reputational consequences

These consequences may reinforce other institutional harms, particularly when tied to concrete, immediate, and difficult-to-reverse effects.

- **Lost tuition or funding.** Withdrawals, nonenrollment, program disruption, or research delays reduce expected tuition, grant support, auxiliary revenue, or other funding.
- **Sunk and transition costs.** Recruitment expenditures, scholarships, housing commitments, staffing, contracts, or program investments cannot be recovered.
- **Reputation and relationships.** The institution's standing with prospective students, international partners, faculty recruits, or collaborators is impaired.
- **Reduced ability to deliver on mission.** Financial consequences constrain programs, services, research, or other institutional priorities.

Facts and documentation to consider gathering

Institutions do not need every item below. The goal is to identify the most specific and reliable evidence available for the harm being described.

- The date the issue arose and when the harm occurred or is expected to occur.
- The individuals, offices, programs, or campus functions affected.
- Communications from prospective, admitted, current, or returning students and scholars explaining a decision or concern related to the rule.
- Application, acceptance, enrollment, deregistration, deferral, return, travel, completion, or staffing data, including relevant historical comparisons.
- Current operational decisions, such as hiring, contracting, system changes, program redesign, housing adjustments, or staff reassignment.
- Why the consequence is attributable to the rule rather than a general decline or unrelated condition.

- Why relief later would not fully restore the lost student, candidate, opportunity, program structure, research progress, relationship, or institutional resources.
- The basis for any projection, including past experience, known program timelines, current caseloads, or documented capacity limits.

Questions that help connect a student impact to institutional harm

- What decision is the student or scholar making, and what evidence does the institution have of that decision?
- How does that decision affect the institution's enrollment, program, staffing, research, teaching, housing, finances, reputation, or mission?
- Why is the affected person, opportunity, or capacity difficult to replace?
- What institutional decision or expenditure must be made now?
- What will be permanently lost, materially disrupted, or difficult to restore if relief comes months later?

Who may be able to provide an institutional declaration

The declarant should be able to attest reliably to the relevant facts through personal knowledge, responsibility for the affected area, review of institutional records, or an appropriate supervisory relationship. Depending on the harm, that person might be a president, provost, dean, vice president, international office leader, DSO, admissions or enrollment leader, research administrator, faculty or laboratory leader, housing official, student affairs leader, finance or human-resources official, or another knowledgeable institutional representative.

A senior official may be appropriate even if another employee manages the issue day to day, provided the official has a sufficient supervisory relationship and factual basis for the statements. Litigation counsel can help identify the best declarant and the appropriate foundation for the facts.

Important Notes

- **Do not treat this guide as a checklist of required harms.** The categories are illustrative and may overlap. Facts outside these categories may be equally or more useful.
- **Avoid speculation.** Explain the factual basis for anticipated harm and distinguish what is already occurring from what is projected.
- **Focus on the institution's injury.** Student experiences can be described, including without naming individual students where appropriate, but the declaration should explain how those experiences harm the institution.
- **Economic harm may be relevant but should be contextualized.** Where possible, connect costs to operational disruption, irreversible commitments, mission impacts, or other consequences that cannot readily be repaired.

When in doubt, raise it: Institutions know their own programs and operations best. If a potential harm seems significant, immediate, or difficult to undo, share it with litigation counsel even if it does not appear in this guide or its legal significance is uncertain.

Suggested next steps

Identify one or two knowledgeable institutional contacts and briefly document: (1) what is happening; (2) when it began or will occur; (3) the evidence supporting it; (4) how it harms the institution; and (5) why it would be difficult to fix later. Litigation counsel can then assess whether the facts may support a declaration and work with the institution on the appropriate process and language.