

STANFORD  
UNIVERSITY



MARC TESSIER-LAVIGNE  
*President*

October 21, 2020

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

Re: Comments in response to DHS Docket No. ICEB-2019-0006

Dear Acting Regulatory Unit Chief Hageman,

At Stanford, international students and scholars make immeasurable contributions that advance our mission of research, education and patient care for the benefit of humanity. Their contribution to this nation and to Stanford compel me to provide comments in strong opposition to the Department of Homeland Security's (DHS) recent notice of proposed rulemaking (NPRM) 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."

This proposed rule is a harmful attempt to change a successful system based on the duration of status to a period of fixed admission. As a result, international students and scholars would be subjected to increased stress, anxiety and uncertainty as they confront the reality of what a period of fixed admission signifies – a policy that does not commit to their ability to complete their education or research. These policy changes are unnecessary, overly burdensome, and costly to international students and scholars at Stanford and across the nation.

I understand and appreciate the concern noted in the NPRM about the need for the federal government to safeguard American national security. Stanford remains vigilant in addressing these concerns. That said, our country must work toward policies that simultaneously advance innovation and protect national security. American scientific leadership has benefited greatly from talent from around the globe and our competitive edge depends on continuing to attract top international students and scholars.

Stanford endorses the comments submitted by the American Council on Education and the Association of American Universities. I am writing separately to share the following specific comments on the areas of the proposed rule that are of greatest concern to the Stanford community.

For the reasons detailed below, I respectfully request that the Department of Homeland Security withdraw this proposed rule in its entirety and retain the policy of admission for the duration of status for all F and J nonimmigrants.

**Date-specific admission does not conform to all academic programs, particularly for students seeking a PhD.**

To continue to draw the best and brightest to the United States, we must be able to commit to international students and scholars that they will be able to remain in the United States for the full duration of their program. As the proposed rule itself acknowledges, these policy changes may incentivize students to study elsewhere. This will be especially true for those seeking a doctoral degree, as the proposed rule would require all international students seeking a PhD to obtain an extension of stay (EOS) in order to complete their education and once again if they apply for Optional Practical Training (OPT).

Under the proposed rule, international doctoral students, of which there are close to 1,800 at Stanford currently, would be given only four- or two-year limits of stay in the U.S., depending on their country of nationality. The median time needed to complete the PhD at Stanford for 62% of doctoral students is six years or less. However, because the remainder, approximately 38%, of our doctoral students take longer, Stanford provides seven years of visa sponsorship. For some international doctoral students, visa extensions beyond seven years are necessary.

The proposed changes would also notably impact the international students at Stanford who are in our five-year coterminal degree programs. These programs allow students to study for a master's degree while completing their bachelor's degree, with students obtaining both degrees in five years. Over the years, hundreds of our international students have enrolled in our "co-term" programs and it remains a popular educational opportunity for all Stanford students. Under the proposed rule, our international students would be required to file an EOS to complete their co-term program, inserting unnecessary uncertainty into the process that may lead to fewer students pursuing these unique educational opportunities.

As an academic medical center, Stanford is also deeply concerned about the disproportionate impact this proposed rule will have on the foreign national physicians that participate in our medical residency and fellowship programs, which can last from one to seven years. Currently at Stanford, there are 58 physicians on J-1 visas that provide critical patient care at Stanford Health Care and at Stanford Children's Health. This proposed rule would not only impact the ability for these physicians to continue and complete training programs on time, but could also disrupt the delivery of healthcare at teaching hospitals across the nation in the midst of a global pandemic.

**SEVIS is already sufficient to accomplish DHS's goals, and the proposed rule is an unwarranted, unnecessary, and harmful intrusion into academic decision-making.**

SEVIS gives DHS real-time access to all necessary information related to F and J nonimmigrants that could impact compliance. For any information not available in SEVIS, DHS already has the authority to request that schools provide that information under 8 CFR 214.3. If students and scholars are asked for evidence after submitting an EOS, they would be required to submit information already available to DHS in SEVIS, thereby wastefully duplicating information.

The critical role already played by the SEVIS database, the Designated School Official (DSO) and the Alternate Responsible Official (ARO) on campuses across the U.S. in maintaining compliance for their nonimmigrant communities has been inexplicably overlooked in the proposed rule. The SEVIS database and the AROs and DSOs who maintain the data therein, are successfully monitoring F-1 and J-1 students and J-1 scholars. The oversight that DHS proposes to take on in this rule, to evaluate the “compelling academic reason” for an extension, to assess a student’s “failing grades” and “student behavior,” is already being done on campuses by the DSOs and AROs, working closely with their registrar’s offices, academic departments, deans, judicial affairs offices, and disabilities offices. Officers within an institution of higher education are best able to decide whether there is a compelling academic reason to grant students additional time to complete a degree, or whether the student is making good academic progress. This proposed rule takes those decisions out of the hands of the institution, and places DHS, without any standards or constraints, in the position of determining whether a student or scholar should be able to complete their already approved program, or whether or not they are making sufficient progress on their education, research or training. It is not the federal government’s role to make academic decisions. Those decisions currently and should continue to rest solely with the institution.

**The process of seeking an Extension of Status (EOS) is uncertain, expensive, and complicated for students and scholars.**

Perhaps the most troubling aspect of the proposed rule is the increased uncertainty and costs to students and scholars - and even to the institutions themselves - when students and scholars must apply for extensions of stay. To complete their program, many students and scholars will face a significant increase in expenses due to the new costs associated with seeking one or more EOS as well as the biometric fee. These increased costs are particularly concerning for our 1,800 doctoral students, the 1,100 students who utilize OPT, as well as the 200 students and scholars from countries considered to have high national overstay rates that would likely need to apply for an EOS at least every two years.

While the monetary costs are real, the true costs cannot solely be measured by numbers. The costs also include the anxiety and uncertainty experienced by members of our international community as they confront the process of submitting the EOS to the USCIS. The USCIS’s struggle with processing delays have risen to crisis levels, creating havoc in the lives of many nonimmigrants<sup>1</sup>. For example, as of September of 2020, the California Service Center can take from 10 to 19 months to process an employment verification application for OPT, due to a backlog of applications and the agency’s funding crisis. Under this proposed rule, USCIS will likely have to process hundreds of thousands of additional EOS applications per year. There is widespread concern that the agency cannot manage this sharp increase in applications for EOS, in addition to the biometric requirements, and process them in a timely manner. While students and scholars would be able to remain in the country while their applications are pending, should these delays persist or increase, students’ employment opportunities could be jeopardized as a result of processing delays.

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<sup>1</sup> AILA, "AILA Policy Brief: USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration" (January 30, 2019); <https://www.aila.org/advo-media/aila-policy-briefs/aila-policy-brief-uscis-processing-delays>

**The two-year admission limit unfairly targets broad groups of students and scholars based on their country of origin.**

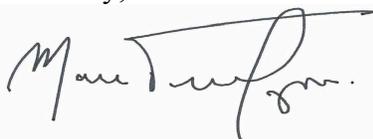
Policies that restrict the broad flow of people and ideas across national borders, or that have the effect or appearance of excluding people based on their country of origin are deeply antithetical to both Stanford's mission and our values. By severely limiting the length of admission for several broad groups of students and scholars to only two years, the proposed rule would penalize students and scholars based on their country of origin and would only serve to create inequities among international students and scholars on campus. It would also lead to a sense of near constant uncertainty for these students and researchers, while also drastically increasing the cost to remain in the United States for the duration of their program.

In particular, limiting the length of stay for those that come from countries with high national overstay rates not only punishes students for the transgressions of others, but disadvantages students and scholars who come from countries that send fewer students and exchange visitors to the United States. This is especially the case for those from countries in Africa, which comprise many of the approximately 60 countries currently identified by DHS as having a 10% or higher national overstay rate. At Stanford, we welcome approximately 200 students and scholars from these countries each year.

Even more concerning is that the data used to calculate each country's overstay rate is deeply flawed. According to a recent analysis done by the National Foundation for American Policy<sup>2</sup>, the DHS overstay reports provide inaccurate calculations by counting both individuals whose departure from the U.S. have not been tracked and those who have changed status legally within the U.S. These errors dramatically inflate the number of individuals counted as overstays.

In closing, our mission as a university is enhanced by the presence and participation of people from all over the world, from all walks of life. I recognize the importance of balancing federal immigration policy and national security. We must, however, ensure that the United States welcomes international students and scholars if we are to continue to drive the discovery and innovation that fuels our economic progress. I strongly urge you to withdraw this damaging proposed rule. It will only lead to more uncertainty and stress for our international students, scholars, physicians, and their families, and all who dream of pursuing their education and research in the United States.

Sincerely,



Marc Tessier-Lavigne

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<sup>2</sup> National Foundation for American Policy, "NFAP Policy Brief on International Students and DHS Data" (September 2020); <https://nfap.com/wp-content/uploads/2020/09/Analysis-of-DHS-Data-on-International-Students.NFAP-Policy-Brief.September-2020-1.pdf>