



UNIVERSITY OF ILLINOIS SYSTEM

**Comments of the University of Illinois System
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
October 2020**

On behalf of the University of Illinois System, we are submitting comments in response to the Department of Homeland Security’s (DHS) 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 published in the Federal Register on September 25, 2020, DHS Docket No. ICEB-2019-0006. We write to express our strong opposition to the proposed changes regarding the establishment of a “fixed time period” for nonimmigrant academic students and exchange visitors. The University of Illinois System has grave concerns regarding the impact such changes would have on our students and visitors.

The University of Illinois System is Illinois’ largest system of higher education, with more than 90,000 students at three universities in Urbana-Champaign, Chicago, and Springfield, an annual operating budget of around \$7 billion and an annual economic impact on the state of \$17.5 billion. This impact depends, in part, on our continued ability to attract and retain the best and brightest students from around the world. International students make major contributions to the knowledge, research and cultural diversity of our universities, while also creating jobs and economic growth in the communities where they live. With over 15,000 international students, the University of Illinois System has significant experience with issues relating to J-1 and F-1 visas, and any material changes to those visa categories could have a substantial impact on our operations and mission.

The proposed establishment of a fixed time period of admission and an extension of stay procedure for nonimmigrant academic students and exchange visitors represents a drastic change in current policy and would have significant negative effects on academic institutions and health care institutions. Non-immigrant students and exchange visitors are already concerned that they are not welcome in the United States, even before the proposed rule takes effect. Not only would the proposed rule, if implemented, impose significant economic hardship, it also would deter international students and exchange visitors from considering the United States as their preferred destination for pursuing their academic studies, collaborative research or clinical training. This in turn would have a negative economic impact on academic institutions as well as surrounding communities and states because of lost revenue resulting from a decrease in the number of international students and exchange visitors who choose to come to the United States.

The proposed rule would undermine the gains academic institutions have made in their ability to be competitive in the recruitment of talented international students and exchange visitors to their

campuses and it jeopardizes our ability to prepare our domestic students to become global citizens. Specifically, the proposed rule would:

1. Discourage international students and exchange visitors from choosing to begin their studies, conduct collaborative research, or begin clinical training in the United States.
2. Create uncertainty for current international students and exchange visitors regarding whether they will be able to complete their academic program, collaborative research, or clinical training.
3. Eliminate a reference to “normal progress” with respect to seeking a program extension, thus showing a lack of understanding of academic programs.
4. Place an undue financial burden on international students and exchange visitors when applying for an extension of stay.
5. Disrupt clinical and collaborative research activities.
6. Limit the time to complete both academic degree programs and language training programs.
7. Negatively impact Curricular Practical Training (CPT), Optional Practical Training (OPT) and STEM OPT requests by F-1 international students.
8. Impose significant costs and resource demands on academic institutions.

Each of these issues is outlined below.

1. The proposed rule would discourage international students and exchange visitors from choosing to begin their studies, conduct collaborative research, or begin clinical training in the United States.

“Duration of Status” is a unique type of entry available to international students and scholars that allows admission to the United States for the length of their academic program and, critically, allows their academic program to determine that length. Currently, if individual students or scholars experience an unexpected delay in thesis research, need more time to complete their program due to circumstances beyond their control, or have another legitimate academic reason for needing to remain in their program, their academic program can explain the unique circumstances to a Designated School Official (DSO) who can extend their legal period of time in the US.

The proposed rule would require students to take the additional step of pleading their case to USCIS officers, who would evaluate each individual case and decide whether or not the academic reason for an extension was “compelling.” This takes the decision out of the hands of the professionals in that area and places that decision with immigration officers who may not understand the complexities of individual academic programs or be aware of why certain programs in particular fields may be prone to delays.

The proposed rule would be particularly problematic for doctoral students. Such students generally need more than four years to complete their program, the maximum proposed initial admission period. If these students know that they are not guaranteed the ability to stay in the

United States to complete the program they start, as long as they are making normal progress, they are likely to choose competing countries for their doctoral studies.

Furthermore, limiting certain students and scholars to a two-year period of admission based on their country of citizenship is a discriminatory practice that would result in fewer students and scholars from these countries choosing to study and work in the United States. This barrier would decrease the diversity of the international student and scholar population, and drive those who feel discriminated against to other countries with less restrictive policies.

2. The proposed rule would negatively impact international students and exchange visitors currently in the United States by creating uncertainty regarding whether they will be able to complete their academic program, collaborative research, or clinical training.

The proposed rule does not allow those currently in the United States with a “Duration of Status” admission to continue with this admission, but instead would convert all those admissions into ones that will expire within four years of the implementation of the rule. This means that individuals who initially were told they would be enrolled until their academic program was complete will experience a significant rule change mid-stream, and now may not be allowed to finish their academic program depending on a discretionary decision from USCIS.

3. The proposed rule shows a lack of understanding of academic programs by eliminating a reference to “normal progress” with respect to seeking a program extension.

The replacement of the phrase “normal progress” with set criteria shows a lack of understanding of academic programs. Academic programs and areas of research differ across fields and disciplines; holding schools and programs to a “one size fits all” policy fails to take these differences into account. Normal academic progress is currently determined by the educational professionals most familiar with the program, and those professionals take into account all aspects of the student’s educational progress. Having to re-take a class or being placed on academic probation does not necessarily mean a student is not making normal progress toward a degree. Yet under the proposed regulations, both of these circumstances would be considered a reason to deny an extension and therefore prohibit a student from completing an academic program in the US.

4. The proposed rule would place an undue financial burden on international students and exchange visitors when applying for an extension of stay.

The proposed rule would have a significant financial impact on international students and exchange visitors. The current USCIS fee for the I-539 form, which has been proposed to be used for this extension of stay, is \$370, with a forthcoming increase to \$400. Students and exchange visitors would be required to pay this fee for every extension for which they apply. Furthermore, their dependents would be required to file their own separate extension. Additionally, a new biometric process would require students, exchange visitors, and their dependents to each pay an additional \$85 and potentially travel long distances to the nearest biometrics office. The nearest biometrics office to the University of Illinois at Urbana-Champaign is 120 miles away and there are no public transportation links to this site. This proposed new fee structure would thus result in

a minimum cost to each application of \$485 plus travel expenses. Moreover, the proposed rule does not prevent USCIS from further increasing the fee for the I-539 form.

The proposed rule also appears to require exchange visitors to pay a Department of State extension fee, currently \$246, on top of the aforementioned costs, making extensions for exchange visitors even more financially burdensome.

USCIS also states that in-person interviews may be required to determine eligibility for an extension. With these interviews taking place at USCIS service offices, students and exchange visitors may be asked to bear substantial travel costs and disruption to academic schedules.

5. The proposed rule would potentially disrupt clinical and collaborative research activities when exchange visitors are applying for an extension of stay.

The proposed rule would require exchange visitors to apply for an extension of their program through DHS. To illustrate the challenges this would create, the University of Illinois at Chicago currently hosts 51 international medical residents and fellows who are sponsored by the Educational Commission for Foreign Medical Graduates (ECFMG) and are in various medical trainings and fellowship programs at the university. Traditionally, medical residents and fellows sponsored by ECFMG are issued a DS-2019 annually. The proposed rule would require these individuals to submit a request for an extension each year of the program. Not only would this place a financial burden on these individuals, but it could result in a disruption to the patient care they provide and to their training program while the extension is pending adjudication.

In addition, the proposed rule would negatively impact collaborative research activities between our institutions and exchange visitors. Currently, there are 138 Research Scholars sponsored by the University of Illinois at Chicago. Under the proposed rule, these individuals would have to apply for an extension each time they need to extend their J-1 program. In addition, their J-2 dependents would also need to apply separately for an extension. The proposed rule may result in research activities temporarily being halted while the extensions are being adjudicated. This could delay or disrupt important advancements, especially in medical research.

6. The proposed rule would limit the time to complete both academic degree programs and language training programs.

The proposed rule estimates the time to complete an academic program to be four years, based upon Department of Education recommendations. However, Ph.D. and professional degree programs traditionally take longer than four years to complete. The proposed rule fails to take into account these prestigious types of academic levels/programs that attract world-wide talent.

The proposed rule also would limit F-1 students to 24 months of language study in their lifetime, which could have a negative impact on language schools' enrollment and on the ability of these students to achieve their English learning goals. Many students attend the University of Illinois Intensive English Institute (IEI) at the University of Illinois at Urbana-Champaign and the Tutorium in Intensive English at the University of Illinois at Chicago. Their goal is to improve their English skills so as to prepare them to matriculate at a US college or university. However, it

takes some students longer than others to achieve this goal. If a student arrives with rudimentary English language skills and begins to study English intensively, even with diligent study and language immersion, 24 months of study may not be sufficient for that student to reach the level of language proficiency necessary for academic study. In the past five years, three such students studied at the Urbana-Champaign IEI program for more than 24 months. One of these students was recently admitted to the College of Education Ph.D. program in 2019. Under the proposed rule, this student would never have had that opportunity.

7. The proposed rule would negatively impact CPT, OPT and STEM OPT requests by F-1 international students.

The rule would prevent students from engaging in Curricular Practical Training (CPT) until an extension is approved. This change could significantly decrease the available pool of international students for critical internship positions in the US. It would also potentially delay the students' completion of their programs, as CPT is only authorized when the training is an important and integral part of the program.

DHS further proposes that Optional Practical Training (OPT) applications, already subject to a \$410 fee (soon to increase to \$550), would need to be accompanied by an extension of stay application. This requirement would further increase the financial burden for international students and decrease the likelihood that students educated in the United States remain in the country and contribute their skills to the US economy.

8. The proposed rule would impose significant costs on academic institutions as well as increased time and labor commitments.

DHS estimates that it would take an additional 40 hours per year for each DSO to learn and implement these rule changes at each university. We believe this estimate is inaccurate given the number of students who will need to extend their programs. In just one year alone (2019), the University of Illinois at Urbana-Champaign processed 1,312 program extensions, the University of Illinois at Chicago processed 552 program extensions and the University of Illinois at Springfield processed 45 program extensions.

Under this new rule, given that each of these extensions would then need to form part of an application to USCIS, our universities would need to provide in-person advising or a workshop, as we do for other applications to USCIS. The total additional time commitment is extensive:

- For the University of Illinois at Urbana-Champaign, we estimate this would require an additional 650 hours per year, or 40 hours per DSO/ARO, on top of the 40 hours per person DHS estimates. Our estimated cost of \$3,400 per DSO/ARO is double the DHS estimate in terms of cost to the university ISSS office.
- For the University of Illinois at Chicago, we estimate this would require an additional 276 hours per year, or an additional 5 hours per week per DSO/ARO, on top of the 40 hours per person DHS estimates. As a result, the University of Illinois at Chicago estimates the cost at \$1,056 per DSO/ARO.

- For the University of Illinois at Springfield, we estimate an additional 22.5 hours per year, or an additional .43 hours per week per DSO/ARO. As a result, the University of Illinois at Springfield estimates the cost at \$720 per DSO/ARO.

DHS estimates also fail to take into account training for academic advisor staff at universities, as they would be tasked with the majority of work needed to demonstrate that international students' and exchange visitors' requests for extensions have compelling academic reasons.

Thank you for the opportunity to submit comments on the 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. Please do not hesitate to contact Paul Weinberger, Director of Federal Relations for the University of Illinois System, at paulw3@uillinois.edu for further information.