September 29, 2025

To: Office of Regulatory Affairs and Policy
U.S. Immigration and Customs Enforcement
Department of Homeland Security
500 12th Street SW, Washington, DC 20536

From: Hanan Saab, Associate Vice President, Association of American Universities
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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-2025-0001
RIN 1653-AA95

Submitted online via https://www.federalregister.gov/documents/2025/08/28/2025-16554/establishing-a-fixed-time-period-of-admission-and-an-extension-of-stay-procedure-for-nonimmigrant#open-comment

The Association of American Universities (AAU) provides the following comments expressing our significant concern and opposition to the Department of Homeland Security's (DHS) and Immigration and Customs Enforcement's (ICE) notice of proposed rulemaking (the proposed rule) titled "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" issued in the *Federal Register* on August 28, 2025.[1]

AAU represents America's leading research universities that collectively educate and train nearly 42% of our nation's PhDs, 70% of all postdoctoral researchers, 23% of all graduate students, and 38% of all international students.[2] As America's leading research universities, AAU institutions have been the destination of choice for international students interested in earning undergraduate and graduate degrees in every academic discipline.[3] As such, AAU and our members are uniquely qualified to provide comments on the detrimental effect this proposed rule will have on our nation's institutions of higher education and research enterprise.

[1] 90 Fed. Reg. 42070 (08/28/25)
[2] National Center for Education Statistics, CES; Survey of Graduate Students and Postdoctorates in Science and Engineering (GSS), NCSES, 2023, https://ncses.nsf.gov/surveys/graduate-students-postdoctorates-s-e/2023#survey-info. See also, Integrated Postsecondary Education Data System, https://nces.ed.gov/ipeds
[3] Institute of International Education, "Open Doors Data on Leading Institutions," November 2024, https://opendoorsdata.org/data/international-students/leading-institutions/

We urge DHS to withdraw the proposed rule. If adopted, this rule would create confusion for both international students and universities while adding costly, unnecessary, and burdensome procedural hurdles through the creation of a new extension-of-stay process. In addition, it will unnecessarily restrict and limit students from adjusting their studies and pursuing additional degree opportunities. This approach will create unnecessary risks for international students and universities working to comply with U.S. immigration laws and hamper our nation's ability to attract and retain talent that is vital to our workforce and higher education system.

At a time when nations across the world are actively reforming their immigration systems to facilitate international study and work, the United States cannot afford to introduce deleterious policies that threaten our resounding competitive advantage. Immediately below, AAU highlights five key points for consideration, which we discuss in much greater detail in our more comprehensive comments that follow:

1. ***The proposed rulemaking establishes a period of admission that does not account for a reasonable timeline for completion for many academic and exchange programs; therefore, it should be withdrawn and reconsidered.*** This is especially true for doctoral programs, joint degree programs, practical training programs, and programs for foreign researchers and physicians. If DHS decides to move forward with a final rule setting a fixed period of admission for F and J visa holders, it should account for the variance in durations across different education levels and programs to avoid disrupting the flow of average and expected completion.[4]
2. ***The extension of stay process proposed by DHS will be lengthy, costly, and unpredictable.*** The process places significant discretion in the hands of U.S. Citizenship and Immigration Services (USCIS) officers who lack the experience and expertise developed by academic officials to make decisions about the need to extend a student or exchange visitor's program. If students cannot be confident that they will be able to complete their degree programs as planned, they may find that the potential risks and uncertainties are too great for them to pursue studies in the United States. It will also create a significant new workload for USCIS officials, likely resulting in increases to the USCIS backlog and processing delays.
3. ***The proposal to restrict students' academic mobility constitutes an undue interference in the essential decision-making processes that underpin the relationship between students and their institutions.*** By limiting the ability of international students to change their educational objectives, transfer between institutions, or pursue further studies – rights afforded to their U.S. citizen peers – the rule risks discouraging talented individuals from choosing to study in the United States. Such limitations not only undermine institutional autonomy but also diminish the appeal of U.S. higher education as a flexible and supportive environment for academic growth.

[4] As an example of a potentially viable alternative, between 1987 and 1991 legacy Immigration and Naturalization Service (INS) had a fixed admissions period in place of eight consecutive academic years, before abandoning it after feedback received from institutions of higher education and agency officials in favor of admission for duration of status. See 52 FR 13223 (4/22/87).

4. ***If implemented, the proposal will negatively impact U.S. competitiveness, including our advantage in attracting, developing, and retaining top talent from around the world.*** Implementing DHS's proposals will deter enrollment of international students and exchange visitors at significant cost to our research enterprise, technological and medical innovation, and the U.S. economy. It will also lead many of these individuals to take their knowledge and talent to competing nations' universities and workforces.
5. ***Sensible and less burdensome alternatives exist that would better achieve DHS's goals of eliminating fraud and abuse and addressing national security concerns.*** DHS should consider less costly and burdensome alternatives to this rulemaking, including utilizing and expanding existing mechanisms for screening and vetting international students and exchange visitors, strengthening oversight through the Student and Visitor Information System (SEVIS) program, and fully implementing recommendations made by the U.S. Government Accountability Office (GAO)[5] to address instances of fraud and abuse.

The following are our full technical comments in response to this notice of proposed rulemaking:

A. The proposed rulemaking establishes a period of admission that does not cover the expected timeline for completion of many academic and exchange programs

The Proposed Fixed Admissions Period is Incompatible with the Typical Timeline for Students in the Undergraduate to PhD Pipeline

The proposed rule would impose a fixed period of admission for student visas for the shorter of their program end date or four years before an extension of stay is required. This is despite more than thirty years of policy dating back to the legacy Immigration and Naturalization Service (INS) on October 29, 1991, when a determination was made after feedback both from university Designated School Officials (DSOs) and immigration service officers that the "burdensome and difficult to follow" extension process be simplified.[6] The fixed period of admission of four years offered in the proposed rule is insufficient and out of line with the time needed to complete typical academic programs. Furthermore, restricting admissions to the program end date on a Form I-20 or DS-2019 if shorter than four years also does not consider that this kind of arbitrary time allocation will lead to increased burden on students, institutions, and USCIS. According to data from the Baccalaureate and Beyond Longitudinal Study conducted by NCES, the median time to complete a bachelor's degree is 53 months (4.4 years) for all students, compared to 46 months (3.8 years) for international students.[7] Despite this, a significant number of international undergraduate students will still be unable to complete their degrees within four years due to academic, medical, or circumstantial reasons, and as a result, they will be required to request an extension for USCIS consideration. In addition, under the changes of the proposed rule, all students pursuing optional practical training (OPT) and science, technology, engineering, and mathematics (STEM) OPT,

[5] GAO Report, Student and Exchange Visitor Program, DHS Can Take Additional Steps to Manage Fraud Risks Related to School Recertification and Program Oversight https://www.gao.gov/products/gao-19-297?mobile_opt_out=1 - summary_recommend (March 2019)
[6] 56 Fed. Reg. 27212 (06/13/91)
[7] U.S. Department of Education, National Center for Education Statistics, Baccalaureate and Beyond: 2016/2020 (B&B). Months between initial enrollment in PSE and BA completion (median) with zeros by Citizenship. https://nces.ed.gov/datalab/powerstats/table/ubqprl

currently estimated to be close to 200,000 as of 2024, will be required to file extension of stay requests.[8] More troubling is that these extensions will be left to the discretion of USCIS officers who, through no fault of their own or the agency, lack the necessary expertise to adjudicate the academic or personal reasons for why a student may need an extension to complete a program.

Given the time to completion, AAU is especially concerned for international students who enter the United States to complete their doctoral studies or a master's degree with the hope of continuing their studies at the doctoral level. Under the proposed rule, these students would be required to file burdensome extension of stay requests, likely multiple times, and at an additional cost of $420 per online filing and $470 per paper filing.[9] This process will sow uncertainty among international students who may worry about potential delays and interruptions of their education and training, and a potential impediment to their ability to join our nation's workforce. For STEM fields, this could be particularly burdensome and would disincentivize the very students we need to educate and train to fill significant gaps in the U.S. workforce.[10]

The Proposed Fixed Admissions Period Fails to Account for the Average PhD Program Timelines

Graduate education programs in the United States are magnets for the best and brightest domestic and international students and are widely respected and emulated at institutions worldwide. AAU institutions make up only 3% of all four-year universities in the United States. However, our universities award 50% of all doctoral degrees in science and engineering fields and 49% of all doctoral degrees in the visual and performing arts or humanities.[11] Collectively, 31% (roughly 234,000 international students) of all graduate students at AAU institutions are international students.[12] In addition, in 2023, temporary visa holders earned almost 37% of doctoral degrees in science and engineering.[13] These individuals account for more than half of doctoral degrees awarded in computer and information sciences, engineering, mathematics, and statistics.[14]

According to the 2024 Survey of Earned Doctorates, it took doctoral students a median of 5.7 years from the start of their program to complete their degree.[15] As written, the proposed rule would require nearly ***all*** international doctoral students to receive at least one extension of stay (EOS) request approved by USCIS to complete their degree programs. This will come at a financial cost to the student and additional burden to the institution and USCIS. In addition, this new extension process will lead to unnecessary uncertainty for doctoral students and potentially jeopardize their

[8] Immigrations Customs Enforcement, Student and Exchange Visitor Program (SEVP) 2024 SEVIS by the Numbers Report, https://www.ice.gov/doclib/sevis/btn/25_0605_2024-sevis-btn.pdf
[9] USCIS G-1055, Fee Schedule, Form I-539, Application to Extend/Change Nonimmigrant Status https://www.uscis.gov/g-1055?topic_id=97292
[10] FWD.us, Strengthening America's Competitiveness and Security by Welcoming More Immigrants with STEM Skills, https://www.fwd.us/news/stem-immigrants/
[11] National Center for Education Statistics, Integrated Postsecondary Education Data System (IPEDS), https://nces.ed.gov/ipeds/use-the-data
[12] *Id.*
[13] National Center for Science and Engineering Statistics, Survey of Earned Doctorates, Table 1-6, 2024, https://ncses.nsf.gov/surveys/earned-doctorates/2024#data
[14] *Id.*
[15] National Center for Science and Engineering Statistics, Survey of Earned Doctorates, Table 3-5, 2024, https://ncses.nsf.gov/surveys/earned-doctorates/2024#data

ability to complete their degree in the United States. Under the proposed rule, after applying for a student visa, undergoing significant vetting, and maintaining full-time status, a doctoral student still cannot be certain that they will be allowed to complete their degree.

Earning a PhD requires a significant investment of time, energy, and work, typically for a period greater than four years. Without the certainty that they will be able to complete their academic programs and graduate, many prospective students will choose to attend universities in other nations that provide greater certainty and appealing pathways to completion and future employment. This is a possibility that DHS recognized in a 2020 proposed rule that also proposed establishing a fixed period of admission for these visa categories.[16] In fact, the possibility that international students may choose another nation in which to pursue their studies extends beyond those nations listed in the 2020 proposed rule (Canada, Australia, and the United Kingdom) to nations like India and China. In addition, as a required part of their program, many doctoral students spend considerable time engaged in research and teaching undergraduate students. Any disruption of their ability to complete their program also jeopardizes this research, as well as the education of countless college students across the United States.

International students pursuing graduate education at American universities, along with their domestic student colleagues, represent the next generation of leaders in STEM-related fields. While PhD students may not make up a significant percentage of international students, international students do make up a significant percentage of PhD students in critical STEM areas. If prospective students decide against attending a U.S. institution based on procedural roadblocks and a lack of certainty about their ability to complete their degrees or continue their work or education, it will have a lasting impact on the U.S. economy and national security.

The Proposed Fixed Admissions Period Is Inharmonious with Timelines for Many Joint Degrees and Master's and Professional Degree Timelines

Many of AAU's member institutions offer joint degree programs, which attract the world's best and brightest students and scholars and offer domestic and international students an opportunity to save both time and money when completing multiple degrees. These programs can often span five to eight years for completion. Common options offered by many universities include 4+1 or 3+2 programs, which allow students to obtain multiple degrees, sometimes at different levels, in five years. For medical students, a joint MD/PhD program can take eight years to complete, and a joint MD/JD program can take seven years on average to complete.[17] In addition, other programs that combine master's degrees and JDs or MBAs may also extend between five and seven years. The extension of stay process creates uncertainty and establishes another time-consuming procedural hurdle to the attainment of an advanced or joint degree. As a result, both students and the degree

[16] 85 Fed. Reg. 60526 (09/25/20)

[17] Association of American Medical Colleges, Is an MD-PhD Right for Me?, https://students-residents.aamc.org/md-phd-dual-degree-training/md-phd-right-me. See also: Association of American Medical Colleges, Considering a Combined Degree: MD-PhD, MD-MBA, MD-MPH, MD-JD https://students-residents.aamc.org/applying-medical-school/considering-combined-degree-md-phd-md-mba-md-mph-md-jd

programs they attend will suffer, and our nation will miss an opportunity to benefit from the education and expertise these students obtain.

The Proposed Fixed Admission Period Does Not Adequately Consider the Length of Postdoctoral Education, Teaching, and Research Programs

Postdoctoral education has been a part of our nation's higher education system for over a century.[18] Postdoctoral appointees earn PhD or equivalent doctoral degrees, after which they perform research full-time under the supervision of a senior scientist or scholar before taking a full-time position elsewhere. Postdoctoral education has effectively replaced the PhD degree as the terminal academic credential in critical fields like physics and the life sciences.[19] International students in these positions are typically sponsored on J-1 visas or H-1B visas, with some beginning positions in F-1 status through OPT or STEM OPT.[20] These opportunities provide recent PhD recipients an opportunity to develop their research and professional skills, while also furthering the U.S. research enterprise. As a result, postdoctoral appointees perform a significant portion of our nation's research and often support research instruction to enrolled international and domestic students.

We are concerned about the impact the proposed rule will have on postdoctoral researchers and their desire and ability to complete this training after they have completed their graduate degree. First, as stated above, greater levels of uncertainty and confusion created by this proposed rule will likely lead many talented students to complete their studies or postdoctoral education in a more welcoming country. In addition, postdoctoral education opportunities range in length. J-1 research visas are typically valid for five years and can be extended in certain circumstances.[21] This means that there is a very real possibility that many talented individuals will be required to complete several extensions of stay requests between their doctoral degree, practical training, and postdoctoral education, compounding the costs and uncertainty for these students and researchers and driving many of them out of our nation's STEM pipeline to our detriment.

The Proposed Fixed Period of Admission and Extension of Stay Process Does Not Adequately Consider Existing Requirements and Documentation Required for Practical Training Programs

The continued use of practical training, dating back to 1947, is a testament to its importance.[22] Today, the 12-month OPT and the 24-month STEM OPT extension are an important part of the post-secondary education experience. These opportunities allow students to apply the knowledge earned in the classroom and obtain hands-on, practical experience in their fields. This experiential learning opportunity provides important skills such as the ability to think critically and

[18] National Institutes of Health, National Library of Medicine, Enhancing the Postdoctoral Experience for Scientists and Engineers: A Guide for Postdoctoral Scholars, Advisers, Institutions, Funding Organizations, and Disciplinary Societies, https://www.ncbi.nlm.nih.gov/books/NBK547069/
[19] Association of American Universities, "Committee on Postdoctoral Education, Report and Recommendations," https://www.aau.edu/sites/default/files/AAU%20Files/Education%20and%20Service/PostdocRpt.pdf
[20] National Postdoctoral Association, IMMIGRATION POLICIES AFFECT POSTDOCTORAL SCHOLARS, https://www.nationalpostdoc.org/general/custom.asp?page=postdocket_11174
[21] USCIS Policy Manual Policy, Volume 2 - Nonimmigrants Part D - Exchange Visitors (J) Chapter 3 - Terms and Conditions of J Exchange Visitor Status, https://www.uscis.gov/policy-manual/volume-2-part-d-chapter-3
[22] 12 Fed. Reg. 5355 (8/7/47)

operationalize one's knowledge in complex situations. It is a key step in gaining professional experience and a pathway to our nation's highly skilled workforce. The OPT and STEM OPT programs have a net positive impact on American enterprise and ingenuity. For example, according to the Niskanen Center, levels of OPT participants in a particular region result in increased innovation in that region, without negative consequences on domestic workers' employment, earnings, or participation in the labor force.[23] Despite how integral OPT is to this pipeline, the proposed rule proposes a cumbersome and costly process with insufficient reasoning that does not guarantee approval for practical training through one or both OPT programs.

First, the proposed rule requires extensions of stay applications to be filed for both OPT and STEM OPT with a separate fee paid for each application. This is in addition to the fee for the Form I-765, Application for Employment Authorization, that all students are required to file for both OPT and STEM OPT. Furthermore, DHS acknowledges in the proposed rule that currently, F-1 visa holders applying for OPT have "direct engagement" with USCIS through these applications. For STEM OPT, a Form I-983 Training Plan is required to be filed and submitted to a school's DSO as well. This document is available for review by DHS if needed. Additionally, an I-765 application must be filed with USCIS for each applicant on OPT. Both forms are available for review by DHS, and one, the Form I-765, is adjudicated directly by USCIS. The information collected and available through these forms should be sufficient for DHS to confirm eligibility. DHS fails to adequately address why the information collected on the Form I-765 and Form I-983 is insufficient to verify eligibility of F-1 students for OPT and STEM OPT. Despite this, DHS adds yet another procedural roadblock for F-1 students and, in the process, creates additional and redundant work for USCIS officers.

Should DHS decide to move forward with a rulemaking that would establish a fixed period of admission and extension of stay procedure for F and J visa holders, AAU asks that it strike these requirements for those seeking to apply for 12-month and 24-month STEM OPT, given existing mechanisms already in place to vet and facilitate direct or indirect engagement of those participating in practical training programs with DHS.

The Proposed Fixed Period of Admission and Extension of Stay Process Would Significantly Curtail the Delivery of Medical Care By J-1 Foreign Physicians

AAU aligns our comments with those of the Association of American Medical Colleges (AAMC), and other leading organizations in medical education and healthcare on the deleterious impact the proposed rule would have on medical training, research, and healthcare. In addition to the many international students in Doctor of Medicine (MD) programs whose studies will be impacted and potentially impeded due to this proposed rule, the proposed changes will also harm the foreign national physicians who are currently in the United States as J-1 visa holders.[24] In a report titled, *The Complexities of Physician Supply and Demand: Projections From 2021 to 2036*, AAMC

[23] Niskanen Center. *Optional Practical Training (OPT) and International Students after Graduation Human Capital, Innovation, and the Labor Market*. 2019. https://www.niskanencenter.org/wp-content/uploads/old_uploads/2019/03/OPT.pdf and New research: Foreign students in STEM don't hurt American workers,https://www.niskanencenter.org/wp-content/uploads/old_uploads/2019/03/OPT.pdf and https://www.niskanencenter.org/new-research-foreign-students-in-stem-dont-hurt-american-workers/

[24] Intealth, J-1 Visa Sponsorship, https://www.intealth.org/pdfs/J-1_US_Infographic.pdf

projects a physician shortage of up to 86,000 by the year 2036, with population growth and aging of the physician workforce being a primary driver of demand.[25]

According to Intealth, as of January 2025, there were nearly 16,000 foreign national physicians in residency and fellowship programs and serving patients at 770 teaching hospitals accredited by the Accreditation Council for Graduate Medical Education (ACGME).[26] The care that these foreign national physicians provide, as trainees under supervision, is critical to our nation's healthcare system. In addition, J-1 physicians often specialize in primary care specialties, making their presence all the more important.[27] The extension process required by the proposed rule would be disruptive not only to these individuals but also to their colleagues, their respective institution or hospital, and the communities that they serve. The proposed rule poses a particular threat to underserved and rural communities that are already facing issues of receiving accessible healthcare, especially in states like New York, Michigan, Texas, and Pennsylvania, where over 1,000 J-1 physicians complete their training.[28] While international medical graduates are by no means a panacea to the issues facing our nation's healthcare system, implementing policies that will make it more difficult for foreign national physicians to study and provide much-needed care in underserved areas will only worsen the projected physician shortage and undermine patient care across the United States.

Finally, it is important to note that while a program for a graduate medical education (GME) trainee can last up to seven years[29], sponsorship is often granted in one-year increments[30] through completion of a DS-2019[31] to ensure trainees are credentialed and certified to continue providing care and progressing in their program. Based on the language in the proposed rule, this could mean that these J-1 visa holders will be required to file an extension of status with USCIS each year, for up to seven years. Not only is this particularly burdensome on the agency's operations, but it also may require submission of several separate application fees. The proposed changes create even more uncertainty and room for error for a population of medical professionals who are key to the continued functioning of our nation's healthcare system.

B. The extension of stay process proposed by DHS will be lengthy, costly, and unpredictable.

In addition to the considerations raised about the broader policy change in the proposed rule, AAU is also concerned about the impact of the proposed extension of stay procedures on university administrators and international students. They would also result in an increased burden for DHS

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[25] Association of American Medical Colleges, The Complexities of Physician Supply and Demand: Projections From 2021 to 2036, March 2024, https://www.aamc.org/media/75236/download
[26] *Id.*
[27] Intealth, J-1 Visa Sponsorship Infographic, https://www.intealth.org/pdfs/J-1_US_Infographic.pdf
[28] Intealth, J-1 Visa Sponsorship Infographic, https://www.intealth.org/pdfs/J-1_US_Infographic.pdf
[29] USCIS Policy Manual, Volume 2 – Nonimmigrants Part D – Exchange Visitors (J) Chapter 3 – Terms and Conditions of J Exchange Visitor Status, https://www.uscis.gov/policy-manual/volume-2-part-d-chapter-3/https://www.uscis.gov/policy-manual/volume-2-part-d-chapter-3
[30] University of Kentucky College of Medicine, J-1 Overview/Important Policies, https://medicine.uky.edu/sites/default/files/inline-files/VISA%20Presentation.pdf
[31] Department of State, Bridge USA, Adjustments and Extensions, https://j1visa.state.gov/participants/current/adjustments-and-extensions/

agency staff, especially USCIS officers. The proposed rule curtails existing authority for university DSOs to extend a student's status for valid reasons and reassigns this responsibility to USCIS officers, who must determine whether a student receives an extension of stay to complete their studies by reviewing documentation showing the valid academic, medical, or circumstantial reason as to why the request is being made. The DSO's assessment then becomes just one factor in this approval process. We do not feel this is an appropriate role for USCIS officers who, through no fault of their own, lack the training, expertise, and overall academic context to assess a student's educational progress or the medical and otherwise circumstantial reasons why they might need additional time to complete a program.

Discretion and Authority for Extension Decisions Are Best Placed with School Officials

As stated in the proposed rule and existing regulations, F-1 students are eligible for an extension of their academic program if they are maintaining their F-1 status and making "normal progress" towards the completion of their degree. The discretion to determine whether the student is meeting these requirements has been appropriately placed with university DSOs, who, through education, expertise, and experience with student populations, are well credentialed to make this determination. The proposed rule removes reference to "normal progress," which it claims is inconsistently applied, and uses this argument to remove deference to DSO expertise and instead implement an extension of stay process where criteria is determined and applied by USCIS and USCIS officers, with DSO recommendations being just one factor of a determination. The same is true for Responsible Officers (RO) whose recommendation for J-1 exchange visitors will also be factored into a DHS determination. As previously stated, this is an inappropriate role for DHS to assume. DSOs understand the unique characteristics and circumstances of their students and what is and is not considered "normal progress" towards the completion of a degree. USCIS officers will be tasked with adjudicating the need for an extension for a myriad of academic, medical, and circumstantial reasons that extend far beyond those provided in the proposed rule. Removing that authority from DSOs represents an intrusion into the academic process and neglects the reality that each student's needs and circumstances are unique. Doing so will lead to greater inconsistency and greater confusion and uncertainty for both institutions and students.

The Extension of Stay Criteria Considered by DHS Are Ambiguous and Do Not Consider Common and Valid Reasons Unique to Each Student

As it relates to international students, the extension of status criteria outlined in the proposed rule would remove the requirement for "normal progress" and replace it with a standard of "compelling academic reasons," a documented illness or medical condition, or exceptional circumstances beyond the control of the student like natural disasters, national health crisis, or the closure of an institution. The new proposed regulatory language states that delays that are caused by academic probation, suspension, or a student's inability or unwillingness to complete their degree would not be considered valid reasons for an extension. However, as discussed above, there are many reasons why a student may be unable to complete their programs within four years, often unique to the student and the program. Those reasons do not always fit neatly into the categories mentioned in the proposed rule. In addition, the proposed rule's exclusion of a student's "unwillingness" or "inability" to complete a program as a valid reason for extension disregards the fact that a student

failing a class is not always disqualifying for program completion. In addition, AAU is concerned about the need for USCIS to review on a case-by-case basis the illness and medical conditions of students who request an extension of stay. Giving USCIS officers such oversight will not only require individuals with no experience or knowledge of the impact of these conditions on academic progress or program completion to make significant decisions affecting a student's ability to complete their program, but may also dissuade international students from making their illness or condition known to school officials to avoid it becoming a matter for adjudication.

Uncertainty Created by the Extension Process, Including Discretion Offered to USCIS Officials, the Lack of an Appeals Process, and Accrual of Unlawful Presence Will Be an Impediment to International Students

In addition to leaving analysis of these criteria to USCIS officials, the proposed rule reiterates that an appeal would be unavailable after a denial, leaving students no opportunity to challenge decisions by a USCIS officer. This is particularly troubling given the lack of training and expertise of USCIS officers to handle unique and complex requests as a part of a new process, as well as the potential for applicant error when submitting an extension of stay request. Applicants whose applications are denied would be considered immediately out of status and accruing unlawful presence if they have surpassed the visa expiration listed on their I-94 record. In addition, the proposed rule is unclear on how USCIS will adjudicate an extension of status application. For example, the proposed rule provides no standard by which USCIS will determine how much additional time to provide based on an extension request. This discretion is concerning, as a USCIS officer could, for example, grant only one year when the student needs two or more to complete a program. Timely, efficient, and predictable processing is necessary to ensure students understand their compliance requirements to remain in lawful status. Conversely, compulsory status extensions that introduce new costs, ambiguous standards, and threaten program continuity introduce levels of risk that will hinder interest in U.S. higher education and damage our national interests.

DHS Should Offer a 60-Day Grace Period for F, M, and J Visa Holders

The proposed rule seeks to reduce the current grace period offered to F-1 visa holders from 60 days after the completion of their studies, to 30 days. The current 60-day period provided allows for international students, many of whom have been in the country for several years, to take care of remaining housing logistics and moving costs, prepare for departure, or to maintain, extend, or change their status. The proposed rule states that its goal proposing this change is to bring it in line with the 30 days provided to M and J applicants for their post-completion grace period. We agree that these visa categories should have parity in the grace periods provided. However, we would recommend that DHS instead consider extending the grace period for M and J visa holders to 60 days to allow sufficient time for F and J visa holders to make the necessary decisions for their next steps, whether it is departure or to maintain, change, or extend their status.

C. The proposal to restrict students' academic mobility represents an intrusion into the kind of decision-making that is critical to the relationship between students and their institutions.

In addition to the proposed changes ending duration of status for F and J visa applicants, the proposed rule would also impose restrictions on academic mobility affecting international students at all degree levels in ways that DHS may not have considered when promulgating the proposed rule. These changes represent a significant and unprecedented intrusion into academic decision-making and programs. To support these proposed changes, DHS offers statistics that the agency admits show that the numbers of students transferring or changing educational levels represents a small percentage of the total F-1 student population. Despite this, and without further demonstrating a clear need, the agency proposes placing significant restrictions on international students at graduate and lower levels and prohibiting movement after completion of a degree program to programs at the same or lower level.

The Prohibition on Changing Educational Objective in the 1st Academic Year is Too Restrictive

DHS proposes prohibiting, with exception, international students from changing their educational objectives, which includes their programs, majors, and educational levels, or transferring institutions, within their first academic year. The first academic year is a time of exploration for many students, both international and domestic. Many students will refrain from identifying a major during this time, while others, after introductory classes, realize that another option may better suit them, or that adding another area of study would better reflect their professional interests or round out their education. The proposed rule does not discuss how these scenarios would be handled or the rationale for limiting opportunities available to international students that are available to U.S. citizen students.

The proposed rule states that the changes would facilitate "legitimate academic activities" like the desire to "pursue a different field of study or more specialized studies in their current field" but fails to identify the process by which these circumstances would be identified. DHS does include an opportunity for exceptions authorized by the Student Exchange and Visitor Program (SEVP) for circumstances that include, but are not limited to, natural disasters or school closure. However, the proposed rule fails to identify other "extenuating circumstances" that would warrant an exception. Furthermore, even with a process in place to review and issue exceptions, this proposal once again places significant discretion with officers to make decisions about a student's academic mobility, when those decisions are best left to students and institutions.

The Total Prohibition on Changing Educational Objectives for Graduate Level Programs is Too Restrictive and Detrimental to Completion of Graduate Programs

Even more troubling, DHS proposes a complete prohibition on international students in graduate programs from changing their educational objectives or transferring institutions. While DHS provides exceptions for "extenuating circumstances" for students at lower levels, it fails to offer comparable flexibility for those at the graduate level. In addition, the proposed rule fails to consider "legitimate academic activities" utilized by students, both international and domestic, to enhance or complete their education. For example, it is a common occurrence that an advisor or supervising

Principal Investigator (PI) will depart one institution to take a position at another during the time needed to complete a graduate program, such as a PhD program. Students will often need to determine whether they can complete their studies at their current institution, or whether they will need to join the PI to complete their research. Under the proposed rule, international students would be unable to do so, and as a result, their research and education requirements may suffer. In addition, it is common for both domestic and international students who enter a PhD program to consider an "off ramp" or "mastering out," where the student obtains a master's degree after completing or nearing completion of coursework to obtain a master's degree. Under the proposed rule, this option appears to no longer be available to international students despite remaining available for domestic students. DHS should reconsider its proposed changes restricting academic mobility. If the agency moves forward with placing restrictions on academic mobility, we urge that it reconsider the total prohibition on international students at the graduate level from changing educational objectives and transferring institutions.

The Prohibition on Pursuit of Degrees After Program Completion at the Same or Lower Level Does Not Account for Valid Non-Linear Career Paths

Finally, DHS proposes a prohibition on international students being able to pursue degrees at the same or lower level as degrees they have completed. DHS states that the basis for this proposal is to avoid a situation where an international student continuously pursues degrees at the same or lower level to remain in the U.S. with F-1 status for an extended period of time. While AAU understands this concern, we are far more concerned with the DHS's proposed solution. First, it is unclear based on the language included in the proposed rule whether F-1 students would be indefinitely prohibited from pursuing degrees at these levels, or whether it would be possible to do so after departing the United States and obtaining a new F-1 visa. Second, while DHS does indicate it plans to update the list of education levels, DHS fails to do so in the proposed rule or in the other materials provided in the docket. Considering the agency is proposing a prohibition on pursuing degrees at the same or lower level as one that has been completed, it is imperative that the public understand what degrees are considered on the "same" or "lower level." For example, would an individual who just obtained a PhD in a field such as Biology be able to pursue a JD, as many patent attorneys do? Is an MD at the same level as a PhD? Would a master's certificate be considered a "higher educational level" than a master's degree? Would a PhD student be able to "master out," as is, as discussed above, an option typically available for domestic and international students? These are all questions that the proposed rule fails to address and pose significant concerns for international students and institutions of higher education. DHS should reconsider this prohibition. If it chooses to move forward with this or a similar proposal, we urge the agency to provide stakeholders an opportunity to brief the agency about valid, non-linear education pathways that are critical to obtaining the education and skills needed to enter the U.S. workforce.

D. If implemented, the proposal will negatively impact U.S. competitiveness, including our advantage in attracting, developing, and retaining talent.

The United States leads the world in science, technology, and scholarship, but competitor nations are taking great strides to outpace us. An important component of American leadership in research is our ability not only to cultivate domestic talent, but also to attract and retain the best and brightest

from around the world. The contributions of international students, scholars, researchers, and physicians have been a tremendous benefit for our nation's health, economy, and national security. These individuals, working collaboratively with their domestic colleagues, have been critical to ensuring our nation follows a gold standard approach to science and technology that is as impactful as it is rigorous. In addition, they have also been tremendous contributors of economic value to their communities and to our nation. The economic impact of international students during the 2023/2024 school year is estimated at $43.8 billion and supports over 378,175 jobs across U.S. economic sectors (accommodation, dining, retail, transportation, telecommunications, health insurance, etc.), not just institutions of higher education.[32]

In the proposed rule, DHS downplays the considerable impact these changes would have on the overall enrollment of international students and exchange visitors at U.S. institutions. This is in direct contrast to the sentiment offered by DHS in the 2020 proposed rule that also sought to eliminate duration of status. In that proposed rule, DHS acknowledged that changes such as establishing a fixed period of admission for F and J visa holders "may adversely affect U.S. competitiveness in the international market for nonimmigrant student enrollment and exchange visitor participation. Specifically, the proposed changes could decrease nonimmigrant student enrollments in the United States with corresponding increased enrollments in other English-speaking countries, notably Canada, Australia, and the United Kingdom."[33] As stated above, in addition to countries identified in the 2020 proposed rule, countries such as India and China are already taking advantage of restrictive policies proposed by the U.S. to implement their own policies to attract and retain exceptional talent from around the world.

Five years after the 2020 proposal to end duration of status, DHS's initial assessment remains accurate. Recent surveys conducted by the Institute for Progress and NAFSA: Association of International Educators of 1,039 current graduate students and postdoctoral fellows and 611 prospective international students found that ending duration of status would indeed deter enrollment or applications of international students and exchange visitors.[34] Out of the sample of currently enrolled students 49% are in PhD programs, 26% are postdocs, and a significant majority are in STEM fields critical to U.S. research and innovation.[35] According to the survey results, 49% of currently enrolled students responded that they would not have enrolled in the first place if there was a fixed period of admission rather than duration of status.[36] Prospective students were also less inclined to study in the United States if duration of status were replaced with a fixed period of

[32] NAFSA International Student Economic Value Tool, *NAFSA: Association of International Educators*, Updated 2025, https://www.nafsa.org/policy-and-advocacy/policy-resources/nafsa-international-student-economic-value-tool-v2
[33] 85 Fed. Reg. 60526 (09/25/20)
[34] Comment to DHS "Fixed Time of Admission and Extension of Stay" for Fs and Js, from Michael Clemens, Jeremy Neufeld, Amy Nice filed at regulations.gov, https://ifp.org/wp-content/uploads/Clemens-Neufeld-Nice-D-S-Elimination-comment.pdf and see "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
[35] *Id.*
[36] *Id.*

admission. According to the survey, 16% fewer respondents would be likely to enroll in an education program in the U.S. if duration of status policy is ended.[37]

An analysis of the survey data performed by three immigration experts and submitted to DHS found that DHS drastically underestimated the annual economic cost, including economic loss, that would result from the implementation of this proposed rulemaking.[38] The analysis found that when accounting for the role of international students and exchange visitors in the U.S. STEM workforce and the deterrence for both current and prospective students from attending or completing programs and remaining in the U.S. workforce, the annual cost of the proposed rule would be closer to between $72 to 145 billion.[39] This is more than 22 times the $3.3 billion that DHS states as the estimated annual cost of ending duration of status. AAU refers DHS to a joint letter from several science, policy, and education organizations submitted on September 29, 2025, that provides further analysis and sensible alternatives to this proposed rulemaking that DHS should consider.[40]

Policies like those in the proposed rule are already discouraging talented students, graduates, researchers, physicians, and other talented visitors from starting or completing their programs in the U.S., to the benefit of other nations and to our detriment. If the changes outlined in the proposed rule are implemented, it will be even more likely that the next great medical cure or scientific or technological innovation will be developed in another country. It will also be more likely that competing nations are able to take advantage of this expertise to take or expand their lead in critical areas with significant economic and security implications for the U.S. DHS should withdraw this proposed rule, and consider alternative policies that can assure against fraud, abuse and national security concerns while allowing the U.S. to maintain its competitive advantage.

E. Sensible and less burdensome alternatives exist that would facilitate DHS's goals of eliminating fraud and abuse and addressing national security concerns.

The proposed rule discusses the basis for the changes proposed as pertaining to certain institutions and individuals taking advantage of the existing SEVIS system and student and exchange visitor admissions period. The notice discusses specific examples of institutions, staff, students or visitors that have, in rare circumstances, engaged in fraud and abuse or presented national security concerns. America's leading research universities understand and acknowledge that this kind of fraud and abuse exists and share the agency's commitment to preventing threats posed by foreign adversaries to our national security and research enterprise, including efforts to protect sensitive information housed at universities. We continue to actively work with U.S. federal science agencies, security and intelligence agencies, and Congress to combat these threats and proactively address security concerns in academia[41] and welcome continued partnership in doing so. However, we feel that the severity of these problems is overstated in the proposed rule and the means by

[37] *Id.*
[38] *Id.*
[39] *Id.*
[40] Comment of 39 Science, Education and Policy Organizations to DHS, Filed on September 29, 2025 https://ifp.org/wp-content/uploads/Multi-Sector-D-S-comment.pdf
[41] Association of American Universities, Securing University Research Against Foreign Threats One Pager, https://www.aau.edu/key-issues/securing-university-research-against-foreign-threats-one-pager

which the agency is seeking to resolve these issues is excessively burdensome and unnecessary while also undermining our national competitiveness compared to alternative solutions that are available.

As it relates to potential fraud or abuse in the student visa system, DHS proposes upending over three decades of agency policy and placing unnecessary burden on institutions, international students, and agency staff to combat what appear, based on DHS's own evidence, to be rare occurrences. For example, DHS discusses the fact that a total of over 2,100 international students who entered the United States on F-1 status from 2000 to 2010 remain in the United States in F-1 status as of 2025. Without being able to determine the individual circumstances of these 2,100 plus international students, DHS fails to mention that for the 2023-2024 academic year, the United States hosted 1.1 million international students[42]. Those 2,100 students make up just 0.2% of the total international student population at present.

DHS also cites its review of SEVIS, which found that nearly 77,000 F-1 students have spent more than 10 years in student status since 2010. In addition, the review states that there have been over 13,000 F-1 students who have transferred before the start of classes or within their first term, and 8,400 who changed education levels within the first 60 days of their program. Again, these numbers are an extremely small percentage of the total number of international students in the U.S., especially dating back to 2010. DHS itself states that "the number of students transferring or changing educational levels represents a small percentage of the total F-1 student population." While this data might require DHS to improve its oversight of international study visa programs, it should not lead DHS to make such drastic changes as it seeks to make in this proposed rule. Instead, it should consider ways it can strengthen existing programs to reduce these risks while also working with stakeholders to develop solutions.

In addition, the proposed rule includes a section discussing a small number of examples of J-1 exchange visitors who presented a national security threat, as well as a 2018 NIH report that states: "Small numbers of scientists have committed serious violations of NIH policies and systems by not disclosing foreign support (*i.e.,* grants), laboratories, or funded faculty positions in other countries." Much like the supporting evidence provided in the section discussing risks posed by F-1 international students, the information details a limited number of security risks posed by J-1 exchange visitor program. The evidence fails to support why DHS proposes to upend a policy that has been in place since the early 1990s. If DHS would like to take steps to prevent instances like those it has identified in the proposed rule, it should consider less burdensome alternatives that would strengthen the Student and Exchange Visitor Program (SEVP) and other vetting processes already available.

Less Burdensome Alternatives Should Be Considered Before Implementing the Proposed Rule

To start, the federal government already has comprehensive systems in place to thoroughly vet international students and exchange visitors through the application process and related interviews with the Department of State. In addition to recently imposed changes that heightened the scrutiny

[42] Institute of International Education, 2024 Open Doors report: https://opendoorsdata.org/data/international-students/

and review placed on these applicants, the Department of State also utilizes tools like the classified Technology Alert List (TAL) to screen out individuals who may pose concerns. In addition, international students and exchange visitors are subjected to screening and vetting performed by US Customs and Border Protection upon arrival. After undergoing this rigorous review process, any student or exchange visitor who chooses to travel outside of the United States and subsequently re-enter is once again vetted by both the Department of State and Customs and Border Protection upon entry.

Second, DHS should make full use of the SEVIS system, which was created in response to the September 11, 2001 attacks and has been in place for over two decades. Indeed, students are the mostly closely tracked and monitored visa holders in the United States as a result. The Student and Exchange Visitor Program, a component of Immigration and Customs Enforcement, monitors the SEVIS database. Use of SEVIS is mandatory for both institutions enrolling F-1 students and sponsors for J-1 exchange visitors. Each entity is required to adhere to reporting requirements that among other things identify the academic progress of students and visitors in their programs. DHS has ready access to the information collected in SEVIS, as well as the ability to monitor and request information from institutions concerning alleged instances of fraud or abuse connected with the F and J visa programs. In fact, DHS cites its review of existing SEVIS data to identify many of the examples it discusses in the proposed rule. The proposed rule does not provide sufficient reasoning as to why the existing mechanisms for data collection through SEVIS are insufficient to protect against instances of fraud and abuse or potential national security concerns. As stated earlier, limited statistics and anecdotal examples are provided that appear to show a minimal number of a cases involving fraud, abuse, or national security concerns, and a similarly small number of F and J applicants inappropriately taking advantage of their respective visa programs. As it relates to potential fraud or abuse by institutions, we note that SEVP has an opportunity every two years to review institutions' compliance with regulatory requirements and reporting requirements in SEVIS. SEVP then makes a determination as to whether an institution can continue to enroll international students or exchange visitors. We implore the Department to address efficiencies in existing capacities rather than implement a complicated, burdensome, and costly new extension of stay process to address a problem they are already capable of handling.

Lastly, in the proposed rule, DHS discusses recommendations made in 2019 by the GAO in response to DHS's reported concerns with fraud and abuse in the F-1 visa program from both institutions and students.[43] The proposed rule briefly mentions that "GAO recommended that ICE develop a fraud risk profile and use data analytics to identify potential fraud indicators in schools petitioning for certification, develop and implement fraud training for DSOs, and strengthen background checks for DSOs." However, the proposed rule does not identify further what steps were taken to adhere to the GAO's recommendations, the results of those efforts, its efforts to fully address outstanding recommendations, and why additional changes made in the proposed rule are still required.

[43] GAO Report, STUDENT AND EXCHANGE VISITOR PROGRAM, DHS Can Take Additional Steps to Manage Fraud Risks Related to School Recertification and Program Oversight https://www.gao.gov/products/gao-19-297?mobile_opt_out=1#summary_recommend (March 2019)

F. Implementation of the proposal will result in an increased burden on USCIS processing and operations.

We are also concerned about how these changes will exhaust already strained USCIS processing operations. Historically, USCIS has struggled with timely processing of immigration benefits. In recent years, USCIS has faced a historically high backlog. The current backlog of pending cases with USCIS is approximately 11.3 million.[44] As a comparison, in FY15, at the end of the fourth quarter, USCIS had just over 3.2 million cases pending. In other words, there has been an over 250% increase in the number of pending cases at the agency in just the last ten years. Processing times also remain high. As of June 2025, the average processing time for USCIS forms is nearly 9.59 months or just over 290 days. As recently as FY21, the median processing time for the Form I-539, Application to Extend/Change Nonimmigrant Status [45], was over 270 days. While USCIS processing times have variably risen and fallen, the average processing time has consistently remained high and nearly double from the averages in FY15.

This is not surprising. In fact, as stated in the proposed rule, the reason "duration of status" was established in 1978 by the legacy INS was in response to significant case load and the need for agency resources to handle extension of status. As stated above, this is a similar sentiment offered by DHS when discussing subsequently implemented extension of stay (EOS) processes until revisions in the early 1990s rules covering F and J visa applicants. Unfortunately, the problems created by establishing an extension of stay system and a fixed period of admission remain the same. The proposed rule estimates that because of the changes suggested covering F, J, and I nonimmigrants that 414,000 EOS requests will be filed on average over a ten-year period. According to data released by USCIS, in FY24 the agency received 253,876 Form I-539 applications. When adding this number to the expected average annual number offered by DHS, it is 667,876, which represents a 163% increase *for just this form* from FY24.[46] This also does not account for years when DHS will receive well north of 414,000 additional EOS applications.

For an agency that has historically had a difficult time reining in its backlog and processing times and recently experienced a budget crisis[47], it is concerning that USCIS will be required to handle this additional workload which will almost definitely have an impact not only on processing times for the Form I-539, but also other benefit types. The proposed rule fails to provide adequate reasoning to justify placing this kind of a burden on USCIS and its staff, as well as on international

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[44] U.S. Citizenship and Immigration Services. (2025, June 30). *All USCIS application and petition form types (Fiscal Year 2025, Quarter 2)* [Data file]. U.S. Department of Homeland Security. https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2025_q2.xlsx.

[45] *Id.*

[46] U.S. Citizenship and Immigration Services. (2024, December 29). *All USCIS application and petition form types (Fiscal Year 2024, Quarter 4)* [Data file]. U.S. Department of Homeland Security. https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2024_q4.xlsx.

[47] Gov Exec, DHS to Begin Sending Furlough Notices to 15,000 Employees Next Week HYPERLINK "https://www.govexec.com/workforce/2020/06/dhs-begin-sending-furlough-notices-15000-employees-next-week/166096/"https://www.govexec.com/workforce/2020/06/dhs-begin-sending-furlough-notices-15000-employees-next-week/166096/

students, institutions, and exchange visitors and how doing so will achieve DHS's goals. The rule also fails to articulate why less burdensome alternatives were considered insufficient.

Conclusion

For the reasons stated above, we strongly urge DHS to withdraw the proposed rule. The changes proposed would create significant procedural uncertainty for international students, exchange visitors, and universities and would adversely impact U.S. competitiveness. One of the best tools in the United States' innovation-based economy is our resounding advantage in attracting, developing, and retaining the brightest minds from across the globe to study and work in the United States. These talented individuals offer invaluable contributions to our institutions, their U.S. colleagues, the U.S. research enterprise, and the U.S. economy. AAU believes that the implementation of the proposed extension of status process and academic mobility restrictions will be costly and confusing, leading to higher costs, greater redundancy, and severe repercussions on our ability to maintain our leadership in this critical area.

We share DHS's goal of eliminating the rare cases of fraud and abuse and addressing any potential national security concerns. However, we urge DHS to consider less costly and less burdensome alternatives such as utilizing existing scrutiny and vetting authorities through federal agencies, strengthening oversight and reporting requirements in SEVIS, and fully implementing the recommendations previously made by the GAO. If DHS plans to move forward with some version of the changes in this proposed rulemaking, AAU urges DHS to consider policies that create the least burden possible for international students, academic institutions, and federal immigration agencies. For example, an admissions period that better captures the unique nature of degree and program timelines and lessening restrictions on academic mobility to account for non-linear career and education paths should be considered.

As other nations aggressively expand their international recruitment and retention policies aimed at international students, it would be self-defeating to implement policies that push talented individuals from around the world away from the United States. International students irrefutably enrich our academic communities, strengthen our research enterprise, and bolster the American workforce. Many of the stated objectives of the proposed rule could instead be achieved by leveraging the existing mechanisms readily available to the agency. We appreciate your consideration of our views and look forward to working with you to achieve our shared goals.