

Statement of NAFSA: Association of International Educators

Submitting to the House Committee on the Judiciary, Subcommittee on Immigration and Citizenship Hearing on “Policy Changes and Processing Delays at U.S. Citizenship and Immigration Services”

July 16, 2019

As the world’s largest association of international education professionals, NAFSA: Association of International Educators was founded over 70 years ago on the principle that global learning leads to a more engaged and welcoming United States, a more responsive and participatory government, and a more secure and peaceful world. Our more than 10,000 members, based at virtually every U.S. higher education institution across all 50 states and the District of Columbia, engage in the daily work of supporting international educational opportunities for students and scholars. Our members help facilitate study abroad experiences for American students and welcome international students and scholars to U.S. campuses and communities. In their work, they see firsthand how international students and scholars create jobs, drive research and innovation, enrich our classrooms, strengthen our national security, and become America’s greatest foreign policy assets.

U.S. Citizenship and Immigration Services (USCIS) policy changes and processing delays severely impact international students and scholars on U.S. campuses. Significant, long-standing policy changes are implemented without proper advance notice or meaningful stakeholder contribution. Uncertain current and future policies and processing times deter ongoing study by current students and those considering future study here. While other countries have recognized the tremendous contributions of these talented students, USCIS continues to put barriers in their paths, making it harder for them to bring their contributions to the United States. Harmful policies and anti-immigrant rhetoric have created a chilling effect on enrollment, as the United States is increasingly viewed as unwelcoming to international students and scholars.

The United States Benefits from International Students Who Study Here

International students contribute to our economy and create jobs. The more than one million international students studying at U.S. colleges and universities contributed \$39 billion to the U.S. economy and supported more than 455,000 jobs during the 2017-2018 academic year.¹ International education is the fifth-largest U.S. service sector export, twice as large as our largest agricultural export-soybeans.² According to the National Foundation for American Policy, nearly one-quarter of the founders of the \$1 billion U.S. startup companies first came to America as international students.³ In 2016 alone, all six American winners of the Nobel Prizes in economics and scientific fields were immigrants. Since the year 2000, 40% of the Nobel Prizes won by Americans in chemistry, medicine, and physics have been immigrants.⁴

¹ NAFSA: Association of International Educators, Economic Value Tool (2018), www.nafsa.org/economicvalue

² tinyurl.com/nytm-20190103-MostVitalExports

³ Anderson, Stuart. "Research: Immigrants Started More than Half of America's Billion Dollar Startup Companies." March 17, 2016. Accessed June 4, 2018. <http://nfap.com/wp-content/uploads/2016/03/Immigrants-and-BillionDollar-Startups.DAY-OF-RELEASE.March-17-2016.pdf>

⁴ National Foundation for American Policy. "Immigrants and Nobel Prizes: 1901 - 2017." October 2017. Accessed June 4, 2018. <https://nfap.com/wp-content/uploads/2017/10/Immigrants-and-Nobel-Prizes-1901-to-2017.NFAPPolicy-Brief.October-2017.pdf>

Fewer International Students Studying in the U.S. Harms U.S. Competitiveness

Fewer international students are choosing to study in the United States. The most recent U.S. Department of State Open Doors report, published by the Institute of International Education, reported a 6.6% decline in new international student enrollments; this follows a 3.3% decline in new enrollments the prior year and marks the first time America has seen a two-year decline.⁵ Data show that international students and scholars feel less safe and less welcome in the United States than the previous year surveyed.⁶

More recently, the presidents and chancellors of colleges and universities throughout New Jersey and Michigan wrote to their respective congressional delegations expressing concerns about the obstacles they face in seeking to attract international students, scholars, researchers, and others to their campuses.⁷ Their letters specifically identify USCIS processing delays as a significant barrier to study and work in the United States. As a result, these talented immigrants are opting to study in and contribute to other countries, to the detriment of U.S. higher education and global competitiveness.

Other Countries Are Benefiting as International Students Choose Not to Study in the United States

Other countries recognize the benefits of attracting and retaining international students. According to *Project Atlas* data, since 2001, the number of students pursuing education outside of their home country has more than doubled, from 2.1 million to 5.0 million, while the U.S. share of this globally-mobile student population dropped, from 28% in 2001 to 22% in 2018.⁸ Competitors like Canada, China, and Australia are recruiting and attracting more international students and scholars and benefiting at the expense of the United States. For example, in 2014, China surpassed both the United Kingdom and the United States as a top destination for international students from Africa — and it continues to draw increasing numbers of students from the African continent.

USCIS Policies and Delays Eliminate Educational and Employment Opportunities

Experiential or applied learning is a key component of U.S. higher education. Domestic and international students alike should have access to these important opportunities. However, unlike American students, who are not hindered in seeking out internships or other work-related opportunities to apply what they have learned, international students need approved work authorization from USCIS to engage in optional practical training (OPT). When that access is threatened, the value of a U.S. education may be called into question with international students choosing to study in other countries that allow them access to a full international education experience that includes experiential learning. Many countries recognize that options to apply in-class learning in an employment setting is a factor in recruitment and retention of international students.

⁵ Institute of International Education. (2018). "International Student Enrollments by Institutional Type, 2017/18." Open Doors Report on International Educational Exchange. Retrieved from <http://www.iie.org/opendoors>

⁶ <https://tinyurl.com/y5mnrgh>

⁷ New Jersey letter, <https://president.princeton.edu/blogs/letter-president-eisgruber-and-other-leaders-new-jersey-colleges-and-universities-new-jersey>. Michigan letter, <https://www.masu.org/Portals/0/docs/MI%20Higher%20Ed%20Immigration%20Letter%206-24-2019.pdf>

⁸ tinyurl.com/iie-CurrentInfographics

This summer, USCIS' failure to timely adjudicate work authorization documents for international students approved for OPT functioned as de facto denials of OPT for many international students. International students have a compressed window of time to both apply for work authorization and to complete their OPT. They may only file for work authorization 90 days before their program of study ends and must complete their OPT within 14 months after their program ends (with a potential two-year extension for STEM graduates). Work authorization delays take away from the 14-month window non-STEM graduates have to engage in OPT. And U.S. employers are understandably unwilling or unable to keep positions unfilled as students' period of OPT dwindles while waiting for a USCIS decision.

International students are further disadvantaged when USCIS fails to complete H-1B adjudications by the start of a new fiscal year. F-1 nonimmigrants rely on so-called "cap-gap" relief to maintain legal immigration status if their OPT expires before the H-1B status start date. This is because the cap-gap regulation automatically extends the OPT employment authorization of an F-1 until the first day of the fiscal year on October 1 when new H-1Bs become available.⁹ However, when USCIS does not approve an H-1B petition by October 1, the student's employment authorization ends, and the student must stop working until the petition is finally approved.

Processing delays that foreclose the opportunity for international students to engage in experiential learning is just another in a long list of policies that seem by design to discourage international students from studying in the United States.

Uncertainty Continues to Threaten International Student Recruitment

The ongoing uncertainty in U.S. immigration policy threatens the ability of U.S. higher education institutions to recruit international students to the United States. One example of this is the inclusion in the Department of Homeland Security (DHS)'s Spring 2019 Unified Agenda of Regulatory and Deregulatory Actions plans for Immigration and Customs Enforcement to publish a proposed rule in February 2020 "Establishing a Maximum Period of Authorized Stay for F-1 and Other Nonimmigrants." If this rule was to go into effect, USCIS would be responsible for adjudicating extensions of status for all international students who need to study longer than a period of time initially permitted by DHS. If DHS adopts the worst option by limiting student status to one-year increments, USCIS would be inundated with extension of status filings, filings the agency would inevitably be unable to process in a timely way.

Conclusion

USCIS should review policies that create barriers to international students' study and contributions to the United States. Furthermore, USCIS should consult with stakeholders to allow for meaningful input on proposed changes to policy. Creating a system that is unwelcoming and at times seemingly hostile to international students and scholars does a disservice to U.S. competitiveness and will continue to push international students and scholars to study in and contribute to other countries.

⁹ 8 CFR 214.2(f)(5)(vi)(A)