



AMERICAN  
PSYCHOLOGICAL  
ASSOCIATION

October 23, 2020

Sharon Hageman, Acting Regulatory Unit Chief  
Office of Policy and Planning  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
500 12th Street SW  
Washington DC 20536

**RE: Notice of Proposed Rulemaking – Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media – DHS Docket No. ICEB-2019-0006**

Dear Acting Regulatory Unit Chief Hageman:

On behalf of the American Psychological Association (APA), we write to express serious concerns about the proposed rule on Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media, DHS Docket No. ICEB-2019-0006. APA is the leading scientific and professional organization representing psychology in the United States, with more than 121,000 researchers, educators, clinicians, consultants, and students as its members. Our association works to promote the advancement, communication, and application of psychological science and knowledge to benefit society and improve lives.

American higher education is considered the gold standard throughout the world. This includes the field of psychology, both at the undergraduate and graduate levels. A key reason for the excellence of the American higher education system is its ability to attract and enroll talented and motivated students, both foreign and domestic. However, this proposed rule would limit the ability of U.S. institutions of higher education to recruit and retain international students, scholars, trainees, and researchers. Moreover, this proposed rule largely duplicates existing oversight, as the Student and Exchange Visitor Information System (SEVIS) already provides adequate infrastructure to flag and address issues of noncompliance with immigration laws and regulations.

Some one million international students attend U.S. colleges and universities annually,<sup>1</sup> including tens of thousands of undergraduate and graduate psychology students,<sup>2</sup> which significantly contributes to the nation's intellectual and cultural strength. As a whole, international students yield an estimated economic benefit of \$41 billion and support more than 458,000 jobs across various sectors.<sup>3</sup> Their contributions are critical to maintaining U.S. leadership in STEM fields, developing cutting-edge technologies, and enhancing the nation's healthcare system. These

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<sup>1</sup> Institute of International Education. (2019). Open Doors: Report on International Educational Exchange. Retrieved from: [https://opendoorsdata.org/fast\\_facts/fast-facts-2019/](https://opendoorsdata.org/fast_facts/fast-facts-2019/).

<sup>2</sup> Educationdata.org. Retrieved from: <https://educationdata.org/international-student-enrollment-statistics>; National Science Foundation. (2019). Survey of Earned Doctorates 2018. Table 17, Doctorate recipients, by broad field of study and citizenship status: Selected years, 1993–2018. Retrieved from: <https://nces.nsf.gov/pubs/nsf20301/data-tables/>.

<sup>3</sup> NAFSA: Association of International Educators. (2019). NAFSA international student economic value tool. Retrieved from: <https://www.nafsa.org/policy-and-advocacy/policy-resources/nafsa-international-student-economic-value-tool-v2>.



proposed changes, if enacted, would undermine this progress by disincentivizing prospective international students and scholars from attending U.S. colleges and universities, harming students, institutions, and the U.S. public.

The ongoing COVID-19 pandemic and its economic impact highlights the need for a more robust investment in the nation's mental health system. Every state has documented mental health profession shortage areas,<sup>4</sup> with rural communities exhibiting a particularly acute need, and the national shortage of psychologists expected to be at 14,300 by 2030.<sup>5</sup> Limiting the ability of institutions of higher education to recruit and retain international doctoral psychology students will impede efforts to meet a demand for mental and behavioral health services heightened by COVID-19.

Given the enormous economic impact of international students and the urgent nationwide need to address shortages of mental and behavioral health providers, the federal government should encourage international students and scholars to study and remain in the U.S, rather than create additional barriers. Other countries, including Canada, the U.K. and Australia, have recognized this and granted additional flexibilities for international students.

### **Changes to the Current Duration of Status Policy for International Students and Scholars**

Currently, most international student visas are valid for the duration of status, which allows international students to remain in the United States for the entire duration of enrollment in an institution of higher education so long as they are abiding by rules relevant to their immigration status. The proposed rule replaces this longstanding policy with a fixed, four-year visa, and further reduces it to just two years for students who were born in Iran, North Korea, Sudan or Syria, regardless of their citizenship. This creates an arbitrary deadline for program completion that is not based in any academic grounding and would force many international students to renew their status during an already stressful time for their degree progression, such as when they are preparing for their comprehensive exams or during their practicum, residency, or on-site training period.

The proposed rule uses a flawed methodology to justify limiting citizens of countries with certain visa overstay rates, disproportionately limiting students from countries that send smaller numbers of international students.<sup>6</sup> Recent data demonstrates that proof of such overstays is unconfirmed and inconclusive, and there is further evidence that overstay rates in all student and exchange visitor visa categories significantly fell from 2016 to 2019.<sup>7</sup> Additionally, the extensions and reauthorizations required under this proposed rule are likely to create more backlogs, resulting in extended adjudication timelines, which in turn create additional delays, uncertainty, and disruption for students and institutions alike. The increased volatility and uncertainty are likely to

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<sup>4</sup> U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Workforce. (2019). Designated Health Professional Shortage Area Statistics. Retrieved from <https://data.hrsa.gov/hdw/Tools/MapToolQuick.aspx?mapName=HPSAMH>

<sup>5</sup> U.S. Department of Labor, Bureau of Labor Statistics. Occupational Employment Statistics program. Employment, wages, and projected change in employment by typical entry-level education, 2018-2028. Retrieved from: <https://www.bls.gov/emp/tables/education-summary.htm>.

<sup>6</sup> U.S. Department of Homeland Security. Fiscal Year 2019 Entry/ Exit Overstay Report. Retrieved from: [https://www.dhs.gov/sites/default/files/publications/20\\_0513\\_fy19-entry-and-exit-overstay-report.pdf](https://www.dhs.gov/sites/default/files/publications/20_0513_fy19-entry-and-exit-overstay-report.pdf)

<sup>7</sup> Ibid.; Anderson, Stuart. (2018). Forbes. "USCIS Uses Questionable 'Overstay' Report To Justify Policies." Retrieved from: <https://www.forbes.com/sites/stuartanderson/2018/06/06/uscis-uses-questionable-overstay-report-to-justify-policies/#1a647e3e66e7>; National Foundation for American Policy. (Sept. 2020). Policy Brief: International Students and DHS Data. Retrieved from: [https://nfap.com/wp-content/uploads/2020/09/Analysis-of-DHS-Data-on-International-Students.NFAP-Policy-Brief.September-2020-1.pdf?utm\\_campaign=latitude%28s%29&utm\\_medium=email&utm\\_source=Revue%20newsletter](https://nfap.com/wp-content/uploads/2020/09/Analysis-of-DHS-Data-on-International-Students.NFAP-Policy-Brief.September-2020-1.pdf?utm_campaign=latitude%28s%29&utm_medium=email&utm_source=Revue%20newsletter).

further discourage talented international students from deciding to begin or continue studying in the U.S.

Furthermore, to the extent they exist at all, the issues the proposed rule is trying to tackle—security concerns, fraud, abuse of the temporary nature of these visa categories—can already be addressed through the SEVIS system. F-1 and J-1 visas are two of the most highly monitored nonimmigrant visa categories. Currently, U.S. colleges and universities that accept international students must already be certified by the Student Exchange Visitor Program (SEVP) to accept F international students and by the U.S. Department of State Bureau of Educational and Cultural Affairs to receive designation as a J visa sponsor. Once a school is SEVP-certified, it is continuously monitored through SEVIS for compliance with federal regulations.<sup>8</sup>

Finally, the new Extension of Status (EOS) process is also potentially concerning, lacking clarity regarding implementation, operation, and appeals. There is a burden and cost associated with each application for EOS, both on the student and the institution of higher education, and it is unclear how long the extensions will be or if they will be granted in monthly or yearly increments. It is also troubling that this new EOS process essentially puts federal immigration officials in charge of evaluating whether a student is making good academic progress, whereas those evaluations can be more accurately made by degree programs or the institution of higher education. Additionally, if an EOS application is denied, the international student—as well as his or her dependents—must immediately depart the U.S., which may prevent them from finishing their degree and places an undue burden on the individual and/or their family.

### **Proposed Changes Would Limit Degree Completion and Post-Degree Training**

The current system provides flexibility for both four-year degrees and doctoral programs that may require additional time to complete. The proposed limited maximum time period would be largely unworkable for most students at all educational levels. The average time to complete a bachelor's degree for international students is about 5 years.<sup>9</sup> A large proportion of international undergraduate students, including those seeking a degree in psychology, would not complete their degrees within the maximum 4-year time frame.

The proposed change would most affect graduate students, since doctoral programs take longer than four years to complete. PhD-seeking international students—including doctoral-level psychologists<sup>10</sup>—take an average of 5.3 years from entering to completing a program, while those who complete the Masters/PhD sequence take an average of 7.5 years from entering graduate school to the program's completion.<sup>11</sup> For clinical psychologists, a pre-degree internship is also a graduation requirement. For social and behavioral research—which often takes years to complete—placing such arbitrary timelines on the length of time international scholars can study and work will have deleterious effects on the development of psychological science.

The proposed rule would also harm international students and scholars seeking postdoctoral experiences. This includes doctoral psychology graduates, both in the clinical fields—for whom a

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<sup>8</sup> U.S. Department of Homeland Security. Study in the United States. SEVP 101. Retrieved from: <https://studyinthestates.dhs.gov/2014/01/sevp-101>.

<sup>9</sup> U.S. Department of Education. National Center for Education Statistics. DataLab. Retrieved from: [https://nces.ed.gov/datalab/index.aspx?ps\\_x=hmcadm9b](https://nces.ed.gov/datalab/index.aspx?ps_x=hmcadm9b).

<sup>10</sup> Doran, J., Kraha, A., Marks, L., Ameen, E. and El-Ghoroury, N., (2016). Graduate Debt in Psychology: A Quantitative Analysis. *Training and Education in Professional Psychology*, 2016, Vol. 10, No. 1, 3-13.

<sup>11</sup> National Science Foundation. (2019). Survey of Earned Doctorates 2018. Table 31, Median years to doctorate, by broad field of study: Selected years, 1993–2018. Retrieved from: <https://nces.nsf.gov/pubs/nsf20301/data-tables/>.

postdoctoral position is often a requirement to qualify for licensure—as well as social and behavioral researchers completing their training. If U.S. colleges and universities are unable to assure incoming or prospective students and postdoctoral students that they will have an opportunity to complete their entire academic program, they may decide to study in another country. The U.S. would lose a critical pipeline of advanced knowledge and talent. In addition, because international graduate students constitute a critical portion of the research and teaching workforce at U.S. colleges and universities, the proposed rule could significantly limit their ability to conduct that work, hurting both higher education and research.

Furthermore, this proposal comes at the worst possible time, as more than one million current international students and scholars in the United States are dealing with the public health and economic impacts of the COVID-19 global pandemic. Applying this rule now would cause needless confusion for international students and scholars who are working hard to adjust to in-person, hybrid, and online education. It would even further extend time to degree for many students, adding to existing coronavirus-related delays.<sup>12</sup> International students have had to deal with great uncertainty during this period, often without the local support networks of friends and family, exacerbating mental health concerns such as stress, anxiety, and depression.<sup>13</sup> The additional ambiguity the proposed rule would create could further intensify these issues.

### **Impacts on Optional Practical Training**

The proposed rule would also impact students and scholars transitioning to the Optional Practical Training (OPT) program, as well to H-1B and other work authorizations. OPT is a critical recruitment tool that offers talented international students who complete a U.S. degree the opportunity to remain in the country for a period of time to enhance their educational experience. For international students in STEM programs—which includes a number of psychology fields—there is an allowance for a two-year extension of OPT.<sup>14</sup>

Per the proposed rule, students seeking OPT would have to apply for an EOS as well as an employment authorization. These would be separate processes and a student may not engage in post-degree OPT until both the work authorization and EOS is granted. In addition, the current F visa grace period, which allows for transitioning into OPT post-graduation, would be reduced from 60 days to 30 days.

The processing of work authorizations under OPT has experienced significant delays in the past several years.<sup>15</sup> The proposed changes, including an influx of new EOS applications, could overwhelm the system. This will cause undue stress and difficulties for international students, especially those hoping to remain in the U.S. for approved employment or because they are applying to practical educational programs, such as traineeships or postdoctoral programs. Due to this uncertainty, potential employers may also be dissuaded from offering positions to international students, resulting in the severe curtailing of the OPT program and decreasing the likelihood that talented students would choose to study in the U.S.

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<sup>12</sup> Wolff, J., Angyal, B., Ameen, E. & Stueland Kay, T. (2020, September). The Impacts of COVID-19 on Psychology Education & Training: Concerns, Disparities & Recommendations [Unpublished report]. Society for the Psychology of Sexual Orientation & Gender Diversity and American Psychological Association of Graduate Students.

<sup>13</sup> Janelle R. Goodwill and Sasha Zhou, “Association between perceived public stigma and suicidal behaviors among college students of color in the U.S.,” *Journal of Affective Disorders*, Volume 262, 2020, Pages 1-7.

<sup>14</sup> U.S. Department of Homeland Security. Study in the United States. F-1 STEM Optional Practical Training (OPT) Extension. STEM-Designated Degree Program List. Retrieved from: <https://www.ice.gov/sites/default/files/documents/Document/2014/stem-list.pdf>.

<sup>15</sup> Redden, Elizabeth. (June 25, 2019). Inside Higher Ed. “Waiting for Work Authorization.” Retrieved from: <https://www.insidehighered.com/news/2019/06/25/international-students-applying-work-authorization-face-longer-wait-times>.

In conclusion, given these significant concerns, APA strongly opposes this proposed rule and asks that it be withdrawn. We believe it is based on flawed data and attempts to address nonexistent problems. These changes in policy would place additional burdens on students and universities, further disincentivizing prospective international students from participating in U.S. higher education. Instead, the federal government should be doing more to ensure that the U.S. can continue to attract international students, scholars, trainees, and researchers, especially during the COVID-19 pandemic.

The proposed rule imposes needless restrictions on international students and scholars, and would undermine our nation's leadership in higher education, research, and health care. It fails to recognize realities of the time needed for degree completion in many academic programs, particularly harming graduate students, doctoral candidates, and postdoctoral researchers. Psychology students would be especially impacted, potentially hurting the nation's social and behavioral research enterprise and ability to meet projected demands for mental and behavioral health services. If APA can be of assistance, please contact Kenneth Polishchuk, Senior Director for Congressional & Federal Relations, at [kpolishchuk@apa.org](mailto:kpolishchuk@apa.org).

Sincerely,



Katherine B. McGuire  
Chief Advocacy Officer



Catherine Grus, PhD  
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