

Statement for the Record of

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I. INTRODUCTION

The nonpartisan, nonprofit Presidents' Alliance on Higher Education and Immigration (Presidents' Alliance) brings college and university presidents and chancellors together on the immigration issues that impact our students, campuses, communities, and nation. The Presidents' Alliance works to advance just immigration policies and practices at the federal, state and campus level. The Alliance is composed of over 500 presidents and chancellors of public and private colleges and universities, enrolling over five million students in 43 states, D.C., and Puerto Rico. Our members represent the full range of nonprofit higher education institutions, including doctoral, master's, baccalaureate, and associate's level colleges and universities as well as special focus institutions.

Due to our work at the intersection of higher education and immigration, a great deal of our advocacy concerns the effects of both broad and student-specific immigration reform to our current system. The Presidents' Alliance supports reforms consistent with our heritage as a nation of immigrants and the academic values of equity, openness, diversity, and inclusion. Our detailed immigrant and international student recommendations are enclosed (see Appendices A and B at the end of this document); below is an overview of our priorities and recommendations related to immigration reform.

II. ROADMAP TO CITIZENSHIP AND REMOVING ROADBLOCKS TO SUCCESS

1. Roadmap to citizenship for Dreamers, TPS recipients, and other immigrant students

Like most undocumented immigrants, our undocumented students and scholars, including those with Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS), built a life in the United States and invested in the success of themselves, their communities, and the country.¹ In April 2020, the Presidents' Alliance and New American Economy produced the first estimates of the number of undocumented students in higher education that showed there are approximately 450,000 undocumented students in higher education, 216,000 of whom are DACA recipients or DACA-eligible.² In another report commissioned by the Presidents' Alliance, the Migration Policy Institute estimates that 98,000 undocumented students graduate high school every year.³

A roadmap to citizenship for Dreamers and legal status for all undocumented immigrants enjoys strong support according to new polling. Eighty-three percent of Americans support allowing undocumented immigrants who came to the United States as children to remain here with a path to citizenship, including 66 percent of Republicans.⁴ Another poll found that 80 percent of Americans back legal status for undocumented immigrants, and 64 percent want a path to citizenship.⁵ Citizenship during COVID-19 is even more essential. Currently, DACA recipients and TPS holders represent a combined estimated 333,800 essential workers on the frontline of the pandemic, and an estimated five million of those on the frontline are undocumented.⁶

¹ For our complete legislative priorities on domestic students, please see Appendix A.

² Presidents' All. on Higher Educ. and Immigr. & New Am. Econ., *Undocumented Students in Higher Education How Many Students are in U.S. Colleges and Universities, and Who Are They?* (Apr. 2020), <https://www.presidentsalliance.org/report-undocumented-students-in-higher-education-how-many-students-are-in-u-s-colleges-and-universities-and-who-are-they/>.

³ Jie Zong & Jeanne Batalova, *How Many Unauthorized Immigrants Graduate from U.S. High Schools Annually?*, Migr. Pol. Inst. (Apr. 2019), <https://www.migrationpolicy.org/research/unauthorized-immigrants-graduate-us-high-schools>.

⁴ Tim Malloy & Doug Schwartz, *61% Optimistic About Next Four Years with Biden in Office, Quinnipiac University National Poll Finds; 68% of Americans Support the \$1.9 Trillion Stimulus Relief Bill*, Quinnipiac Univ. Poll (Feb. 3, 2021), https://poll.qu.edu/images/polling/us/us02032021_uszn68.pdf.

⁵ Robert P. Jones et al., *Immigration After Trump: What Would Immigration Policy that Followed American Public Opinion Look Like?*, Public Religion Research Institute (2021), <https://www.prrri.org/wp-content/uploads/2021/01/PRRI-2021-Immigration-Post-Trump.pdf>.

⁶ Nicole Prechal Svajlenka, *A Demographic Profile of DACA Recipients on the Frontlines of the Coronavirus Response*, Ctr. for Am. Progress (Apr. 6, 2020 9:01 AM),

2. Higher education access and affordability

Domestic immigrant students, including those with TPS and DACA, encounter numerous barriers to affording and enrolling in higher education in the United States. “Non-qualified” immigrants are barred from accessing public benefits, including postsecondary benefits such as in-state tuition and financial aid, unless a state makes them explicitly eligible.⁷ Congress should remove the bar on postsecondary benefits for immigrants from federal law, as well as the portion of immigration law that prohibits states from providing such benefits to undocumented students based on state residency.⁸ Congress should prohibit the denial of federal financial aid—including federal loans, Pell grants, and work-study programs—for immigrants. Lastly, we believe that Congress should pass legislation to ensure non-discrimination based on immigration status for the above benefits.

3. Access to professional and occupational licensure

Licensure represents a credential that the federal, state, or local government issues to an individual seeking to be employed in certain fields and usually requires that an individual satisfy state-specific educational, training, testing, and other requirements. Over 1,100 different occupations require a license, and approximately 25 percent of all workers nationwide are required to obtain a license in order to work in their occupations. There should be no barriers to federal or state licensing based solely on immigration status that would prevent an otherwise qualified individual from receiving a professional or occupational license.

Please see Appendix A for more detailed recommendations regarding domestic immigrant students.

III. COMPREHENSIVE INTERNATIONAL STUDENT STRATEGY

Due to the absence of a clear U.S. strategy to attract and retain international students to the United States, harmful policy changes and unwelcoming rhetoric promulgated by the prior administration, and increasing competition from other countries; the United States is losing our edge in the global competition for talent.⁹ Our graduate science programs in particular are dependent on international students and scholars. Both of the vaccines approved for use today were developed with internationally collaborative science and with the help of foreign and immigrant students. Congress should articulate the value of international students and send a message that they are welcome to succeed here.

International students create jobs and help grow our economy. For every eight international students we welcome, three U.S. jobs are created or supported.¹⁰ These students and their dependents have contributed \$38.7 billion and nearly 416,000 jobs to the U.S. economy, helping many of our institutions and communities to make up for lower state budgets for higher education and to offer lower tuition rates to domestic students.¹¹ But at last count, we had lost more than 42,000 jobs and \$1.8 billion as students chose to study in other countries.¹² Recent

<https://www.americanprogress.org/issues/immigration/news/2020/04/06/482708/demographic-profile-daca-recipients-frontlines-coronavirus-response/>; Svajlenka & Tom Jawetz, *A Demographic Profile of TPS Holders Providing Essential Services During the Coronavirus Crisis*, Ctr. for Am. Progress (Apr. 14, 2020, 9:05 AM), <https://www.americanprogress.org/issues/immigration/news/2020/04/14/483167/demographic-profile-tps-holder-s-providing-essential-services-coronavirus-crisis/>.

⁷ Personal Responsibility and Work Opportunity Reconciliation Act, H.R.3734, 104th Cong., § 401-423 (1996).

⁸ Illegal Immigration Reform and Immigrant Responsibility Act, H.R. 2202, 104th Cong., § 505 (1996).

⁹ For our complete legislative priorities on international students, please see Appendix B.

¹⁰ Press Release, New NAFSA Data Show First Ever Drop in International Student Economic Value to the U.S., NAFSA Association of International Educators (Nov. 16, 2020),

<https://www.nafsa.org/about/about-nafsa/new-nafsa-data-show-first-ever-drop-international-student-economic-value-us>.

¹¹ *Id.*

¹² *Id.*

polling shows that 53 percent of people favor laws that attract and retain international students and scholars, and only 19 percent oppose them out right (28 percent remain unsure).¹³

Please see Appendix B for more detailed recommendations regarding the incorporation of a national strategy to recruit and retain international students in immigration reform.

IV. INCREASING ENTRY AND ACCESS FOR REFUGEE STUDENTS

Refugee students and scholars have long enriched college and university campuses with their resilience, talent, and diverse perspectives and backgrounds. They have made invaluable contributions to communities in every state through their study, teaching, research, and vocational training, despite facing steep barriers to higher education. However, much more needs to be done to ensure that refugee students have access to higher education in the United States. The UNHCR reports 79.5 million people displaced worldwide, including 26 million refugees.¹⁴ Of these, only three percent of refugees are able to access higher education at all.¹⁵ The UNHCR has set a goal of fifteen percent of eligible refugees accessing higher education by 2030.¹⁶ U.S. colleges and universities can and should help reach that goal.

Congress must continue its commitment to uphold the refugee resettlement program and support and enact changes that better enable refugee students to enter the United States to pursue higher education. The current F-1 international student visa poses a number of significant obstacles for refugee students, including requirements to prove that they are non-immigrants who intend to depart the United States after their education, demonstrate financial support for the entirety of their academic program, and abide by limitations on employment. Congress should pursue legislative changes that would provide specific pathways for refugee learners, including exploring the creation of a “refugee student visa program” to address the specific challenges and needs that this population encounters.¹⁷ Helping refugee students overcome obstacles to entry into the United States, access higher education at our colleges and universities, and achieve their fullest social, economic, and civic integration not only aligns with our aspirations as a nation of refuge and maintains our humanitarian commitments, but it would strengthen our nation’s economy and help meet our critical skills gaps.

¹³ New Paradigm Strategy Grp., Immigration and Education: NP Omnibus Results for August 2020 4 (2020), available at <https://www.presidentsalliance.org/wp-content/uploads/2020/09/NPSG-Presidents-Alliance-Q-Toplines-Aug-2020-Omnibus-1.pdf>.

¹⁴ United Nations High Comm’r for Refugees, *Global Trends Forced Displacement in 2019*, United Nations (2019), <https://www.unhcr.org/globaltrends2019/>.

¹⁵ United Nations High Comm’r for Refugees, United Nations, *Stepping Up: Refugee Education in Crisis 37* (2019), available at <https://www.unhcr.org/steppingup/wp-content/uploads/sites/76/2019/09/Education-Report-2019-Final-web-9.pdf>.

¹⁶ *Id.* at 39.

¹⁷ The International Refugee Assistance Project (IRAP) recommends the “creation of a new student visa specifically designed for refugee students” in their report, *Expanding Complementary Pathways for Refugees and Displaced Persons: A Blueprint for the U.S. Government 87* (2020), available at <https://refugeerights.org/wp-content/uploads/2020/11/Expanding-Complementary-Pathways-for-Refugees-and-Displaced-Persons-A-Blueprint-for-the-U.S.-Government.pdf>

APPENDIX A: DOMESTIC IMMIGRANT STUDENT RECOMMENDATIONS

1. Higher Education Access and Affordability

A. Repeal PRWORA Prohibition on Postsecondary Benefits for “Non-Qualified Aliens”

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), enacted in 1996, bars the provision of “state and local public benefits” for non-qualified “aliens” unless the state passes an affirmative law making them explicitly eligible, including “postsecondary benefits.”¹⁸ Under PRWORA, some courts view in-state tuition, financial aid, and even admission as public benefits.¹⁹ This provision potentially undermines future expansions of federal and state benefits. Federally, a court may read this ban to supersede any subsequent legislation that does not “affirmatively provide” for the eligibility of undocumented people, similar to the ongoing litigation around emergency financial grants in the CARES Act and their intersection with this provision of PRWORA.²⁰ On a state level, the requirement that a state pass an “affirmative” law or policy, makes it much harder for states to offer these benefits to immigrant students. Thus, any expansion of federal or state aid must be coupled with the elimination of this prohibition. We recommend that Congress amend 8 U.S.C. § 1611(c)(B) as follows:

(B) any retirement, welfare, health, disability, public or assisted housing, ~~postsecondary education~~, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

We also recommend that Congress amend 8 U.S.C. § 1621(c)(B) as follows:

(B) any retirement, welfare, health, disability, public or assisted housing, ~~postsecondary education~~, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

Congress should also add conforming language stating the individuals who cannot satisfy the immigration administration requirements found in 20 U.S.C. §§ 1091(a)(4)(B), 1091(a)(5), and 1091(g) (and all other relevant sections) can still apply for and receive postsecondary education benefits.

B. Ensure Federal Financial Aid for Individuals Who Obtain Relief through Dream Act or Similar Legislation

Congress should enact legislation that prohibits the denial of federal financial aid, including federal loans, Pell and other grants, and work-study–based programs for immigrant youth and adult learners (including DACA recipients, TPS holders, and undocumented students) who obtain relief through legislation. Individuals under a Dream Act–like bill may either have “conditional permanent resident” (CPR) status (such as H.R.6, the American Dream and Promise Act); or an “interim” status, which would not generally qualify them for federal financial aid (i.e., because this would make them “non-qualified aliens.”). In the former situation, affirmative language would not be needed, as conditional permanent residents will

¹⁸ Personal Responsibility and Work Opportunity Reconciliation Act, H.R.3734, 104th Cong., § 401–23 (1996).

¹⁹ Kate M. Manuel, Cong. Rsch. Serv., R43447, Unauthorized Aliens, Higher Education, In-State Tuition, and Financial Aid: Legal Analysis 30 (2016).

²⁰ Off. of Postsecondary Educ., *Higher Education Emergency Relief Fund Litigation Updates*, U.S. Dep’t of Educ. (June 17, 2020), <https://www2.ed.gov/about/offices/list/ope/heerfupdates.html>.

generally be eligible for all benefits as lawful permanent resident (LPR or commonly known as “green card” holders) status holders (aside from naturalization), including federal financial aid and Pell grants. Thus, the below language (modified and taken largely from H.R.3591, the American Hope Act of 2017) would only be needed when legislation grants an initial status different or less than CPR or LPR status:

(a) In General.—Notwithstanding 8 U.S.C. § 1611 subsections (a)(5) and (g) of section 484 of the Higher Education Act of 1965 (20 U.S.C. § 1091) or any other provision of the Higher Education Act of 1965 (20 U.S.C. § 1001 et seq.), and subject to subsection (b) of this section, an alien who adjusts status to that of a [name of immigration status] under this Act is eligible for the following assistance under title IV of such Act (20 U.S.C. § 1070 et seq.):

- (1) Federal grants under part A (20 U.S.C. § 1070 et seq.).
- (2) Federal work-study programs under part C (42 U.S.C. § 2751 et seq.).
- (3) Federal student loans under parts D and E (20 U.S.C. § 1087a et seq.).
- (4) Services not otherwise covered under paragraphs (1) through (3).
- (5) Need analysis and refunds calculated under parts F and G (20 U.S.C. §§ 1087kk et seq.; 1088 et seq.).

(b) Other Requirements.—An individual described in subsection (a) may only receive the assistance described in subsection (a) for which such individual would be otherwise eligible (but for such individual’s immigration status).

C. Repeal IIRIRA’s Section 505 Prohibition on In-State Tuition Based on Residency

Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) bars states from providing “postsecondary education benefits” to those who are “not lawfully present” based on in-state residency unless all citizens of the United States are eligible for those benefits regardless of state residency.²¹ Many states have circumvented this prohibition by basing in-state tuition on high school attendance and graduation in the state, but § 505 still presents a burden to states, often being cited in litigation challenging in-state tuition laws. There is also the possibility that the courts will strike down state in-state tuition laws based on a novel reading of § 505. Repealing this law would allow states to affirmatively offer in-state tuition through residency status, and it would protect those states that have currently expanded in-state tuition to undocumented immigrants. We recommend that Congress pass legislation with the following language, taken largely from S.952:

Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. § 1623) is repealed. The repeal shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).

²¹ Illegal Immigration Reform and Immigrant Responsibility Act, H.R. 2202, 104th Cong., § 505 (1996).

D. Implement Federal Anti-Discrimination Based on Immigration Status Provision for Higher Ed Access

To ensure non-discrimination based on immigration status in the higher ed context, we also recommend that Congress enact legislation with the following language:

Notwithstanding any other law, an individual may not be denied admission, enrollment, grants, scholarships, in-state tuition (or any other tuition discount), or any postsecondary benefit by an agency of a State or local government, or by appropriated funds of a State or local government, or an institution of higher education on the basis of the individual's immigration status if the individual is otherwise qualified.

2. Professional Licensing

Professional, commercial, and business licenses (also known as “occupational licenses”) represent the licensure framework required for an individual working in a specific field or career. This licensure represents a credential that the federal, state, or local government issues to an individual seeking to be employed in certain fields, and usually requires that an individual satisfy state-specific educational, training, testing and other requirements. Nearly one in four jobs require some sort of license to practice. Over 1,100 different occupations require a license, and approximately 25 percent of all workers nationwide are required to obtain a license in order to work in their occupations. There are a variety of federal prohibitions on licensure that the below language attempts to address.

A. Repeal PRWORA Federal and State Prohibition on Federal Professional and Occupational Licensing

Congress should enact legislation rescinding the federal and state prohibition on professional and commercial licenses to non-qualified immigrants. We recommend that Congress amend 8 U.S.C. § 1611(c)(1) as follows:

(A) any grant, contract, ~~or loan~~ ~~professional license, or commercial license~~ provided by an agency of the United States or by appropriated funds of the United States

We also recommend that Congress amend 8 U.S.C. § 1621(c)(1):

(A) any grant, contract, or loan ~~professional license, or commercial license~~ by an agency of a State or local government or by appropriated funds of a State or local government

C. Prohibit Denial of Federal and State Licenses Based on Immigration Status

Congress, through its constitutional authority to regulate immigration, should enact legislation that prohibits both the federal government and states from denying licensure based on immigration status to an immigrant who is otherwise qualified. We recommend that Congress enact one of the following language versions, taken and modified from S.744, the Border Security, Economic Opportunity, and Immigration Modernization Act (but removing the requirement that an individual possess an employment authorization document to benefit from the non-discrimination provisions):²²

Notwithstanding any other law, an individual in the United States may not be denied a professional, commercial, or business license on the basis of his or her immigration status if the individual is otherwise qualified.

²² Border Security, Economic Opportunity, and Immigration Reform Act, S.744, 113th Cong., § 3105 (2013).

D. Licensing and Legislative Protections for Immigrant Youth, TPS and DED Recipients

Many forms of immigration relief legislation grant conditional permanent resident (CPR) status to applicants, a qualified immigrant status that enables individuals to apply for and receive professional and occupational licenses. There is a pressing need for potential applicants and applicants with pending applications to access licensing before obtaining CPR status, including those with Deferred Action for Childhood Arrivals (DACA), Temporary Protected Status (TPS), or Deferred Enforced Departure (DED). Specifically, these individuals need to fully utilize their work permits and participate in licensed fields to save up funds to apply for relief. We recommend that Congress enact legislation with the following language as part of any Dream legislation:

Notwithstanding any other law, for the purposes of professional, commercial, and business licenses, individuals with Deferred Action for Childhood Arrivals, Temporary Protected Status under Section 244 of the Immigration and Nationality Act (8 U.S.C. § 1254a(b)), a grant of Deferred Enforced Departure, or an employment authorization document obtained under this Act, shall not be denied a professional, commercial, or business license on the basis of their immigration status if otherwise qualified.

APPENDIX B: INTERNATIONAL STUDENT RECOMMENDATIONS

Congress should articulate the value of international students and send a message that they are welcome to succeed here by enacting the following policies.

A. Welcome the Best and Brightest to the United States

- a. **Establish a coordinated U.S. strategy to recruit, support and retain international students and scholars.** Universities and colleges have been working hard to stem the decline in international student enrollments, but without a national recruitment strategy we are at a disadvantage with other competitor countries. A coordinated, national recruitment strategy should rely on active collaboration between government, higher education institutions, and international exchange organizations and should result in a strategic plan for enhancing global competitiveness with respect to attracting international students, scientists, and scholars from a wide variety of cultures, backgrounds, and perspectives to the United States.
- b. **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 attending U.S. colleges and universities, 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 transferring to another legal status after the completion of their degree, which current law prohibits by assuming all foreign students will be “non-immigrants.”
- c. **Exercise oversight to ensure the State Department and relevant agencies improve visa application processing for students and scholars.** 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 and researchers to do their work.
- d. **Exercise oversight to ensure that the Department of Homeland Security improves USCIS processing times.** USCIS should prioritize predictable processing times and implement technological improvements. There are dire consequences for students and scholars 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.” For example, as of January 16, 2019, the processing time for extension of foreign student status is 11.5 to 15 months at the USCIS Vermont Service Center. The delays in processing work authorizations for Optional Practical Training (OPT) are particularly concerning and will jeopardize our ability to recruit and retain talented international students if not resolved immediately.

B. Support and Retain Talent in the United States

- a. **Adjust immigration law to permit a smoother entry to work for skilled graduates of U.S. higher education institutions.** Our nation would do well to allow those educated by our institutions to stay and contribute their knowledge and skills to our economy. 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 foreign student alumni, eliminate the green card backlogs, and prevent future backlogs. Priority should be given to those with Ph.Ds, master's, bachelor's and associate's degrees from U.S. higher education institutions and should represent the wide range of fields of study needed in our economy.

- b. Enact family-friendly policies for students and scholars by providing limited work authorization for spouses of individuals with F status.** Earning a U.S. degree, especially a 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.
- c. 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 restrictions on work, makes it harder for non-wealthy international students to consider studying here. Such a change in policy would contribute to more diversity in sending countries and income levels of students, thus advancing our foreign policy interests.
- d. 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.
- e. Direct the Department of Homeland Security to streamline the now long-delayed adjudication of requests from SEVIS-certified higher education institutions to offer new programs.** U.S. 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.
- f. Direct the Department of Homeland Security to preserve experiential learning opportunities for foreign students and authorize employment for their families.** The prior administration created great uncertainty by proposing to scale back or eliminate OPT as a priority. While a U.S. District Court rejected a Washington Alliance of Technology Workers union (WashTech) lawsuit challenging the one-year and two-year STEM OPT extension, the plaintiffs have filed an appeal. 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.
- g. Ensure that any changes to the H-1B Specialty Occupation Visa program facilitate the ability of international student alumni of and scholars at U.S. higher education institutions to access these temporary work visas.** Wage prioritization, for example, should take into account that new graduates of our institutions often start off in H-1B status before advancing in their careers to eventually transition to lawful permanent residence status. Early career professionals must have access to these visas, or we will risk cutting off the talent pipeline that we need to grow our economy.