



April 8, 2020

The Honorable Michael R. Pompeo
Office of the Secretary
U.S. Department of State
Washington, D.C. 20520

The Honorable Chad Wolf
Office of the Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

VIA EMAIL: pompeomr@state.gov and chad.wolf@hq.dhs.gov

Dear Secretary Pompeo and Acting Secretary Wolf,

On behalf of NAFSA: Association of International Educators, I write to request that the Department of State (DOS) and the Department of Homeland Security (DHS) work collaboratively during and after the COVID-19 crisis to ensure efficient visa and immigration processing, to include protecting the immigration status of international students, scholars, and exchange visitors at U.S. higher education institutions impacted by COVID-19, and ensuring the smooth entry this fall of returning, as well as newly-arriving, international students and scholars for the start of the 2020-2021 academic year. Immigration and visa policies that are well-implemented during and following the crisis will help to win back the confidence of international students, especially as new international student enrollment has already declined nearly 11% since fall 2016.

In a [March 16 letter to DHS](#), NAFSA requested the agency exercise its discretion to allow for flexibility in adjudication of benefit requests and status determinations for international students and scholars studying and conducting research in the United States who have been impacted by COVID-19 and the measures institutions of higher education have taken in response to it. NAFSA appreciates the continued efforts by DHS and DOS to develop and provide public guidance quickly on temporary procedures and policies that mitigate the risk of person-to-

person contact while at the same time limiting the disruption to education and research caused by the COVID-19 pandemic.

However, as the end of the academic year approaches, I write with some urgency seeking assurances that DHS and DOS will work collaboratively to ensure the United States remains open and welcoming to international students, scholars, researchers, faculty, and staff both during and after this crisis. At this incredibly difficult time, a “one government” collaborative response would provide confidence that one agency’s policy will be honored by and integrated with other agencies’ policies. Policy guidance that addresses current and anticipated challenges will aid in the short-term as well as lay the groundwork for the long-term policy and practice needs that will result from this crisis.

NAFSA urges DHS, DOS, and other agencies to continue with the development of creative flexibilities to:

Protect the immigration status of students, scholars, researchers, staff, and faculty at U.S. educational institutions. Examples include:

- Promulgate category-specific measures like Special Student Relief for F-1, M-1, and J-1 students
- Incrementally extend nonimmigrant grace periods. For example, extend the F and M 60-day grace period, the 30-day J grace period, and the 10-day H-1B grace period for 90 days, and then extend that date as necessary according to the course of the COVID-19 emergency.
- Freely approve any requests for J-1 category changes and requests for extensions beyond the maximum duration of participation made by exchange visitors and exchange visitor program sponsors.
- Act as an “interested government agency” to permit J-1 exchange visitors subject to the INA 212(e) two-year home residence requirement to apply for a change of

nonimmigrant status if they are ineligible to continue participation in an exchange visitor program.

- Develop a written policy that DHS, DOS, and other agencies will consider an individual to have continuously maintained his or her nonimmigrant status, and remain eligible for all standard benefits of those statuses, during periods when the agencies, school or employer implement COVID-19 responses such as distance education, telework, electronic document issuance and signatures, and furloughs, temporary lay-offs, or reductions in work hours.
- Publish a Temporary Protected Status (TPS) notice to address the plight of nonimmigrants in the United States who cannot or should not travel home from their current location in the United States, but who are unable to maintain their current nonimmigrant status or change to a new nonimmigrant status.

Provide flexibility on deadlines, filing windows, penalty counts, reporting requirements, and filing/adjudication processes. Examples include:

- Establish filing “grace periods” for schools and exchange programs to apply for school recertification or program redesignation.
- Do not count time spent “unemployed,” “laid off,” “furloughed,” or any other reduction in work hours or salary towards the F-1 optional practical training (OPT) 90/150-day unemployment count, the H-1B 60-day count, or other similar counts.
- Allow on-line study and work, as has already been partially implemented by DHS’s Student and Exchange Visitor Program (SEVP) and DOS’s Exchange Visitor Program.
- Eliminate USCIS’s counter-productive, resource-intensive “bridge application” policy for applicants applying to change their nonimmigrant status to F-1 or M-1 student or J-1 exchange visitor.

- Reduce USCIS’s burdensome Requests for Evidence (RFEs) to cases where the adjudicator has reason to suspect that the applicant has not met the preponderance of the evidence (more likely than not eligible) standard.
- Exercise DHS and DOS’ statutory and regulatory authority to waive the in-person interview requirement for both visa applicants and adjustment of status applicants, utilizing video-conferencing where appropriate.

Use a “one government” approach where each agency and their component bureaus and offices honor each other’s COVID-19 policies. Many immigration benefits and programs have aspects that are managed by a number of agencies with separate roles. This should be coordinated to reduce confusion and to provide confidence that one Agency’s policy will mesh with other Agencies’ policies. Examples include:

- Consular officers at U.S. Consulates and Embassies (DOS Visa Office), immigration inspectors at U.S. ports of entry (CBP), benefits adjudicators (USCIS), and the immigration court system (DOJ attorneys and EOIR) should recognize that a Form I-20 produced according to SEVP’s “electronic I-20” guidance of March 20, 2020 is considered valid for all purposes by any of the aforementioned agencies.

Allocate resources to handle standard seasonal surges as well plan for surges that may come post COVID-19. Examples of surges include:

- Many current students are graduating this May and are in the process of applying for OPT. This results in an increase in filings for request for work authorization documents (I-765) with USCIS.
- The cap-subject H-1B filing season began on April 1. This will result in an increase in I-129 filings with USCIS.
- Medical residencies traditionally begin on July 1. This will also result in an increase in filings with USCIS.



- After the COVID-19 emergency passes and government offices start reopening, there will be a surge of applications for visas and immigration benefits.

Thank you for considering these four broad areas as you continue to update policies that accommodate and address the current difficult situations caused by the COVID-19 pandemic. As we continue to monitor the situation, we appreciate your continued willingness to consider other suggestions that we might forward you in the future.

Sincerely,

Signature

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