



October 24, 2025

To: Business and Foreign Workers Division
Office of Policy & Strategy
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

From: Hanan Saab, Associate Vice President, Association of American Universities
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Re: **Notice of Proposed Rulemaking Establishing a Weighted Selection Process for Registrants and Petitioners Seeking to File Cap-Subject H-1B Petitions**

DHS Docket No. USCIS-2025-0040
CIS Docket No. 2820-25
RIN 1615-AD01

Submitted online via: <https://www.federalregister.gov/documents/2025/09/24/2025-18473/weighted-selection-process-for-registrants-and-petitioners-seeking-to-file-cap-subject-h-1b>

The Association of American Universities (AAU) provides the following comments expressing our concern with and opposition to the Department of Homeland Security's (DHS) and U.S. Citizenship and Immigration Service's (USCIS) notice of proposed rulemaking (the proposed rule), "Weighted Selection Process for Registrations and Petitioners Seeking to File Cap-Subject H-1B Petitions" issued in the *Federal Register* on September 24, 2025.¹

As leading research institutions educating and training the next generation of world-class experts in science, technology, engineering, and other in-demand, highly specialized fields, AAU and its members are uniquely qualified to provide comments on the deleterious effect the proposed rule will have on our nation's competitiveness, particularly our comparative advantage in attracting, developing, and retaining top talent from around the world.² To maintain this competitive advantage, it is imperative that our nation's immigration system, including the H-1B lottery system, facilitates

¹ 90 Fed. Reg. 45986 (Sep. 24, 2025)

² Association of American Universities, America's Leading Research Universities: By the Numbers, <https://www.aau.edu/americas-leading-research-universities-numbers>

the entry of these bright and talented professionals educated at U.S. universities, into our nation's workforce. Despite the agency's stated intention to attract the "best and brightest in the global labor market," the proposed rule would do the opposite by restricting access of talented graduates and early-career professionals to the American workforce and weakening an essential talent pipeline for American companies and small businesses. As such, we strongly urge DHS to reconsider and withdraw the proposed rule.

Prioritizing H-1B Lottery Selection by Wage Level Will Significantly Restrict Opportunities for Recent Graduates and Early-Career Professionals

The path from universities to the U.S. workforce is already difficult for many talented international students.³ Despite the limited number of H-1B visa numbers available each year (65,000 per fiscal year with an additional 20,000 for applicants with graduate level degrees from U.S. universities), the H-1B visa lottery is often the best way to do so.⁴ Facilitating the entry of these individuals into our nation's workforce is critical for our nation's economy, security, and healthcare. These entry-level and early career professionals are an important part of our national workforce and work in critical occupational and geographical areas.

According to IPEDS, 204,612 international students graduated with STEM degrees from U.S. universities in the 2023-24 academic year, with thousands of undergraduate and graduate level degree holders spread across in-demand and/or high-need fields including biological and biomedical science, computer science and information systems, engineering, and mathematics and statistics.⁵ This number includes over 165,000 graduate degrees, 16,836 of which are for research-based doctoral degrees.⁶

However, the proposed rule's weighted approach to the H-1B visa lottery will disadvantage many of these very individuals, who our nation should be determined to retain. In the proposed rule, DHS estimates that the probability of level I positions being selected to apply for a visa will be reduced by 48 percent compared with current levels, while level III and IV positions will see a 55 percent and 107 percent respective increase. The proposed rule estimates that it will result in an estimated 10,009 less petitions being granted for beneficiaries at the level I wage level with a minimal three percent increase for level II petitions. This would significantly reduce the likelihood of being selected for an H-1B visa for early-career scientists, technologists, and others educated and trained at U.S. universities. Many of these individuals enter the workforce at wage levels I and II due to the skills and education requirements of the job postings to which they apply. By pegging the H-1B cap lottery

³ Association of American Universities and Business Roundtable, International Students and American Competitiveness, available at: <https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Immigration/International%20Students%20%26%20American%20Competitiveness%20.%20AAU%20BRT%20Report%20.%20October%202022.pdf>

⁴ USCIS, H-1B Cap Season, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations/h-1b-cap-season>

⁵ National Center for Education Statistics, Integrated Postsecondary Education Data System (IPEDS), <https://nces.ed.gov/ipeds/use-the-data>

⁶ *Id.*

system to rigid and imprecise wage bands, DHS will make it even more difficult to enter the workforce by depressing employment opportunities for recent graduates, trainees, postdoctoral fellows, and specialists in key disciplines seeking to transition from F-1 to H-1B status and launch their professional careers.

In addition, while the prevailing wage bands of the Department of Labor (DOL) are practical for comparing position and rank *within* any given occupation and geographical location, they are an imprecise and inefficient way of assessing skill level *across* occupations.⁷ AAU shares concerns with a broad multi-sector coalition of partners that USCIS' proposed "selection system keyed to wage levels risks rewarding seniority within lower-paid occupations over genuinely high-wage, high-skill roles in other fields."⁸ Indeed, a recent study of H-1B registrations and petitions shows that the proposed wage level system would not prioritize the highest-skilled or even the highest-paid workers, despite the intention of the proposed rule.⁹

Predicating Selection and Issuance of H-1B Visas on Wage Levels Does Not Actually Achieve USCIS' Stated Objective

While the proposed rule purports to more closely align the H-1B lottery selection process with labor market competitiveness, data shows that using the DOL's wage level system in a way it was not designed for could advantage outsourcing firms and possibly result in H-1B numbers being utilized for positions of less critical need. Conversely, as DHS's analysis shows, it would penalize high-wage, high-potential graduates from U.S. universities whose early career or entry-level positions are classified at levels I or II compared to those at levels III and IV. This is because the DOL Occupational Employment and Wage Statistics survey only differentiates relative seniority of an offered position within an occupation and geographical location. In the proposed rule, DHS argues that salary is a reasonable proxy for skill level, but fails to account for differing value, salary, and wage levels across occupations.

DHS states in the proposed rule: "By engaging in a wage-level-based weighting of registrations for unique beneficiaries, DHS would increase the chances that initial H-1B visas and status grants would go to higher skilled or higher paid beneficiaries." However, as discussed above, the proposed changes conflate artificial wage bands with higher skill and salary. The agency ironically risks pushing away the "best and brightest" individuals in the global labor market that it claims the proposed changes will attract. The rule will also hamper our competitive advantage in the recruitment and retention of talented professionals in critical fields such as artificial intelligence, quantum computing, and advanced manufacturing that are key drivers of U.S. economic growth. Furthermore, the weighted

⁷ Employment and Training Administration, Revised November 2009 Prevailing Wage Determination Policy Guidance Nonagricultural Immigration Programs Revised November 2009,

https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/NPWHC_Guidance_Revised_11_2009.pdf

⁸ Comment of 38 Science, Education, and Policy Organizations to DHS, Filed on October 24, 2025, <https://ifp.org/wp-content/uploads/Multisector-comment-by-38-orgs-on-H1B-Weighted-Selecton-10-24-2025.pdf>

⁹ Institute for Progress, "Wage Level Mirage", <https://ifp.org/the-wage-level-mirage/>

lottery would, in effect, raise the median H-1B salary by only 3 percent, a modest increase for such a significant procedural overhaul with potentially harmful impacts on our workforce and our nation.¹⁰

The Proposed Changes Will Hamper American Ingenuity & Innovation

As written, the proposed rulemaking would deter individuals educated and trained at U.S. institutions from contributing their skills and knowledge to the U.S. workforce and ultimately, strengthening the U.S. economy. These professionals often enter the workforce at lower wage levels for a given occupation, which means they would have a lower chance of selection under the proposed rule. The proposed changes have already caused great uncertainty among international students about their prospects for future employment and long-term residency. According to a recent survey of current graduate students, postdoctoral fellows, and prospective students, a policy determining access to H-1B visas by wage level would have a significant impact on enrollment in U.S. universities, as well as retention of bright and talented individuals educated at U.S. universities.¹¹ This new policy also risks fracturing the critical pipeline between U.S. universities and the companies and small businesses that drive our economy. According to a separate study of U.S. employers of varying sizes, 63% of employers surveyed that are subject to the H-1B visa cap reported that at least half of their initial H-1B petitions are filed for F-1 students at U.S. universities.

Established after WWII, America's government-university partnership in science and technology sets our nation apart from our strategic competitors.¹² Indeed, the strength of America's leading research institutions and their ability to educate and train the world's top scientific and technical talent has propelled this nation to the forefront of global innovation. These universities are our strongest strategic asset for developing a highly skilled workforce to meet the demand for specialized knowledge and skills among American companies and businesses. These institutions also serve as our nation's singular talent recruitment program, drawing researchers and professionals from across the globe to solve our most pressing challenges and strengthen U.S. businesses and the nation's workforce. The proposed rule threatens the talent pipeline that has been established between American research universities and the major employers that underpin and drive the U.S. economy. In recent years, competitor nations have taken great strides to siphon away top talent from the U.S. and market themselves as the preeminent destination to study and work.¹³ The proposed rule makes it that much easier for these nations to do so and will only weaken our nation's competitive advantage.

¹⁰ *Id.*

¹¹ Institute for Progress and NAFSA: Association of International Educators, "Surveys on International Talent Pipelines," September 15, 2025, <https://ifp.org/wp-content/uploads/2025-Surveys-on-International-Talent-Pipelines.pdf>

¹² Association of American Universities, The Government-University Partnership, <https://www.aau.edu/research/government-university-partnership>

¹³ Association of American Universities, Resources on American Researchers Leaving the United States, <https://www.aau.edu/key-issues/resources-american-researchers-leaving-united-states>

Conclusion

We urge DHS to withdraw and reconsider this proposed rule as well as other proposed and pending rules that would harm the critical pipeline between F-1 students and employment via H-1B visa status.¹⁴ Instead, the agency should encourage individuals looking to advance their careers in the United States to enter the U.S. labor market and apply their skills and talent to advance the national interests of the United States by strengthening the nation's health, economy, and national security. As DHS and USCIS seek to reform the H-1B lottery selection process, AAU welcomes the opportunity to provide feedback on the proposed regulation and is committed to ensuring the H-1B program operates efficiently, effectively, and with robust integrity safeguards. We thank you for your consideration of our views and look forward to working with you to achieve our shared goals.

¹⁴ DHS Proposed Rule on Practical Training, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=1653-AA97>; See also 90 Fed. Reg. 42070 (Aug. 28, 2025). See also, Institute for Progress, "Brain Freeze: How International Student Exclusion Will Shape the STEM Workforce and Economic Growth in The United States", <https://ifp.org/wp-content/uploads/Clemens-Neufeld-Nice-9-28-25.pdf>