

NAFSA: Association of International Educators
Updated December 2021

U.S. Department of State (DOS)

Below are recommendations for advancing international education priorities:

Bureau of Educational and Cultural Affairs (ECA)

- **Apply Special Student Relief (SSR) During the COVID-19 Pandemic and Its Aftermath.**

ECA has the authority to suspend or alter rules for J-1 students regarding 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. Unlike the Department of Homeland Security (DHS) for F-1 and M-1 students, ECA has not developed SSR regulations for J-1 students. ECA should develop regulations that establish reduced course load authorization and employment as independent benefits under the program, clarify that "emergent circumstances" covers both domestic and international emergencies of any kind, and consider unifying the finding of emergent circumstances for J students under the authority of the DHS secretary, who makes similar determinations for F-1 students.

- **Establish a National Strategy on International Student Recruitment in Partnership with Relevant Federal Agencies.**

We appreciate ECA's efforts over the past year to scale up the recruitment of international students to the United States. However, to ensure that the government's policies and messages create a welcoming environment for international students, scholars and researchers, a whole-of government national recruitment strategy is necessary. Led by the White House in partnership with the Departments of State (ECA), Homeland Security, Education, and Commerce, it would shift the United States into a proactive posture demonstrating that the U.S. government is serious about attracting a diverse pool of talented individuals to study or conduct research at our institutions of higher education. Competitor countries are already undertaking similar efforts, and they are yielding the benefits of their investments. A national recruitment strategy would rely on active collaboration between government, higher education institutions, and international exchange organizations and result in a strategic plan for enhancing global competitiveness with respect to attracting international students, scientists, and scholars from a wider variety of cultures, backgrounds, and perspectives to the United States.

UPDATES:

- *On July 26, 2021, the U.S. Departments of State and Education, with support from the U.S. Departments of Commerce and Homeland Security, released a **"Joint Statement of Principles in Support of International Education"**, outlining their shared commitment to promoting international education, and to undertaking actions to support a renewed focus on international education.*
- *On November 15, 2021, NAFSA joined with international and higher education partners to urge the U.S. government to partner with the higher education*

community to develop and implement a national strategy to return international student enrollment and exchanges to pre-COVID 19 numbers.

- **Revise and Modernize the Exchange Visitor Program Category (J Visa).**

The J Exchange Visitor category, managed by ECA, was developed to implement the Mutual Educational and Cultural Exchange Act (Fulbright-Hayes Act) of 1961. The overall purpose of that Act, and the objective of the Exchange Visitor category, is "to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges." This broad goal is as relevant now as it was in 1961, but regulation of this program needs to be brought into line with the realities of today's world. The regulations governing the J-1 exchange visitor category and the Immigration and Nationality Act 212(e) two-year home residence requirement should be revisited to ensure that they reflect what the individuals who run exchange visitor programs have observed through managing these exchanges daily. For example, the 12-month and 24-month bars on repeat participation by exchange visitor professors and researchers, while rooted in the important goal of preventing abuse of the program, applies a "fix" that hampers legitimate academic exchanges that do not fall neatly into a simple "start-once, stop-once" model. In today's world, it is the norm for collaborative scientific research to operate on a global scale. The way the current regulations are written, however, makes this kind of collaboration more difficult, and puts the United States at a distinct disadvantage in its efforts to be a global hub for innovation and science. It is time to revisit these bars on repeat participation so that programs can provide input about how they impact certain kinds of exchange.

- **Coordinate a National Strategy on Study Abroad in Partnership with the U.S. Department of Education.**

Just over 347,000 U.S. students studied abroad for credit during the 2018-2019 academic year, which is less than two percent of U.S. students enrolled in U.S. higher education. Less than 10 percent graduate with a study abroad experience on their transcript, meaning that 90 percent of graduates are entering the workforce without the global skills, knowledge, and experiences that would position them for success in the global economy. ECA established the USA Study Abroad Branch within the Office of Global Education Programs during the Obama administration. Working in collaboration with the U.S. Department of Education and with stakeholders in U.S. higher education and international exchange, we urge ECA to develop a national strategy to grow and diversify U.S. college student participation in study abroad. The administration also should seek increased funds for the Increasing and Diversifying Education Abroad for U.S. Students (IDEAS) program and increased or newly established funding for virtual exchange programs like the ECA-funded Stevens Initiative.

UPDATE: On July 26, 2021, the U.S. Departments of State and Education, with support from the U.S. Departments of Commerce and Homeland Security, released a "Joint Statement of Principles in Support of International Education", outlining their shared commitment to promoting international education, and to undertaking actions to support a renewed focus on international education.

- **Continue to Support and Grow Young Leaders Initiatives.**

The Obama administration launched several international education initiatives focusing on young leaders, specifically the Young African, Young Southeast Asian, and Young Leaders of the Americas initiatives. We urge the next administration to continue these programs and grow their numbers and reach.

UPDATE: The [Biden administration proposed level funding](#) (\$34.4 million) for FY2022.

Bureau of Consular Affairs (CA)

- **Restore Confidence in the Travel Advisories System.**

NAFSA urges CA to increase the transparency on how and when travel advisories are reviewed and updated, and by what criteria. Prior to COVID-19, the U.S. higher education community relied heavily on these advisories to guide their risk assessment protocols. However, the lack of transparency and infrequency of updates during the pandemic eroded trust within the U.S. higher education community, who increasingly turned to non-U.S. sources for information. The higher education community should be able to use these advisories as reliable risk assessments so that institutions can successfully meet *in loco parentis* expectations.

UPDATE: On April 23, 2021, [NAFSA wrote to Acting Assistant Secretary for Consular Affairs Ian G. Brownlee](#) to express disappointment in CA's announcement that 80 percent of countries would be placed at a Level 4: Do Not Travel advisory. On June 8, 2021, CA adjusted its [travel advisories](#) in accordance with new travel health notices from the Centers for Disease Control and Prevention, taking 58 countries and territories—including France, Italy, Japan, Spain, and Switzerland—out of the Level 4 category and designating them as Level 3: Reconsider Travel. NAFSA will continue to engage with CA and higher education institutions to ensure the travel advisory system serves as an effective tool for evaluating health and safety for study abroad.

- **Restore a Three-Week Goal for Visa Interview Appointments.**

Executive Order 13802 [82 FR 28747 (June 26, 2017)], signed by President Trump on June 21, 2017, deleted section 2(b)(ii) of President Obama's Executive Order 13597 of January 19, 2012, which had directed DOS and DHS to "ensure that 80 percent of nonimmigrant visa applicants are interviewed within 3 weeks of receipt of application." The 3-week goal should be restored.

- **Continue the Expanded 24-Month Visa Interview Waiver Policy.**

On August 25, 2020, DOS announced a temporary expansion of visa interview waiver eligibility under 22 CFR 102(b)(3). That provision allows consular officers to waive the in-person interview requirement for individuals applying to renew a visa in the same visa classification and category if not more than 12 months have passed since the prior visa expired. Until December 31, 2020, the temporary expansion allows such waivers if the prior visa has not expired more than 24 months ago. This 24-month expansion should

be continued. Alternatively, reinstitute the Interview Waiver for Renewals (12-48 Months after Expiry) program, as had been set forth in 9 FAM 403.5-4(A)(3) prior to its being eliminated by Section 9(a) of Executive Order 13780 of March 6, 2017.

UPDATE: *On December, 23, 2021, DOS extended to the end of 2022 the waiver of in-person visa interviews for certain nonimmigrant applicants (including F, M, and academic J categories) applying for a visa at a U.S. consular office "in their country of nationality or residence." DOS also updated the Foreign Affairs Manual (FAM 9 FAM 403.5-4(A)(1)(a)(5)-(6)) to reflect the December 23, 2021 policy update. However, the new FAM provision states that the in-person interview waiver for F, M, and academic Js excludes "nationals of the People's Republic of China." The FAM language addressing interview waiver expansion to H, L, O, P, and Q visa categories does not contain the PRC exclusion.*

- **Establish a Frequent Traveler Program for Visa Issuance.**

Building on the in-person interview waiver policy detailed above, we urge DOS to go further and establish a "Frequent Traveler Program" modeled after existing DHS trusted traveler programs such as "Global Entry", which allows expedited processing of certain pre-approved low-risk travelers at U.S. ports-of-entry. Allowing U.S. consulates to expedite applications for pre-approved, low-risk academic and business travelers who require an entry visa to travel to the United States would help CA relieve stretched resources by further reducing the number of brief, pro-forma interviews with low-risk visitors, which ultimately do little to enhance our security.

- **Improve Visa Application Processing for Researchers and Scientists.**

The unpredictable timeframe for security clearances and administrative processing as part of the visa application process runs counter to the critical needs of time-sensitive experiments and research. The lack of transparency when applications take longer than 30 to 60 days to adjudicate further frustrates the ability of researchers and scientists to do their work.

- **Restore F-1 Residence Abroad Language to the Foreign Affairs Manual (FAM).**

On August 8, 2017, DOS updated its FAM guidance on residence abroad for F-1 students, removing well-crafted language that instructed consular officers to consider the "inherent difference" between a young F-1 visa applicant and a short-term B visa applicant. The current FAM entry now applies the standard nonimmigrant residence abroad FAM entry of 9 FAM 401.1-3(F)(2) to F-1 students as well. DOS should restore the following language to the FAM:

b. (U) The context of the residence abroad requirement for student visas inherently differs from the context for B visitor visas or other short-term visas (See 9 FAM 401.1-3(F)(2)). The statute clearly presupposes that the natural circumstances and conditions of being a student do not disqualify that applicant from obtaining a student visa. It is natural that the student does not possess ties of property, employment, family obligation, and continuity of life typical of B visa applicants. These ties are typically weakly held by student applicants, as the student is often young, single, unemployed, without property, and is at the stage in life of deciding and developing his or her future plans. Student visa adjudication is made more complex by

the fact that students typically stay in the United States longer than do many other nonimmigrant visitors.

c. (U) The residence abroad requirement for a student should therefore not be exclusively connected to "ties." You must focus on the student applicant's immediate intent, rather than trying to predict what the student may or may not do following completion of studies. Another aspect to consider: students' typical youth often means they do not necessarily have a long-range plan, and hence are relatively less likely to have formed an intent to abandon their homes. Nonetheless, you must be satisfied at the time of application for a visa that the visa applicant possesses the present intent to depart the United States at the conclusion of his or her approved activities. That this intention is subject to change is not a sufficient reason to refuse a visa. Although students may apply to change or adjust status in the United States in the future, this is not a basis to refuse a visa application if the student's present intent is to depart at the conclusion of his or her studies.

DONE: *On December 20, 2021, [DOS updated the FAM to restore "inherent difference" distinctions](#) to the residence abroad requirement for F students.*

- **In Cooperation with DHS Customs and Border Protection (CBP), Clarify Entry Visa Validity Period for Admission of F-1 and J-1 Visa Holders.** CA 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 a visa is presumed valid for the duration of period and number of entries for which it was issued and that it 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.
- **Use Authority to Reduce Demands on U.S. Embassies and Consulates and Recurring Backlogs by Revalidating Visas in the United States.** Prior to July 17, 2004, DOS issued revalidated C, E, H, L, O, and P visas in the United States. In order to increase predictability in travel and reduce delays abroad, DOS should revive this practice and expand the range of visas revalidated in the United States to include F, J, and M visas.

Bureau of Western Hemisphere Affairs

- **Sustain and Grow 100,000 Strong in the Americas Initiative.** Announced by President Obama in 2011, the initiative set a goal of sending 100,000 U.S. students to study abroad in Latin America and the Caribbean, while growing the number of international students from the region studying in the United States to 100,000 by 2020. The [100,000 Strong in the Americas Innovation Fund](#), a public-private partnership launched in 2014 between DOS, NAFSA, and Partners of the Americas, leverages private and

corporate giving so that universities and colleges can expand study abroad programs and make international study more broadly available across the Americas. Since 2014, the Fund has granted 232 grants to 477 higher education institutions in 25 countries and 49 U.S. states. Unfortunately, the numbers of students going each direction has not yet hit the goal of 100,000 each way, so efforts must be redoubled. We also encourage the development of innovative programs like this for other regions of the world.

Support Legislation

Make the Conrad State 30 Waiver Program Permanent.

The Conrad 30 State Waiver Program currently requires periodic reauthorization, which is often delayed. Under the program, a U.S. state's department of public health or its equivalent may recommend waivers of the Immigration and Nationality Act 212(e) two-year foreign residence requirement for foreign medical graduates (FMG) who have obtained graduate medical education or training, if the FMG agrees to practice "primary care or specialty medicine" for three years in an area designated by the U.S. Department of Health and Human Services (HHS) as having a shortage of health care professionals. Each U.S. state is eligible for up to 30 waivers per year. Congress has had to reauthorize the program since it first began in 1994, but over the past decade it has done so only after the deadline passes, resulting in confusing retroactive extensions. The administration should support legislation to make this valuable program permanent, especially given today's public health challenges. For example, amend Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 [Pub. L. 103-416] (8 U.S.C. 1182 note) to read: "The amendments made by this section shall apply to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after October 25, 1994."