

February 3, 2021

The Honorable Alejandro Mayorkas
Office of the Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Mayorkas,

On behalf of the American Council on Education (ACE) and the undersigned higher education associations, we write to congratulate you on your confirmation, as well as to bring to your attention major issues of importance for the higher education community relevant to your role leading the Department of Homeland Security (DHS).

First and foremost, we are grateful that President Biden has issued an Executive Order to protect and fortify the Deferred Action for Childhood Arrivals (DACA) program and seek legislation to make the program permanent and provide a path to citizenship for our Dreamers. This is incredibly important given the cloud of uncertainty DACA recipients and Dreamers have been forced to live under since the September 2017 rescission of the DACA policy by the Trump administration.

Beyond DACA, we believe there are several actions DHS can take to help support our international students and restore the United States' status as the destination of choice for global students and scholars. Dr. Samantha Power, administrator-designate of the U.S. Agency for International Development, recently wrote in *Foreign Affairs* magazine that "one of the best ways to showcase the United States' ingenuity and know-how is to again make its universities the most attractive in the world to foreign talent."¹ Taking action on these immediate issues, while delivering a welcoming message to current and prospective international students, can do much to achieve the goal of again making our country the destination of choice for global students and scholars. Doing so also will generate important economic activity as the U.S. economy recovers from the COVID-19 pandemic.

We recommend the following:

1. Withdraw the proposed regulations that would limit a fixed duration of admission for international students² and restore "duration of status." In withdrawing this rule, the Biden administration should also clearly signal that international students are welcome in the United States and that the new administration will ensure certainty and stability

¹ <https://www.foreignaffairs.com/articles/united-states/2020-11-20/samanth-power-can-do-power>

² <https://www.federalregister.gov/documents/2020/09/25/2020-20845/establishing-a-fixed-time-period-of-admission-and-an-extension-of-stay-procedure-for-nonimmigrant>

in immigration policy for our international students.

2. Repeal and withdraw the interim final rules (IFRs) that make it harder and more expensive for individuals to receive H-1B visas. Two of the IFRs (from DHS³ and the Department of Labor⁴) were found to violate the Administrative Procedures Act (APA) in a series of court cases, but the Trump administration moved forward with finalizing the rules during the week of Jan. 11. In addition, the proposed rule, "Modification of Registration Requirement for Petitioners Seeking To File Cap-Subject H-1B Petitions," was also finalized as an IFR in the final weeks of the Trump administration.⁵ These changes to the H-1B program send a troubling message to our international students seeking to remain in the United States.
3. Make clear that the Optional Practical Training (OPT) program will remain in place (as it was at the end of the Obama administration). The Trump administration's repeated indications that it might significantly reduce the period of time students could gain work experience under OPT or make other changes to OPT created a serious disincentive for students to enroll in postsecondary education in the United States. In addition, DHS should take immediate steps to address the current delays with the USCIS lockbox, which is resulting in delays for students transitioning to OPT.⁶
4. Restore the Homeland Security Academic Advisory Committee (HSAAC) at DHS. This committee included members of the higher education community, as well as interagency representatives (the Departments of State, Education, and others). When the Committee was functional and held public meetings, it allowed DHS to engage with higher education stakeholders on a range of relevant topics in a regular manner, including concerns related to international students. HSAAC should be restarted with the same structure as during the Obama administration, with a clear focus on higher education and international students.
5. Ensure that DHS officials at ports of entry are properly instructed to follow official DHS guidance allowing international students to enter the United States, especially during the COVID-19 pandemic, regardless of instructional delivery method. We remain concerned that international students on hybrid programs may be stopped at the border. In addition, over the past four years, there were numerous troublesome incidents where international students with valid visas were stopped by DHS officials at the border, seemingly for no cause.⁷
6. In coordination with the Department of State, make certain that there is timely and efficient processing of visas and work authorizations for international students and

³ <https://www.federalregister.gov/documents/2020/10/08/2020-22347/strengthening-the-h-1b-nonimmigrant-visa-classification-program>

⁴ <https://www.federalregister.gov/documents/2020/10/08/2020-22132/strengthening-wage-protections-for-the-temporary-and-permanent-employment-of-certain-aliens-in-the>

⁵ <https://www.federalregister.gov/documents/2021/01/08/2021-00183/modification-of-registration-requirement-for-petitioners-seeking-to-file-cap-subject-h-1b-petitions>

⁶ <https://www.uscis.gov/news/alerts/uscis-lockbox-updates>

⁷ For example: <https://www.cnn.com/2020/01/21/us/iranian-student-detained-boston-airport/index.html>

scholars. We understand that both agencies have funding issues due to the extremely low number of visas and authorizations that were processed in 2020 and the loss of those fees, as well as cuts made to the DHS and State workforce over the past four years. Both State and DHS need additional resources to ramp up the processing of visas and authorizations post COVID-19.

We look forward to working with you and the Biden administration on these important issues.

Sincerely,



Ted Mitchell, President

On behalf of:

Achieving the Dream

ACPA-College Student Educators International

ACT

American Association of the Colleges of Nursing

American Association of Collegiate Registrars and Admissions Officers

American Association of State Colleges and Universities

American Association of University Professors

American College Health Association

American Council on Education

American Dental Education Association

APPA, "Leadership in Educational Facilities"

Association of American Colleges and Universities

Association of American Universities

Association of Catholic Colleges and Universities

Association of Community College Trustees

Association of Governing Boards of Universities and Colleges

Association of Jesuit Colleges and Universities

Association of Public and Land-grant Universities

Association of Research Libraries

College and University Professional Association for Human Resources

Common App

Consortium of Universities of the Washington Metropolitan Area

Council for Advancement and Support of Education

Council for Christian Colleges & Universities

Council for Higher Education Accreditation

Council of Graduate Schools

Council of Independent Colleges

Council on Social Work Education

EDUCAUSE

ETS

Higher Education Consultants Association

Higher Learning Commission
Hispanic Association of Colleges and Universities
Middle States Commission on Higher Education
NAFSA: Association of International Educators
NASPA - Student Affairs Administrators in Higher Education
National Association for College Admission Counseling
National Association for Equal Opportunity in Higher Education
National Association of Colleges and Employers
National Association of College and University Business Officers
National Association of Independent Colleges and Universities
National Association of Student Financial Aid Administrators
National Collegiate Athletic Association
Northwest Commission on Colleges and Universities
Phi Beta Kappa Society
Southern Association of Colleges and Schools Commission on Colleges
State Higher Education Executive Officers Association
UPCEA