



LOCAL 5810

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October 26, 2020

The Honorable Chad F. Wolf
Acting Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Ave, NW
Washington, DC 20528

Ms. Sharon Hageman
Acting Regulatory Unit Chief, Office of Policy and Planning
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street SW Washington, D.C. 20536

Re: 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

Submitted by Anke Schennink, President of UAW Local 5810

Submitted online via www.regulations.gov.

Dear Acting Secretary Wolf and Acting Regulatory Unit Chief Hageman,

On behalf of the 11,000 Postdocs and Academic Researchers represented by UAW Local 5810 and employed at the University of California and the Lawrence Berkeley National Laboratory, I write in opposition to the U.S. Department of Homeland Security's 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 September 25, 2020. We urge that the proposed rule be withdrawn in its entirety, and that admission for the duration of status remain in effect for international scholars.

UAW Local 5810 represents Postdoctoral Scholars and Academic Researchers (Project Scientists, Specialists, Professional Researchers, and Coordinators of Public Programs), and many of these academic employees, including approximately 70% of Post-

docs, are in the U.S. on non-immigrant visas. Their scholarship is central to the research and educational prestige of the University of California, including the university's ability to foster innovative research, provide a top-tier education, and attract scholars from an international pool of applicants. The proposed rule sends a message to current and potential international students and scholars that their research, diversity of experience and perspectives, economic contributions, and work are not welcome in the U.S. If adopted, this would be a drastic and sudden shift in policy that would make it extremely difficult, if not impossible, for many current and future international students and scholars to complete their academic programs by imposing fixed and inflexible time limits for F and J visas.

International Scholars Make Meaningful Contributions at U.S. Universities

The proposed rule will discourage and disincentivize international scholars who contribute to the U.S. in many ways. They teach hundreds of thousands of students a year at U.S. universities, conduct critical research that is a vital driver of U.S. industry and technology, and bring billions of dollars in research funding into their universities and local economies. Many international students and scholars are also on the front lines of research pursuing vaccines and therapies for COVID-19. At a time of health and economic crisis, this rule is a step in the wrong direction. Instead, the U.S. should be increasing recruiting efforts around the world to incentivize people to participate in our shared global fight against COVID-19 and in many other ways improve our quality of life and grow the economy.

A Scholar's Country of Origin Should Not Determine Their Duration of Admission

The proposed rule makes a discriminatory and overbroad distinction in policy based on a scholar's country of origin: namely, that international students and scholars who are citizens of certain countries (primarily those in Africa, Asia, and the Middle East) would be issued an admission period of only two years, while others would receive four years. The rule as proposed is therefore likely to have a disparate impact on workers based on their national origin and could also create challenges to research teams with members from affected countries. Furthermore, the Department of Homeland Security is relying on [flawed data](#) when determining "visa overstay" and "unlawful presence" rates, thereby overstating the number of international students and exchange visitors.

A Two- or Four-Year Admission Period Does Not Match the Reality of Study or Research

The proposed rule limits the period of admission to two or four years for international students in F status and exchange visitors in J status. While U.S. higher education is often viewed through the lens of two- or four-year degree programs, these time periods do not match the reality of study. According to the [National Center for Education Statistics \(NCES\)](#), just 56% of international students earn their bachelor's within four years, com-

pared to only 44% of domestic students. This indicates that many international undergraduate students would not complete their degrees within the maximum four-year period.

In addition, the majority of doctorate-seeking international students take an average of 5.3 years from entering a program to completion, while those who complete the master's/doctorate sequence take an average of 7.5 years from entering graduate school to completion. Similarly, the rule does not account for J-1 research scholars whose research programs often extend beyond four years and are permitted by the Department of State to remain in the United States for up to five years.

The Proposed Rule and Procedures are Redundant, Expensive, and Burdensome

The proposed rule argues that ending the “duration of status” policy will advance national security, but there is no basis whatsoever for this assertion. F and J visa holders are being monitored and tracked via the Student and Exchange Visitor Information System (SEVIS) reporting system, which is housed in the Department of Homeland Security and is linked to certified participating schools as well as to overseas U.S. consulates. In addition, all F and J visa applicants must be interviewed by a consular official and certain vital data recorded, including photographs and digital fingerprints. The proposed rule, and the proposed USCIS procedures for extension, are redundant, expensive, and inefficient. Ending duration of status would add an enormous number of new EOS filings to USCIS workload and its current backlog, where at this time Extension Of Stay processing times are between 2 and 12 months.

The proposed EOS requirement will necessitate exchange scholars to pay a filing fee each time they extend, travel internationally or reenter the country; in the case of in-country extension, this will also include biometric fees, for themselves and each dependent, causing undue financial burdens to the scholars and their families.

International students already need work authorization from USCIS to pursue work experience through the Optional Practical Training (OPT). This proposed rule will further slowdown the processing time of USCIS on those applications - while the current average processing time is already 5-10 months. As a result, U.S. employers may rescind job offers merely because USCIS is not able to process applications on time, and international students may miss opportunities to contribute with their newly gained talent.

Apart from these obvious burdens to scholars, the implementation of the proposed rule would have challenging down-stream effects, such as driver's license issuance in states where “lawful presence” verified visa paperwork is required for issuance.

Increased Uncertainty Will Turn Scholars Away, Harming the U.S.'s Global Competitiveness

It is clear that the proposed rule will increase uncertainty for international scholars. For those international scholars who would need to stay beyond the time limit to complete

their academic program, the rule only allows a limited number of reasons and includes vague language such as “compelling academic reasons” for which such an extension may be granted. The benefits of studying and pursuing a post-graduate degree research programs in the U.S. are great; however, it becomes increasingly difficult to justify studying in the U.S. when the ability to retain legal status throughout the period of the program is uncertain.

For the reasons detailed above, DHS should immediately withdraw its current proposal and dedicate its efforts to advancing policies that welcome international students and encourage international academic collaboration and cooperation. This rule will disrupt countless lives and will only serve to diminish the output and reputation of U.S. universities and higher education institutions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anke Schennink', written over a horizontal line.

Anke Schennink, PhD

President, UAW Local 5810