

Key Immigration Priorities for the Higher Education Community¹

March 2021²

Immigrants and non-immigrants provide immeasurable economic and cultural contributions to our nation and college and university campuses. Yet, our nation's immigration system remains woefully outdated, failing to fully capitalize on these contributions and putting the United States at a competitive disadvantage with countries that have been able to modernize. It is long overdue for Congress pass long-needed legislation that strengthens our nation and the impact of colleges and universities. Colleges and universities are invested in the modernization of our immigration system as both educators and employers.

These key priorities will guide the higher education community's consideration of proposed immigration legislation, whether that occurs in a comprehensive manner or as stand-alone bills on more narrow issues. In addition, we believe these priorities should be considered in responding to regulatory or executive action on immigration issues, especially related to COVID-19.

Support for Dreamers and the Deferred Action for Childhood Arrivals (DACA) Program

On Jan. 20, 2021, President Biden issued a presidential memorandum instructing the attorney general and secretary of the Department of Homeland Security (DHS) to take action to "preserve and fortify" DACA. However, there are still court cases pending involving the 2012 program as initially established by executive policy during the Obama administration. We strongly support legislative efforts to provide a long-term, permanent fix that will protect these outstanding young people brought to our country as children, extends work authorization, and provides a pathway to U.S. citizenship, not only for DACA recipients but also other Dreamers.

Dreamers are talented young people who are productive members of their communities. They work and pay taxes; serve in the military; and attend or have graduated from college. As a matter of fairness to students who are in an untenable situation through no fault of their own, we recommend that federal and state barriers to higher education be removed for undocumented students who were raised and educated in the United States. In addition, these exceptional individuals deserve protection and ultimately U.S. citizenship.

For all these reasons, we support bipartisan, legislative efforts to provide permanent protections, work authorization, and a pathway to citizenship for Dreamers, including the *Dream Act of 2021* and the *American Dream and Promise Act*.

¹ These priorities were prepared and are supported by the American Association of Community Colleges; American Association of State Colleges and Universities; American Council on Education; Association of American Universities; Association of Catholic Colleges and Universities; Association of Governing Boards of Universities and Colleges; Association of Jesuit Colleges and Universities; Association of Public and Land-grant Universities; Council for Christian Colleges & Universities; Council of Graduate Schools; National Association of Independent Colleges and Universities; and National Association of Student Financial Aid Administrators.

² This document may be updated as legislation and policy are considered by the administration and Congress.

Strengthen Optional Practical Training (OPT)

We support the Optional Practical Training program, which permits eligible foreign students to remain in the United States after completing their studies for a period of temporary employment linked to their area of study. The OPT program is an important part of why foreign students are interested in studying in the United States and further enhances a student's learning and creativity while helping to fuel America's economic innovation. We urge the Biden administration to strengthen OPT and retain the 24-month extension for eligible STEM degree holders. This will allow the talented individuals from abroad that U.S. colleges and universities help train to continue to make meaningful contributions to our economy. We continue to be concerned about the slowdown in work authorization processing that over the past four years has caused confusion and problems for international students. We call on DHS to address these processing slowdowns and provide appropriate flexibilities to students and graduates who have submitted timely applications.

Strengthening International Student Enrollment

International exchange is a core value and strength of American higher education. Moreover, our nation's welcoming stance to scholars and scientists has benefited the United States through goodwill and a long history of scientific and technological advances that have been essential to the country's economic growth. When international students return home, they are ambassadors for American values, democracy, and the free market. Unfortunately, we saw a 43 percent drop in new international student enrollment in fall 2020 due to COVID-19 and related issues.

Roughly one million international students that attend U.S. colleges and universities annually add to this country's intellectual and cultural vibrancy. The presence of those students also yielded an estimated economic impact of \$38.7 billion and supported over 415,000 jobs nationwide in 2019-2020.³ Unfortunately, this is down 4.4 percent (a loss of \$1.8 billion) from the prior academic year. This is the first such decline since NAFSA began calculating more than 20 years ago the economic contributions of international students and their families.⁴

We have asked the Biden administration to send a clear and public welcome message to international students considering enrollment in U.S. institutions of higher education. We remain concerned that the executive actions of the previous administration, in some cases focused on specific countries, puts these economic and educational benefits at risk and sends a message to millions around the globe that the U.S. is no longer open to foreign students, scholars, lecturers, and researchers. Our nation can only maintain its global scientific and economic leadership position if it encourages those talented people to come here to study and work. America is the greatest magnet for talented people from around the world and it must remain so. One way to accomplish this is to adopt a national strategy to increase international student enrollment.

³ NAFSA International Student Economic Value Tool,

http://www.nafsa.org/Policy_and_Advocacy/Policy_Resources/Policy_Trends_and_Data/NAFSA_International_Student_Economic_Value_Tool/

⁴ <https://www.nafsa.org/about/about-nafsa/new-nafsa-data-show-first-ever-drop-international-student-economic-value-us>

We are confident that it is possible to create policies that secure our nation from those who wish to harm us, while also welcoming those who seek to study, conduct research and scholarship, and contribute their knowledge and talents to our nation's higher education institutions, economy, and overall security. We call on the State Department and DHS to take executive actions to address the slowdown in visa and authorization processing for our international students and scholars.

Reforms for F-1 Student Visas

We encourage Congress and the administration to eliminate nonimmigrant intent for international students (F-visa holders), which forces these students to prove their intention to leave the U.S. upon completion of their studies. Alternatively, extending dual intent to F-visa holders will help the U.S. to retain the best and brightest international students, and we are encouraged that this is included in the *U.S. Citizenship Act*. Dual intent is already allowed on some nonimmigrant visas, such as H-1Bs. Expanding dual intent to include F visas would streamline the visa process for international students and allow students the ability to express interest in remaining here after their studies. Additionally, we call on the State Department to use executive action to restore the 2005 "Rice cable," which allows consular officers to use flexibility in interpreting an international student's intent when adjudicating student visa applications.

Green Card Reforms

As educators, we believe it is important to inspire, teach, and train the next generation of domestic and international students who through innovation will help grow the American economy. Therefore, we support legislative proposals that would allow international students to remain in the United States following the completion of their studies, especially those with science, technology, engineering, and mathematics (STEM) degrees. STEM graduates are innovators, job-creators, and critical to the nation's research enterprise. We support efforts to at a minimum streamline the green card process for those who graduate with an advanced STEM degree (not just doctoral degrees) from a U.S. higher education institution so our nation can reap the benefit of having educated these future leaders.

To attract and retain the best and the brightest, we support the following changes to the green card process:

- Streamline the green card process for advanced STEM degree graduates from U.S. institutions of higher education and exempt them from the employment-based green card limit.
- Recapture unused employment-based green cards from prior fiscal years to help eliminate the backlog.
- Increase the overall number of green cards annually. With an expansion of green card availability, eliminate the per country cap limitation, with a gradual phase-in period. This provision will also help eliminate the backlog.
- Stop counting spouses and children against the employment-based green card cap. More than half of all employment-based green cards go to the spouses and children of workers.
- Allow green card applicants to retain their place in line while waiting for green cards to become available. Vest this place in line (known as a priority date) with the immigrant petitioner and not the employer.

- If an increased visa fee is created to fund STEM education programs, we urge that nonprofit colleges and universities be exempt from the increased fee. These institutions provide the STEM education necessary for U.S. students to compete in the global workforce. It is counterproductive to increase the burden on institutions that are intended to benefit from the provision, particularly as institutions are already reeling from significant increased expenses and lost revenue brought on by the Covid-19 crisis.
- The Department of Homeland Security should use the existing definition of STEM degrees under the *STEM Designated Degree Program List*, established in April 2008 and expanded in 2012, as a reference in legislation. If legislation instead refers to the Department of Education's Classification of Instructional Programs, it is critical to include all STEM fields, including: (I) computer and information sciences and support services; (II) engineering; (III) mathematics and statistics; (IV) biological and biomedical sciences; (V) physical sciences; (VI) agriculture sciences; and (VII) natural resources and conservation sciences.
- Legislation should reference nonprofit status to define an institution of higher education and, if needed, to determine institutional eligibility.
- Maintain special handling of labor certification that allows U.S. institutions of higher education to permanently hire the best qualified professors.

H-1B Visas (Temporary Worker Provisions)

H-1B visas are essential to U.S. institutions of higher education. Colleges and universities attract and employ some of the world's most talented faculty, postdoctoral fellows, doctors, and research scientists under this visa program. These individuals work in classrooms, preparing students to enter a workforce in which global engagement is a necessity. They also provide needed expertise in the search for innovations to improve human health, create new technologies, and drive our economy. Many of our international graduates will be recruited by U.S. businesses to stay and work under H-1B visas. We support the following actions:

- Continue to exempt nonprofit institutions of higher education and research institutes from H-1B visa caps. This exemption is important for the hiring of faculty and scholars, especially in high need STEM fields.
- Create an uncapped exemption for professionals who have earned advanced degrees from U.S. institutions of higher education and physicians in training from the H-1B cap as envisioned in proposed legislation in 2006 and 2007.
- If an increased visa fee is created to fund STEM education programs, we urge that colleges and universities be exempted from it. It is counterproductive to increase the burden on institutions that are intended to benefit from the provision, particularly as institutions are already reeling from significant increased expenses and lost revenue due to the Covid-19 crisis.
- H-1B enforcement reforms should be narrowly tailored to address a minority of employers who abuse the program.
- Continue to allow for "premium processing" for H-1B visa applicants. This is an important tool for institutions of higher education that may be hiring faculty quickly near the start of the academic year or to provide timely expertise for important research projects. Any changes to the minimum salary requirements for H-1B visa holders should be phased in to allow

universities and colleges to adjust to higher salary requirements. This is especially important given the timeline for setting budgets at colleges and universities.

- Continue to allow spouses of H-1B visa holders to work. This is especially important for recruiting the best and brightest who may have spouses in professional fields.
- Any changes to the current lottery process should not prioritize wage levels. This would have an enormous negative impact on our graduating international students, as it would dramatically reduce access to the H-1B visa program for early-career professionals, including those who have completed master's or doctoral degrees at U.S. institutions of higher education.

Electronic Employment Verification

If an electronic employment verification provision is included in any major immigration reform legislation, the higher education community urges the inclusion of a provision that gradually phases in employers' usage of such a system. As employers, colleges and universities urge the federal government to develop an effective and efficient verification system that provides accurate information as to the work eligibility of an individual.