

Welcoming International Students and Scholars

Request: We urge members of Congress to support international students and scholars by taking the suggested actions below to improve immigration and visa policy.

America must remain a welcoming nation.

Numerous troubling federal policy changes have altered the perception of the United States as a welcoming destination for international students, scholars, and researchers. Changes to policy range from instituting a ban on travel from certain countries to placing international students under deportation proceedings for even unknown status violations. Such policies, in combination with deliberate competition from other countries, have contributed to a chilling effect on international study and research in the United States. Recent enrollment data continue to show fewer new international students enrolled in higher education programs in the United States last year. The COVID-19 pandemic has only accelerated these declines, as prospective international students choose to study in other countries. Rebuilding and restoring U.S. global leadership and economic strength will require reaffirming a dedication to international education through administrative and congressional action. The following policies, if enacted, would ensure international students, scholars, and researchers continue to contribute to the United States in significant ways.

Attract and Recruit the Best and Brightest to the United States

1. **Establish a coordinated U.S. recruitment strategy for international students and scholars.** A national recruitment strategy 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. Similar efforts are underway in other nations and our competition is beginning to yield 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 wide a variety of cultures, backgrounds, and perspectives to the United States.
2. **Expand dual intent to include foreign student (F) visa applicants.** The United States should modernize immigration law by expanding dual intent to include international students applying for F-1 visas at the bachelor's level and higher, a concept that is currently available in other nonimmigrant categories such as specialty workers (H-1B) and intracompany transferees (L-1). Such a change would permit individuals who are being screened for a visa or when entering the United States to communicate an interest in staying in the country after the completion of their degree.
3. **Improve visa application processing for scientists.** The unpredictable timeframe for security clearances and administrative processing runs counter to the critical needs of time-sensitive experiments and research. The lack of transparency when applications take longer than 60 days further frustrates the ability of scientists to do their work.
4. **Improve USCIS processing times.** Congress should direct USCIS to prioritize predictable processing times and implement technological improvements. There are dire consequences for falling out of or violating immigration status. Reasonable and reliable processing times are critical to ensuring maintenance of status. However, as the American Immigration Lawyers Association describes in a January 2019 report, USCIS processing delays have reached “crisis levels.” (<https://www.aila.org/infonet/aila-policy-brief-uscis-processing-delays>.)

Support and Retain Talent in the United States

5. **Adjust post-graduation immigration law to permit a smoother entry to work for skilled graduates.** There is broad, bipartisan support for “stapling a green card” to the diploma of international students graduating from U.S. colleges and universities. Congress should create a direct path to green cards for select foreign student graduates, eliminate the green card backlogs, and prevent future backlogs.
6. **Provide limited work authorization for spouses of individuals with F status.** Earning a U.S. degree, especially master’s degree or Ph.D., often requires many years of study. Providing the option of work authorization for spouses will help to attract and retain these talented international students who contribute to U.S. innovation and competitiveness.
7. **Permit limited opportunities for individuals to earn money while studying in the United States.** This option would be an important step toward providing students with access to resources that could support their enrollment. The current restriction on work, makes it harder for non-wealthy international students to consider study here. Such a change in policy would contribute to more diversity in sending countries and income levels of students.
8. **Provide flexibility for higher education institutions to admit foreign students for innovative and evolving educational programs.** Immigration policy should be modernized to keep pace with current education models, including low residency programs, online courses and programs requiring multiple study abroad experiences.
9. **Streamline the now long-delayed adjudication of requests from SEVIS certified higher education institutions to offer new programs.** The Immigration and Customs Enforcement (ICE) conducts extensive reviews and vetting before certifying 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 now takes months, if not years, during which time the school may not offer the programs or major to any foreign students. This unnecessary re-review process wastes ICE resources and limits access to new study options.

Direct Federal Agencies to Effectively and Efficiently Implement the Law

10. **Congress should exercise oversight.** Prospective international students and scholars make decisions informed by a variety of factors, including their perceptions of a host country’s hospitality and additional bureaucratic burdens associated with entry into the country. The U.S. House of Representatives and U.S. Senate should host hearings on the contributions of international students and the policies that affect the flow of talent to the United States. Topics could include: the U.S. Citizenship and Immigration Services (USCIS) policies on unlawful presence for F and J nonimmigrants; processing delays and backlogs, and technology to improve immigration services; a direct path to green cards for international students; limited visa validity for certain Chinese graduate students to 12 months; and key provisions in current law and policy that must remain in place, such as duration of status (D/S), and optional practical training (OPT).
11. **Preserve duration of status for foreign students and exchange visitors (F and J status).** For decades, students have been granted immigration status that lasts for the period of time they are engaging in their studies and practical training, known as duration of status or D/S. Alarming, the Department of Homeland Security proposed a rule to eliminate D/S in September 2020. Maintaining this policy is necessary because the time for study can fluctuate given the changing goals and actions of the student. For example, prior to starting a degree program, a student may take full-time English 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 – duration of status – as long as the 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

significantly since fiscal year 2014.¹ Ending D/S would exacerbate an existing problem by adding an enormous number of new extensions of status filings.

- 12. Preserve experiential learning opportunities for foreign students and authorize employment for their families.** USCIS included amending and revising OPT in the Administration's 2020 Spring Unified Agenda of Regulatory and Deregulatory Actions with a projected December 2020 publication date. Scaling back or eliminating OPT is a priority for the agency as OPT has been on the regulatory agenda since 2017. A Washington Alliance of Technology Workers union (WashTech) lawsuit challenging the one-year OPT and two-year STEM OPT extension continues to move forward and is under consideration by the U.S. District Court for the District of Columbia. Experiential learning, OPT for international students, is a key component of U.S. higher education. Access to this opportunity attracts international students, and our competitor countries use their similar programs to attract students away from the United States.

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¹ AILA Policy Brief: USIS Processing Delays Have Reached Crisis Levels Under the Trump Administration, January 30, 2019, <https://www.aila.org/infonet/aila-policy-brief-uscis-processing-delays>