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Submitted via www.regulations.gov

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U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street SW
Washington, DC. 20536

SUBJECT: DHS Docket No. ICEB-2019-0006-0001, Comments in Response to *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*

Dear Chief Hageman,

As President of New Mexico's flagship university dedicated to inclusive education, research, community service, professional training, and healthcare benefitting many underserved populations, I am submitting this comment letter on behalf of The University of New Mexico in response to the U.S. Department of Homeland Security's (DHS) proposed rule, *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-2019-0006-0001) published on September 25, 2020.

The University of New Mexico (UNM) is very strongly opposed to this proposed rule, and we hereby request that the proposed rule be withdrawn in its entirety, allowing the current rules governing time period of admission, duration of status, and extension of stay to remain in effect for all F and J students, scholars, physicians, and other healthcare professionals. F and J non-immigrant students, scholars, physicians, and other healthcare professionals who are extensively tracked by institutions and DHS in the SEVIS system are already the most regulated and monitored class of non-immigrants in the U.S. The stated objective of the rule is to address national security concerns regarding visa overstays. However, the Department already has access to data in SEVIS that can identify and address these concerns without penalizing the vast majority of individuals and institutions who are respectfully following regulatory requirements. Further restrictions as proposed are unnecessary and harmful to UNM's mission and the populations we serve. This proposed rule will not achieve the stated objective of enhancing national security, and it will create substantial problems that will permanently damage the ability of U.S. institutions to compete for the best and brightest international students, physicians, and other healthcare workers who not only contribute to the U.S. economy and workforce, but who also enhance our academic achievements and contribute to our global standing.

It also bears mention that in New Mexico, as in many other rural states, J-1 visa holders trained at institutions across the country make up a critical part of our rural healthcare workforce. Our most recent data, from 2015-2016, indicate 62 J-1 Visa holders were placed in rural parts of New Mexico. These proposed changes to visa training programs would significantly disrupt the pipeline of physicians to rural communities in New Mexico and across the country, negatively impacting the health of the American citizens living in those areas. The healthcare workforce for the United States, and thus the health of American citizens, would be deeply undermined and weakened by these proposed restrictions.

We stand in opposition to the proposed rule for the following reasons:

- 1) The proposed rule ignores U.S. higher education realities undermining the critical roles that international students, research scholars, physicians, physicians-in-training, as well as other healthcare workers and trainees play in furthering the educational, research, and healthcare missions and associated contributions of institutions such as UNM, as well as the normal length of degree education and training programs in the U.S;
- 2) The proposed rule compromises the critical role of J-1 resident and fellow physicians in the healthcare workforce, including in rural and underserved communities such as in New Mexico;
- 3) The proposed rule underestimates the actual costs to individual visa holders and neglects how these costs will hurt the U.S. as we compete with other English-speaking countries to recruit the best and brightest international students, scholars, physicians, and other healthcare professionals to our institutions;
- 4) The proposed rule underestimates the important and highly beneficial economic, scientific and entrepreneurial impacts international students and scholars have on our communities that contribute to the overall U.S. economy, contributing to our international standing;
- 5) The proposed rule underestimates the administrative burden this rule would impose on U.S. higher education institutions like UNM, who are already reporting actionable and detailed data daily in the Student and Exchange Visitor Information System (SEVIS), and who are required to apply for re-certification by DHS itself every 2 years to carry out the monitoring and reporting responsibilities required by existing regulations; and
- 6) The proposed rule fails to contend with the inability of agencies within DHS (namely CBP and USCIS) to effectively and efficiently take on the unnecessary additional responsibilities required by this rule, leading to even longer backlogs, increased cost to individuals and institutions, interruptions in study and work that impact the student, the institution and prospective employers, and will lead to an inevitable significant decline in the number of international students and scholars seeking to study and do research at U.S. institutions, including The University of New Mexico.

Conclusion and Requested Action

While we cannot adequately address all institutional and broader economic impacts given the inappropriately short 30-day public comment period, it is our assertion that the significant burden this proposed rule would impose on individuals and institutions who are already reporting the information sought by this rule, coupled with the fact that the proposed rule will not achieve the stated purpose of enhancing national security, warrants that we now request that the proposed

rule be withdrawn in its entirety, allowing the current admission for duration of status to remain in effect for all F and J students, physicians, other healthcare professionals, and scholars. I am appending additional information below, providing supporting data and rationale for each of our six points of contention summarized above.

Respectfully submitted,

A handwritten signature in black ink that reads "Garnett S. Stokes". The signature is written in a cursive style with a large initial 'G' and 'S'.

Garnett S. Stokes
President

Attachments: Appendix

Appendix: Supporting Data and Rationale

- 1. The proposed rule does not consider many higher education realities, while undermining the critical roles that international students, physicians, other healthcare professionals, and research scholars play in furthering the educational and research contributions of U.S. institutions as well as the normal length of degree programs in the U.S.**

Critical Presence and Roles of International Students and Scholars at US institutions

International students are an important presence on US campuses. These students bring an indispensable diversity of ideas and provide an important global perspective that contributes to the learning of their domestic classmates.

- According to the most recent Open Doors Report on International Educational Exchange, more than 1,095,000 International students (223,085 on post-completion OPT work permission) and 95,700 J-1 Scholars study and do research on F and J visas in the US each year (*Open Doors 2019 Report on International Exchange, Martel, M., Baer, J., Andrejko, N., & Mason, L.*). The proposed rule will discourage international students by imposing punitive additional costs and cumbersome procedures that essentially fail to recognize that the vast majority of these international students comply with immigration regulations.
- As of Fall 2019, UNM hosted 1,437 international students (251 on post-completion OPT) from 100 countries, and 233 J-1 scholars from 37 countries. UNM Health Sciences Center hosted an additional 43 graduates of foreign medical institutions from 15 countries for Medical Residency programs on J visas sponsored by the Educational Commission of Foreign Medical Graduates (ECFMG). The total number of UNM internationals affected by the proposed rule would be approximately 1,700 individuals.
- International students represent 5.2% of the overall UNM student body, comprising 2.45% of all undergraduate students and 11.43% of all graduate students.
- Of UNM's 617 international graduate students, 451 (69%) held some type of graduate teaching or research assistantship that contributed to the core educational or research mission of the University.
- Teaching Assistants serve a critical role in that they are responsible for teaching or assisting with significant portions of the undergraduate curriculum. Many international students at the University teach in STEM disciplines and in foreign language classrooms. These students are fundamental to the educational breadth and strength of UNM.
- Research assistants conduct critical research on projects that bring grant funding to the University, contribute to the publication of scholarly work, and advance academic projects essential to innovation and discovery.
- A decline in the number of international students at the graduate level would be a detriment to UNM, as qualified domestic student applicants are not available in sufficient numbers to serve in all of these important positions.
- The 233 J-1 scholars who come to do temporary research or teaching each year as post-docs, consultants and visiting lecturers and 43 J-1 physicians who provide clinical care at

UNM Hospitals and UNM Sandoval Regional Medical Center make an important contribution to the academic landscape at the University and have a critical impact on our community, particularly in the midst of a pandemic.

- Medical residents and fellows with J-1 visas currently comprise 7% of our graduate medical education training and workforce, and as much as 50% within some individual training programs. This reduction would create deficits in our ability to care for patients in our under-resourced state.

Normal Degree Program Requirements and Time to Completion

The proposed rule is not congruent with the actual time needed to complete degree and training programs in the U.S. and does not account for the fact that many students routinely progress from one degree to a new level of study as a normal part of their progress toward an educational objective.

National Data

- Normal time-to-degree completion for both Bachelor's and PhD program students in US educational institutions is *more than 4 years*.
- NCES data show that the average time to completion of a Bachelor's degree for international students in the US is 4.69 years, which is less time than needed by the majority of their domestic counterparts.
- At the PhD level, the 2018 NSF Survey of Earned Doctorates (<https://www.nsf.gov/statistics/srvydoctorates/#tabs-2>) shows an average time of 5.3 years for doctoral degrees and average of 7.5 years for those doing the MS/PhD graduate sequence.
- Resident physicians need anywhere from 3-7 years to complete residency and an additional 1-3 years to become subspecialty trained.

UNM Data

- At UNM, 384 international students are enrolled at the Bachelor's level in one of the 175 degree and concentration combinations. Fewer than 65% of all UNM students finish the Bachelor's program in 5-8 years. The 4-year graduation rate for the Bachelor's degree is 35.5% for all students and 41.2% for international students. 223 international students are enrolled in programs at the Master's level. Average time to degree for Master's students is 2.5 years. For international students it is 2.3 years.
- 394 international students are enrolled at the PhD level. Normal time to complete a PhD is 5-6 years.
- In addition, 251 of UNM's 1,437 students in Fall 2019 were engaged in F-1 Optional Practical Training (OPT) or J-1 Academic Training (AT) work permission following their program of study. This opportunity to gain valuable work experience contributes to their education in their field of study. At the PhD level, students pursuing careers in academia need this additional work time to complete post-doctoral appointments which are essentially a pre-requisite to a position in the academy.

- Conservatively, based solely on normal degree program completion times, plus any additional OPT/AT applications, it is estimated that more than 75% of UNM students would need to complete at least one extension during their primary program under this proposed rule. Given that extensions may not be processed in a timely fashion, study and study-related work such as Curricular Practical Training (CPT) appointments integral to the student's degree program, or OPT critical to a student's entry to their chosen field, may be interrupted for more than 75% of international students. This will create an enormous disturbance to the entire University community and to the employers that seek to hire them.
- The above estimate of 75% of students needing at least one extension actually increases if we include the 125 UNM students who originate from one of the 59 countries named in the rule who would be restricted solely to 2-year admission. It will also increase if we include those in disciplines such as Nuclear Science (and other majors as yet unnamed/unidentified) that will be restricted to 2 years under the proposed rule due to national security concerns. These individuals would all need to apply for multiple extensions during the course of their normal degree. Given current USCIS processing times, these students may have to interrupt their studies or related work due to delays in extension processing.
- A normal part of progression toward a career or educational objective includes a change of educational level. This change can be present in the actual structure of the degree program such as an MS/PhD sequence, BA/MD sequence, BS/MS or other dual-degree program or it can be a progression that requires re-application and re-admission to a new level of study. The proposed rule would require students changing educational objective to once again apply for an extension through USCIS at which point USCIS would decide whether or not this program change is warranted even though the student may have enrolled in the initial degree level with the objective of progressing to the next level.
- Critically, the proposed 24-month lifetime limit for attendance in intensive English programs is overly restrictive. While it is not commonplace, some students such as lower/intermediate learners or non-traditional students or those requiring special accommodations will need to exceed this limit in order to achieve the test score necessary to be admitted to and succeed in a rigorous higher education program. In some instances, the student may need to improve a test score to enter a more prestigious program/institution even after successfully completing one academic level at an accredited higher education institution. Over the past 10 years, 62 students have enrolled for 2 years or more in our intensive English program, or 7% of total enrollees since 2011. There simply is no defensible reason to limit the ability of these individuals to pursue intensive English education at *bona fide* ESL programs in the U.S.
- In regards to J-1 scholars, the professor and researcher category of this visa type allows for a total stay of 5 years, while the ECFMG-sponsored J-1 physician category allows for a total of 7 years. Neither of these is aligned with the 2 or 4-year admission limit imposed by this rule. The disconnect between the regulatory limits for J-1 scholars and physicians and the proposed 2-to-4-year limit would create confusion and potentially interrupt important work, research and clinical care should extensions not be processed in a timely fashion by USCIS.

- In our analysis, based on the aforementioned significant issues and estimates of numbers of individuals we anticipate will be affected, this proposed rule would have an enormous negative impact on UNM's international students and scholars and the entire University community.

2. The proposed rule compromises the contributions of J-1 resident and fellow physicians to the healthcare workforce, including in urban underserved and rural communities such as in New Mexico.

- Resident and fellow physicians form the backbone of patient care at teaching hospitals and clinics such as UNM. As with many US academic health care institutions, UNM has attracted some of the best and brightest international physicians to our training programs; these physicians directly provide care to our state's urban underserved and rural populations. All of our international resident and fellow physicians hold J-1 visas, renewed annually through a rigorous process managed by the ECFMG.
- Residency and fellowship training varies in length, but total training periods of 5-7 years are common. Currently, 45 of our resident and fellow physicians hold J-1 visas. Some of our flagship programs train a significant number of international physicians, including:
 - 11 residents in our adult Internal Medicine residency program
 - 5 out of 15 residents in our Neurology residency program
 - 4 of 8 fellows in our Hematology/Oncology fellowship
 - 4 out of 12 fellows in our Cardiology fellowship
- These physicians and our institution rely on a robust annual visa renewal process in order to continue their education and importantly continue provide care to New Mexico's citizens. Unfortunately, the proposed rule will render timely renewal impossible, thus sending these physicians away without completing their training and creating a gap in patient care and physician recruitment and retention in our state. Of particular concern are the following:
 - ECFMG renewal takes 4-6 weeks and cannot be started until late December or early January
 - With the new obligation of continuing residents and fellows to file an Application to Extend/Change Nonimmigrant Status (Form I-539) – which per the AAMC typically takes 5 to 19 months to process – the chance of successfully completing renewal before their visa expires in June is very low.
 - UNM will be unable to recruit physicians-in-training to our residency and fellowship programs due to the impossibly cumbersome visa renewal process as well as the four-year limit.
- Anticipated negative impact on patient care and the state of New Mexico includes:
 - 28 current residents and fellows will be unable to complete their training programs, and an additional 7-10 will not be able to start fellowships.
 - UNM programs will be unable to recruit much-needed international physicians to our training programs, creating a patient care and workforce gap.

- New Mexico, with its growing physician shortage in rural and urban underserved care, will be unable to tap into the international physician resource so desperately needed to care for our communities.

3. The proposed rule underestimates the actual cost to individuals and will hurt U.S. competitiveness.

Costs to Individuals Affected by the Proposed rule

Monetary Costs

- Under the proposed rule, all students and scholars who need to extend their stay to complete their programs and any F-2 or J-2 dependents (currently more than 231 individuals) would need to apply to USCIS for an extension before the expiration of their current admission period as listed on the I-94 (2 or 4 years) or they would need to exit and reenter the US through a Port of Entry and be re-admitted for a new 2-to-4-year period by a CBP officer. Both of these available methods would cause affected individuals to incur significant increased costs.
- An extension of status (EOS) application is currently filed on form I-539 (an 8-page form). At present, this application costs \$370 dollars and must be accompanied by an additional biometric fee of \$85 for a total of \$455 dollars per individual application. Under the proposed rule, F-2 and J-2 dependents would be permitted to file with the principal applicant or alone. Filing with the principal on form I-539A (a 6-page form) would not incur an application fee, but would incur an \$85 biometric fee for each applicant.
- In the text of the rule, the Department itself estimates the cost per extension to be over \$1,000 if the student seeks “outside help” in completing the application. Using this figure along with our prediction that 75% of UNM students would need to complete at least one extension to complete their academic program in a normal time frame, we have calculated (using USCIS figures as listed in the proposed rule) that the collective cost to our current UNM international students alone, for a one-time extension (not counting scholars or dependents) would be at least \$1,078,000 (aggregated). This is an extraordinary amount that is in reality probably underestimated and does not take into consideration J scholars and physicians seeking to remain in the U.S. for the amount of time allowed by their J category.
- Additional costs would be incurred for those who must file more than one extension application. As referenced above, a second extension application (and possibly a third) will be required for the 125 UNM students and 13 J scholars from any of the 59 countries listed in the rule, students who want to apply for OPT or Academic training, students in degree programs that are deemed a national security concern (impossible to provide data given the little that is known about the criteria for identifying these majors), those who legitimately decide to pursue study at another educational level, those who have unexpected medical or academic circumstances who cannot complete programs in a normal amount of time, and J scholars and physicians seeking to remain in the U.S. for the commensurate amount of time allowed by their J category. It is worth mentioning

that this will also be required for individuals who, through no fault of their own, are mistakenly given an incorrect period of entry when they are originally admitted to the U.S.

- Students and scholars who pursue extensions through travel and readmission (proposed as an option in this rule) will incur travel costs likely in excess of the \$1,000 estimated for the extension process when considering air travel and additional visa application costs (length of visa issuance is governed by reciprocity regulations defined by the Department of State and is not aligned with or apparently considered in the admission period proposed by this rule). More importantly, many individuals may be forced to travel and incur these additional expenses in order to prevent interruptions in study-related work due to extension processing backlogs on the part of USCIS.

Other Costs (e.g., Time, Stress and Uncertainty)

- As discussed above, the application which will be used for extension of non-immigrant status according to the proposed rule is currently form I-539. Students, scholars, physicians, and other healthcare professionals now utilize this same application for change of status (e.g., to F-1 or J-1) and for reinstatement to F student status in the case of a status violation. Applications of this type in the past ten years have been seriously delayed and can take anywhere from 6 to 18 months to process for a routine change of status and typically 1 to 2 years for a reinstatement to student status.
- The proposed rule cites a shift to and incentivizes e-filing of these application (with a reduced fee) ostensibly for faster processing. However, according to the experience of our advisement staff and that of local immigration attorneys approved to work with UNM to frequently file I-539 applications on behalf of clients, e-filing this form has not been faster. On the contrary, e-filing this form has been slower than paper filing in the past due to problems with additional evidence requests not being efficiently matched to e-filed cases.
- Over the past 5 years, these delays and backlogs in I-539 processing, in combination with uncertain results regarding approval of the change of status application, have led to a shift to advising students who need to change status to instead travel out of the U.S., apply for new visas and reenter rather than endure the long, cumbersome and uncertain application process. During the time of COVID and travel restrictions, advisement staff have shifted to recommending students NOT travel and instead file a change of status application with USCIS. Currently, we have 10 prospective F-1 students who have been waiting for an I-539 approval in excess of 5 months, one of whom has been waiting over a year for adjudication of this application. None of our current change-of-status applicants have had applications processed since the COVID pandemic began. If these delayed processing times persist, it would render an extension unworkable and would require travel on the part of each individual in order to avoid interruptions and uncertainty. At present, due to the pandemic, travel is not a viable option in many cases.
- Additionally, as mentioned in the proposed rule, the extension application itself has become lengthier and asks a series of questions regarding government programs that are unfamiliar to students and create an enormous amount of confusion and anxiety necessitating additional assistance from advisement staff to understand the form itself or the hiring of outside counsel which presents another monetary burden.

- Students and scholars who do decide to file the I-539 application must then wait for a communication which instructs them to schedule a biometrics appointment at a local Application Support Center (ASC) office (currently taking 5 months or more from receipt of the application). While UNM is conveniently located in proximity to one of these offices, this additional biometric step slows down processing of the extension application, as the individual must schedule and attend the appointment before the application can go forward. This has been especially burdensome during the COVID19 pandemic, as appointments have been canceled or reduced due to the pandemic. It is unclear what kinds of delays might occur by adding this additional influx of extension applicants to processing times at Application Support Centers.
- All of the problems described above, including but not limited to the complexity of the application process (including understanding and completing the application itself); the assembling of excessive numbers of supporting documents in an effort to avoid additional requests for evidence that delay the process or worse, lead to a denial; the indefinite timeline caused by perpetual backlogs (that have existed for more than 10 years but have grown worse in the last 4 or 5); and the more recent practice of requiring sometimes duplicative requests for evidence for every single I-539 application all stand to create an enormous amount of anxiety for the student, the academic department, and any prospective employers, including campus employers, who wish to hire students into Teaching or Research Assistantship positions.
- The proposed rule does not address any of these very real concerns or the cost of this uncertainty to the individual or the University community.

Impacts on the U.S. Competitive Advantage in Attracting and Retaining the Best and Brightest International Students

- This proposed rule comes at a time when other countries have recognized the advantages of attracting international students and are loosening existing regulations to attract these students. These competing countries recognize the contributions students make to the economy and to the academic community and have taken active steps to attract new international students by making it easier for international students to study and work there.
- The monetary costs of the proposed rule described above will not only be negative in and of themselves, they will send a negative message that the U.S. does not value the presence or contributions of international students.
- The uncertainty of the extension process and the very real possibility that they may be forced to abandon their studies in the middle of their program due to a delay or denial of extension of stay will deter international students from choosing the U.S. as their study destination. This will inevitably lead many of the best and brightest students to pursue a degree elsewhere, including neighboring countries such as Canada.
- The proposed rule acknowledges that its finalization will inevitably lead to fewer students choosing the U.S. as a study destination. It does not defend why this result is necessary.

4. The proposed rule underestimates the important economic, scientific and entrepreneurial contributions international students and scholars make to our communities and the U.S. as a whole.

Economic Contributions of International Students and Scholars

- As of 2019, It is estimated that international students contributed \$41 billion dollars to the US economy and created or supported an estimated 458,290 jobs nationwide (*Economic Value Tool, 2018-2019, NAFSA: Association of International Educators* <https://www.nafsa.org/sites/default/files/media/document/isev-2019.pdf>)
- The same source, estimates that in the State of New Mexico, despite their relatively small number, International students contribute \$91 million to the state and created or supported 835 jobs.
- At UNM Main campus in Albuquerque specifically, International Students contributed \$43.9 million to the local economy and created or supported 457 jobs.
- Economic contributions of this size in a community such as ours are significant and should not be discounted.
- This proposed rule itself states that finalization will reduce the number of students who come to or stay in our communities which will result in a negative economic effect. It does not appropriately defend why this is necessary.

Other Contributions

- As mentioned earlier in this comment letter, international students and scholars contribute directly to the educational, healthcare, and research missions of the University of New Mexico through their participation in Teaching and Research assistantships, post-docs, residency, visiting professorships and through the diverse perspectives they bring to classroom discussions, research groups and their other interactions on campus and in the community.
- Many UNM international students and scholars have been involved in important ground-breaking research, innovative projects and have received awards in their academic disciplines. These individuals boost the University's academic reputation on the national and international stage.

5. The administrative burden imposed on higher education institutions by the rule is much larger than estimated, is unfair and is unnecessary given existing SEVIS requirements.

Administrative Burden to the Institution

- The proposed rule cites a total burden in hours for the application and associated biometric appointment as 6.05 hours for each paper application and 4.75 hours for an electronic application.

- While we are unsure of its accuracy or how this time assessment was calculated, this estimate tallies the burden of the applicant alone and does not include the significant time required by institutional staff (mainly advisors and faculty members) to assist the student with documents necessary for the extension request. Elsewhere in the proposed rule, some DSO time is included for training on new regulations and updating SEVIS, but these calculations are overly-narrow and dramatically insufficient, causing underreporting of impacts, in our estimation.
- The proposed rule lists an amount of \$490 per student for assistance with this form, but it does not specify who will be responsible for providing these services to the student nor does it explain how this amount was calculated.
- There is no doubt that even if the student hires outside counsel, much of the burden and associated cost of assisting the student will be borne by institutional staff that are needed to help the student understand the terminology used in the application, understand the application process and timelines, interpret any requests for additional information/evidence, provide and/or assist in the assembling of supporting documents and gather extension approval notices from students once they are issued.
- Faculty members and academic advisors will be called upon to write and submit detailed supporting documents to justify an extension on the part of the applicant, provide verification letters proving continued funding support, and generate special letters justifying unusual circumstances such as delays in program completion due to research issues, advisor or topic changes.
- Student health center and counseling staff will be called upon to provide documentation of medical conditions that delayed progress toward degree.
- Hiring units will be responsible for tracking and updating I-9 information for each individual and due to the 2 and 4-year limits, will need to add many more staff hours to this effort.
- International offices desiring to assist students and proactively work to ensure the least amount of disruption for the student and institution will be responsible for tracking the expiration of status dates for each student and scholar and for attempting to monitor and manage these dates in addition to managing I-20 and DS-2019 program completion dates, visa expirations and passport expirations.
- The disparate admission end dates per individual alone that are proposed in this rule will create complexity. However, expiration date changes effected through individual travel and reentry without knowledge of the institution will create chaos and likely result in an inability to comply with I-9 rules or to assist students in managing extension application deadlines.
- Supporting documents regarding the need for an extension of the I-20 or DS-2019 to complete the academic program are already collected and retained by the institution in accordance with existing regulatory *program extension* requirements for F and J students who are unable to complete in a normal timeframe. However, it is important to realize that currently most students complete the program in the time designated on the I-20 or DS-2019 form and that schools are required to report in SEVIS when a student completes a program earlier than specified on the I-20 or DS-2019. The proposed rule ignores the fact that the additional burden on the institutions generated by the 75% of students

needing an extension during the normal course of the degree program is costly, unnecessary and unfair.

- By our estimates, providing information, application assistance and supporting documentation will require at least 5 hours of collective University staff time per student at a cost of more than \$50,000 dollars per year to the institution.

The Rule is Unnecessary Given Current SEVIS Requirements

- International Students and Scholars on F and J visas are already the most tracked and monitored class of non-immigrants in the U.S.
- DHS-certified schools and their DHS-certified Designated School Officials (DSOs) and Department of State authorized Responsible and Alternate Responsible Officers (AROs) already report detailed information on academic programs and requirements as well as information about each F and J student and scholar in the SEVIS database.
- Students are registered in SEVIS when they begin the semester and are monitored continuously to ensure that they continue to meet full course of study and other requirements of their immigration status throughout their stay in the U.S. Personal, address and programmatic information is updated on a daily basis in the SEVIS system.
- Student records are terminated when students violate rules or fail to maintain status and are completed when their programs end.
- Supporting evidence required by F and J regulations is maintained at the institution for medical excuses, reduced course loads, work authorizations, academic issues and program extensions.
- Schools are Recertified by SEVP (an agency of DHS) every two years to ensure that they have the proper accreditation and are following current regulations including keeping required documentation for a specific period of time. In addition, organizations that are authorized to bring J-1 students and scholars are required to apply for re-designation every two years and to submit annual reports each year to inform the State Department about their programs.
- DHS regulations already allow the Department to make special requests to view student records that can substantiate reasons for extension of program or other benefits.
- This rule fundamentally ignores that DHS already has all of this actionable and detailed information available in the SEVIS system as well as a mechanism for requesting additional information.
- Institutions already pay recertification and re-designation fees, maintain trained staff to serve as DSOs and AROs, purchase software to manage and communicate with students and scholars and to keep supporting documentation.
- The additional burden of requiring individuals to file a costly and time-consuming application so that students can complete programs in a timely fashion, change program levels, engage in work authorization or be reviewed for valid extension claims is unfair and is in conflict with the current administration's stated policy objectives of reducing administrative complexity.
- There is no doubt that the academic institution itself is in the best position to evaluate normal length of program for students and the totality of the circumstances surrounding

the validity of a student's need to extend the program. We already evaluate and collect this information as required by regulations on a routine basis.

- In contrast, USCIS officials do not have information about program requirements at any institution and have no connection to the advisors and faculty members that are intimately familiar with a student's academic situation. Therefore, USCIS is not in a position to evaluate these applications in a consistent and fair manner or to equitably apply the rules.
- The SEVIS certification and recertification processes already mandate and ensure compliance on the part of institutions. This rule does not provide any real benefit to the Department or the national security interests of the country and in fact runs contrary to those interests.

6. The proposed rule does not address USCIS's limited capacity and consequent ability to process the additional application workload imposed by the proposed rule in a timely fashion, and it similarly fails to account for CBP's limitations to effectively and efficiently apply the numerous additional requirements of the rule.

In this comment letter, we have already addressed some of the complex issues surrounding the extension application process proposed by the rule and the difficulties that would be a result of lengthy extension processing timelines and backlogs. Some of these issues are restated below. However, it is also important to raise the difficulties presented in correctly applying the suggested timelines at the Port of Entry to the U.S.

Problems Caused by USCIS Application Timelines and Backlogs

- Given current processing timelines and application backlogs this rule is logistically unworkable. The rule does not address how applications can be considered in a timely fashion. Additional applications will result in extended adjudication timelines which result in more uncertainty, disruption and harm to students and institutions.
- Increasing numbers of applications will have a detrimental impact on the legal immigration system as a whole, causing gridlock and further driving students away from study at U.S. institutions.

Application of the rules by CBP at the Port of Entry to the U.S.

- The proposed rule lays out a complicated set of requirements that rely on well-trained and informed CBP officers at the Port of Entry to the U.S. It would require each officer to assess an individual applicant to determine not only an individual's admissibility, but the length of time allowed for admission based on the rule.
- Under these proposed rules CBP Officers would need to assess an applicant's country of birth, country of citizenship, program objective and major (for mention on the list of those restricted) in a matter of minutes at a Port of Entry leading to delays at the airport and errors that cost the individual and the institution critical time and money.

- Admission periods that are updated or changed via travel and re-entry throughout the year will cause confusion and further complicate the institution's ability to track and assist students with extension applications and ensure compliance with I-9 requirements.
- This rule does not address how any errors in length of admission could be corrected if identified after entry.