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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, DC 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

Dear Acting Regulatory Unit Chief Hageman:

The City University of New York (CUNY) sends this letter in response to the U.S. Department of Homeland Security's (Department) 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.

*CUNY urges that the proposed rule be withdrawn in its entirety, and that admission for the duration of status remain in effect. We believe the proposed rule will negatively impact the United States higher education community; the competitiveness of the United States in the global international education market; the United States' educational, due process and fairness principles and ideals; the United States' economy; and US students, both international and domestic.*

### **Introduction of The City University of New York**

The City University of New York (CUNY) is the nation's largest urban university, with 25 campuses, including senior and community colleges and graduate institutions including the CUNY Graduate School and University Center, the CUNY Graduate School of Public Health and Health Policy and the CUNY School of Medicine at City College. CUNY has approximately 1,600 different academic programs ranging from certificate programs to Ph.D. and professional programs. The University has an enrollment of approximately 253,000 full and part-time undergraduate and graduate students and has approximately 200,000 students enrolled in adult and continuing education programs. It employs approximately 45,000 full-time and part-time employees.

Since the founding of what is now City College (the oldest college in the CUNY system) in 1847, CUNY has had a special mission to provide an affordable and excellent education for students from disadvantaged backgrounds. Section 6201(2) of the New York State Education Law recognizes this mission and sets forth the legislature's intent that "the University will continue to maintain and expand its commitment to academic excellence and to the provision of equal access and opportunity for students, faculty and staff from all ethnic and racial groups and from both sexes" as well as its understanding that the City University is of vital importance as a vehicle for the upward mobility of the disadvantaged in the City of New York." Approximately 42 percent of CUNY's students are in the first generation of their families to attend college.

CUNY is a premier research institution. CUNY's Research Foundation ("RF") operates a \$512 million research program focused on life-changing research across a wide range of disciplines including medicine, engineering, physical sciences, energy, computer science, and social sciences, and employs over 13,000 part-time and full-time researchers including those in F-1 and J-1 immigration status.

### **Economic Impact of International Students and Scholars**

Last year, CUNY had over 6,100 enrolled degree seeking international students in F-1 immigration status on F-1 student visas. The university was also home to approximately 500 exchange visitors in various J-1 categories including but not limited to professors, researchers, short-term scholars, interns, and both degree seeking and non-degree students.

CUNY's International Students come from over 100 countries including those that will significantly be affected by this proposed rule, and contribute approximately \$70 million in tuition and other fees to the university. CUNY's International Students also contribute over millions to the economy of both New York City and State [economic contributions](#), and generate thousands of jobs. This proposed rule if implemented will put the continued enrollment and the new enrollment of our international students in grave jeopardy.

International education contributes \$5.3 billion and supports approximately 60,000 jobs in the State of New York<sup>1</sup>. That is a great contribution to the New York economy by any measures. Latest data shows that international students studying at U.S. colleges and universities contributed \$41 billion and supported 458,290 jobs to the U.S. economy during the 2018-2019 academic year<sup>2</sup>. These are staggering numbers with huge impact to our economy.

The supported jobs do not only include traditional university jobs; international students create and support incidental jobs and economic revenues in housing, hospitality, food & beverage, transportation, culture & entertainment, and every industry in-between. According to the IIE's Open Doors data, there were approximately 1.1 million international students in the United States in the 2018-2019 academic year<sup>3</sup>. That is 1.1 million additional people renting apartments, buying cars, travelling, shopping and otherwise contributing to the economy of the United States.

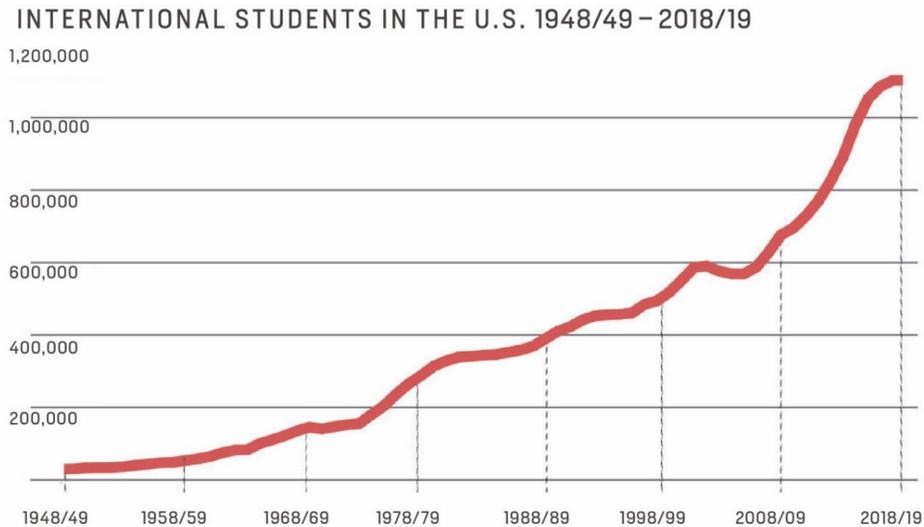
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<sup>1</sup> <https://www.nafsa.org/isev/reports/state?year=2018&state=NY>

<sup>2</sup> <https://www.nafsa.org/policy-and-advocacy/policy-resources/nafsa-international-student-economic-value-tool-v2>

<sup>3</sup> <https://opendoorsdata.org/data/international-students/enrollment-trends/>

Because international education is such a beneficial economic contribution, many countries compete for international students. The United States mainly competes with Canada, United Kingdom and Australia in international education. For the last four decades, the United States led the competition. But, restrictive and unduly burdensome immigration policies and anti-immigrant sentiments diminish the United States' historical competitive edge in the global international education market. The below chart, from IIE, shows the fluctuation of international students from 1948 to 2019:



In 2018/19 there was an **increase of 0.05%** over the prior year in the number of international students in the United States.

Source: Open Doors: Report on International Educational Exchange is a comprehensive information resource on international students and U.S. students studying abroad. It is sponsored by the U.S. Department of State with funding provided by the U.S. Government and is published by IIE. For more information, visit [www.iie.org/opendoors](http://www.iie.org/opendoors).

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The “slumps” and “decreases” in international education correlate with restrictive and unduly burdensome immigration policies whereas the rapid increases correlate with increased immigration benefits to international students. For example, the “Duration of Status” system, the flexible authorized period of admission created by the legacy INS, and the system the DHS wishes to rescind with this proposed regulation, went into effect in 1978, had a few hiccups until 1983 and found its final form in 1991<sup>4</sup>. The establishment of “Duration of Status” along with easier extensions of status for international students and scholars and more efficient practical training (especially curricular practical training) regulations correlate with a rapid increase in the total number of international students. The same increase may be seen after 2008, when international F-1 students studying in the STEM fields were granted additional practical training periods by the DHS. As evident in the above chart, the granting of this benefit resulted in the most rapid and aggressive increase of international students in the United States since 1948. Accordingly, the most serious decrease in the total number of international students, as evidenced in the above chart, happened between 2003 and 2006. That correlates with the implementation of the Student and Exchange Visitor Information System (SEVIS) by the DHS. SEVIS, as we will discuss below, was a regulatory hardship and was perceived

<sup>4</sup> For a detailed history of the “Duration of Status”, please see the DHS’ “Regulatory History of Duration of Status” in the proposed rule, 85 FR 60526, p. 60531.

as unduly burdensome by international students. But, it was a necessity for the national security of the United States, and, as it became more streamlined and stable, it became less burdensome and routine by the international students. As we will discuss below, abolishing the “duration of status” system is drastically more burdensome, and unduly so, to international students. Historical data strongly predicts that that this change will decrease the international student enrollment in the United States, damaging the United States’ competitive advantage and lead position in the global international education market.

### **Non-Economic Contributions of International Students**

CUNY is the largest urban university of the United States. And it is located in New York City—a city considered to be the capital of the world. New York City is the most diverse urban area of the nation and is an aspiration to the rest of the world. And our international students at CUNY contribute immensely to New York City, the state, the region and the country in general. We are proud of our international students’ contributions and would like to summarize a few:

Examples of significant research projects that international [The Advanced Science Research Center](#) graduate students and postdoctoral fellows are actively contributing to:

#### **COVID19**

Multi-temperature X-ray analysis of a key protein in the SARS-CoV-2 coronavirus called Mpro (“main protease”), which will aid ongoing efforts to develop antiviral drugs to combat COVID-19.

#### **Cancer**

Investigation of enzyme-responsive gold nanoparticles that can be used to visualize and target cancer in vivo, either for enhanced early detection of tumors or to deliver compounds specifically and directly to tumors for treatment.

#### **Neurogenerative Disease**

Molecular mechanisms responsible for formation of new myelin and rejuvenation of existing myelin in the adult and aging brain that may present novel pathways to treat and reverse Multiple Sclerosis investigation of peptide-based nanomaterials that will aid the study of neurogenerative diseases. Structural analyses to develop “remote control” of protein structures in a biomedically important but neglected family of enzymes called Protein Tyrosine Phosphatase (PTPs), in particular a specific PTP that is linked to neurological diseases, which could provide a unique foothold into drug development to combat diseases such as Alzheimer’s.

#### **Advanced Communications and Electronics**

Development of conductive bio-inspired nanomaterials for electronics that can be used in telecommunications and other applications.

#### **Sustainable Energy and Other Technologies**

Development of sustainable water evaporation energy harvesting tools creation of peptide-based nanomaterials to replace hazardous chemicals, such as organic solvents that are used in a wide variety of industrial processes

These projects are funded by the National Science Foundation, National Institutes of Health, the Army Research Office, and the Air Force Office of Scientific Research. Projects are conducted in collaboration with other institutions, including Columbia University and Mt Sinai.

Our Graduate Center has 850 international students and scholars from 90 different countries, which makes 24% of the total masters and PhD level students at the Graduate Center. The School of Journalism has 29 International Students from 20 different countries. International students, as teaching assistants or adjunct faculty, provide domestic students with access to the understanding of other countries and cultures that is so important to success in a global market for employment and ideas. Currently 6024 courses are taught at CUNY campuses by Graduate Center students, 24% of which are international students.

International students provide domestic students with access to the understanding of other countries and cultures that is so important to students' global citizenship. Through daily classroom interactions, international students share employment ideas and enhance intercultural understanding, sensitivity, knowledge and awareness, which are all critical to students' employability in the global market arena. Students and scholars in our Graduate Center include:

- International Doctoral Students working on Cancer Research:

We have many international students working with Memorial Sloan Kettering Cancer Center working on a variety of cancer research initiatives. A Cancer Research journal paper from Graduate Center researchers identifies what could be the first targeted therapy for an aggressive form of breast cancer that disproportionately affects black women. The paper, authored by researchers at The Graduate Center of The City University of New York and Hunter College in collaboration with scientists at Memorial Sloan Kettering Cancer Center and the University of Chicago, details findings about the interaction between two specific proteins during DNA replication that appears to drive growth of malignant cells in patients with triple negative breast cancer. The research team found the presence of mtp53 and PARP proteins in a large majority of patients with triple negative breast cancer. Their work suggests the proteins' association and function, and suppressing their interactions could provide a possible target for stopping tumor growth. The findings may also reclassify triple negative breast cancer as a different form of the disease that can be treated by combining already existing therapies.

F-1 international students are working as part of a joint research project with Memorial Sloan Kettering Cancer Center and The Graduate Center researching Pancreatic Cancer. They are using bioorthogonal in vivo pretargeting technology for the non-invasive PET imaging of pancreatic cancer. This novel approach will maximize the sensitivity and efficacy imaging procedures, while simultaneously minimizing risk to the patient by reducing the levels of undesirable radiation dose to healthy tissues. As part of this proposal, they will conduct a first-in-human trial, and are confident that this pretargeted PET imaging methodology will have a positive impact on the health of patients by creating a safe, effective, sensitive, and specific imaging platform for pancreatic cancer."

International F-1 student in Biology is a Postdoctoral Associate authorized for post-completion Optional Practical Training (OPT), working in a lab at Memorial Sloan Kettering Cancer Center focused on radiotherapy development and tissue reactions to radiation used to treat various cancer patients in clinical settings.

- International students in Chemistry Department working on Infectious Disease prevention and treatment:

The research will characterize immunomodulatory molecules that exist in an herbal formulation with a long record of clinical safety and efficacy. Characterization of these molecules will pave the way to develop new host-directed immunotherapeutics, which are chemical agents to boost our natural ability to prevent/treat infectious diseases, including those caused by drug resistant microbes ("superbugs")."

Carbohydrates are involved in many vital biological functions and disease states, including immune responses, cell-cell communication, cancer, metabolic disorders and pathogen infection. This project focuses on the synthesis of tailored carbohydrate and carbohydrate-like molecules and evaluation of their biological properties. These studies are relevant to the elucidation of immunological pathways and viral pathogens.

- International Students working on COVID19 research:

International Student authorized for STEM OPT in the field of Chemistry working as research fellow on a team researching COVID-19 spike protein in support of Einstein colleagues' analysis of convalescent plasma therapy with the Albert Einstein College of Medicine.

- School of Journalism

International Student authorized for Optional Practical Training in the field of Journalism/Digital Communication and Media/Multimedia working as a Staff Writer for Mansueto Ventures' business publications, the handbook of the American entrepreneur, written for the owners and top managers of private companies. The student is writing on science related topics such as sustainability, climate, and alternative energies.

International Student authorized for STEM Optional Practical Training in the field of Journalism/Digital Communication and Media/Multimedia working as a Producer at Money magazine and digital media with a focus on personal finance and news information.

International Students' contributions and impact are not limited to our Graduate Center. A sampling follows.

The John Jay College of Criminal Justice (John Jay) is a public college focused on criminal justice and is known for its criminal justice, forensic science, forensic psychology, criminology, and public affairs programs. John Jay for example has around 300 international students and scholars coming from over 70 different countries in the world. John Jay helps to educate police forces from around the world by having police officers from Japan, China, Jamaica, Ireland, Taiwan, Thailand, Turkey on the campus at a given semester, learning the US criminal justice system and the "rule of law", as established in the US Constitution and is the gold-standard of the justice system.

The City College of New York currently has 667 active international students and scholars who hail from over 90 countries in the world. The City College of New York is home to The Center for Discovery and Innovation - a state-of-the art facility that serves as a magnet for international researchers and learning for students, faculty, and scientists working across multiple disciplines.

The City College Center for Discovery and Innovation opened in 2015 and features approximately 200,000 square feet of space for advanced research in key interdisciplinary fields. The facility is a magnet for regional, national and international researchers and an academic hub of learning for students and faculty. Five major innovative fields are featured in the facility: Nanotechnology, Photonics, Structural Biology, Neuroscience and Environmental Sciences. The scientific and technological achievements at the City College Center for Discovery and Innovation improve environments, extend lives, and transform societies in New York City and around the world.

The Region 2 University Transportation Research Center (UTRC) at City College is one of ten original Centers established by Congress in 1987 with the recognition that transportation plays a key role in the nation's economy and the quality of life of its citizens. The Center at City College represents USDOT Region II, including New York, New Jersey, Puerto Rico and the U.S. Virgin Islands; City College functions as the lead institution of a consortium of twelve universities.

UTRC conducts research in critical areas related to transit, intermodalism, infrastructure and regional funding and pricing. To develop the annual research agenda, UTRC organizes a "Regional Research Conference" which brings together mid-to-upper level agency managers and university researchers to determine regional research needs. Over the years, it has developed stronger relationships with local sponsors by being more responsive to their needs. As a result, state and local transportation agencies are seeking the Center's help, on a regular basis, to deal with research and training problems that require academic inputs, or the application of state-of-the-art technologies. Many of our international students and scholars contribute immensely to UTRC.

Baruch College hosts over 1,900 international students and scholars that represent 168 countries from around the world. Baruch's growing international student population currently represents about 10% of the College's overall enrollment.

Baruch J-1 scholars contribute to the research in sustainability, corporate social responsibility and entrepreneurship; administrative support for research on state and local policies in New York; family business enterprises; managerial accounting practices in the U.S.; international financial services; environmental sustainability in organizations from an institutional perspective; comparative study of migrant workers in Chinese and US labor markets; pedagogy of finance education in higher education in the U.S.; American and Japanese Films in the 21st Century; local governance of refugee integration in North America; real estate markets in New York; regional networked governance and interlocal collaboration; international investment and capital markets; environmental sustainability in organizations from an institutional perspective; the role of institutions and governance in accountancy; financial and managerial accounting; option pricing and market volatility; earnings and compensation management; corporate performance and the internationalization of finance and corporate social responsibility reporting.

### **The Negative Impact of the Proposed Rule to the Economic and Non-Economic Contributions of International Students**

The proposed rule may cause a significant number of International Students to withdraw from CUNY. Any such withdrawals will cause an economic harm to CUNY – through loss in tuition, housing, and other revenue. These losses could amount to millions of dollars. The loss of tuition would be particularly acute because International Students usually pay full out-of-state tuition.

International Students' tuition enables CUNY to provide significant financial aid to disadvantaged students. CUNY will not only lose many millions of dollars as a result of the rule due to lost tuition and revenue, but such a loss may result in employment losses due to redundancies while unduly increasing administrative responsibilities.

In addition, CUNY employs over a thousand international students as research assistants, teaching assistants, and in other capacities. As a result of the rule, a significant number of international students will have to put their employment at CUNY on hold while waiting for USCIS to adjudicate and approve their program extensions.

Over a third of the entering class in CUNY graduate programs are international students. Over 1000 international students are enrolled at CUNY's senior colleges, specifically Baruch College, the City College of New York, and the Graduate Center.

All of these international students and exchange visitors are involved in research, including biometric research and other critical important topics. Currently, the research includes research related to COVID-19, and other critically important topics in medicine and the life sciences. The loss of these research efforts due to this proposed rule will have a devastating impact on CUNY, and the public health in New York City and across the state.

The proposed rule could also cause severe reputational damage to CUNY, making it more difficult for the university to recruit international students in future years. This could lead to continuing loss of tuition and other revenues for CUNY, as well as potential harm to CUNY's research enterprise. CUNY is currently recognized throughout the globe for offering a wealth of top-tier academic and research opportunities to international students. The uncertainty caused by this proposed rule could tarnish CUNY's well-earned global reputation and lead to a long-term loss of tuition and other revenues for the university, as well as negatively impact CUNY's research enterprise and its academic environment.

The University is still dealing with the effect of the COVID-19 pandemic that affected the operations of fall 2020 semester. Except for a very small number of essential employees, faculty and staff of the University have been working remotely. In light of this situation, it has been an extreme challenge for CUNY to engage in its core educational functions in accordance the ICE guidelines that were issued in March 2020, as well as for administrators and staff to perform both regular work and the additional functions necessary to address the operational and financial issues caused by the COVID pandemic. The implementation of the proposed rule will be an additional administrative burden on CUNY amidst the financial constraints and challenges caused by COVID-19 pandemic. Additional challenges and burdens include the University and our colleges having to:

- Devote resources to psychological counseling, and immigration advice for international students about the stipulation and impact and of the elimination of D/S and the maintenance of their F-1 immigration status.
- Devote resources to academic counseling for international students that will enable them to continue to make normal progress in their academic program and accomplish their degree completion goals in a timely manner.
- Expend additional resources for international student advisors' offices to comply with the

requirements of the proposed rule including but not limited to helping students apply for their program extensions and reissuing new I-20 Forms every two years for those students that come from countries identified in this rule.

The rule will impose numerous and significant administrative burdens on the University.

In addition to the economic impact, the proposed rule will most likely undermine CUNY colleges' campus internationalization efforts. Through classroom activities and sharing ideas, international students bring global perspectives to domestic students who may be financially challenged to participate in study abroad programs.

CUNY international students and exchange visitors contribute to New York City youths' global citizenship in their community through global classroom. The youth explore the meaning of being a global citizen in their own community and around the world through presentations on various global issues and topics such as climate action, Sustainable Development Goals, justice around the world, and discrimination. Students enhance their knowledge on various global challenges and possible solutions, while exploring how these issues are connected on a local, national, and global scale. As a result, the young students are inspired to become active global citizens and create change in their community and the world.

Our international students and research scholars enhance learning experiences of New York City K-12 students. Through face to face interactive presentations, they discuss world cultures and global issues that enhance the learning experience for all involved.

Through these in-person interactions and meaningful intercultural exchange dialogues, New York City K-12 students develop the skills, awareness, and understanding to become global citizens in their communities, as well as at local, national or international level.

Our international students and exchange visitors intentionally bring insights into classrooms based on their own experiences, serve as role models, thus paving the way for the young students and teachers to effectively communicate across cultures and reduce the potential of misunderstanding conflict based on racial, ethnic, and cultural differences. All these activities and initiatives contribute to world peace and understanding in a meaningful way.

For instance, at Baruch College, international students contribute to the diversity of our campus and enhance the educational experience of our domestic students by the exchange of culture and values to further their engagement, knowledge, cultural competency and empowerment. The enrollment of international students in our campus inspire the International Student Service Center to create a global exchange program between international students and underrepresented domestic students with the aim of not only developing their cultural competency, but to award them with scholarships to participate in a study abroad programs.

Our partnerships with various governmental agencies and local and foreign organizations encompass a range of opportunities for our students and faculty. Baruch College has direct relationships with institutions across four continents giving our students an opportunity to engage in an exceptional range of international study programs. These programs bring together students and faculty from different countries in one classroom making it a unique intercultural experience. Countries include:

Argentina, Belgium, Brazil, China, France, Germany, Greece, Hong Kong, Mexico, Netherlands, Poland, Singapore, South Korea, Turkey and Vietnam.

In addition to preparing and providing experiential learning opportunities to aspiring leaders in the financial services industry, our college is committed to volunteerism and civic engagement, thus introducing our international students to that essential American value.

The proposed regulation will have a great impact in the reciprocity of our agreements that benefit our college community.

**The Proposed Rule is Unnecessary, Unduly Burdensome, Damaging to Academic Integrity, Wasteful and Duplicative**

**The SEVIS System Fulfills All the Needs and Justifications Outlined in the Proposed Rule**

International students and scholars in the F and J non-immigrant classifications are the most closely watched non-immigrants in the United States. This is a fact, established by the Student and Exchange Visitor Information System (SEVIS). The DHS does not collect even a fraction of the data it collects from the F and J non-immigrants from any other immigrant or non-immigrant group. The DHS “knows” and “can know” precisely at which classroom a student is at any given time. The data the DHS collects is immense. And data by itself is more than sufficient to meet the alleged national security goals the DHS outlines in its proposed rule.

The IT Dashboard SEVIS Business Case (Section C1: Projects Table) shows that for technology investment alone, the SEVIS Project from its 7/1/2002 start date through a projected project date of 9/30/21, \$181.7 million dollars will have been spent. This expensive endeavor has yielded detailed data for DHS that would have been unthinkable in prior decades.

DHS can effectively enforce the current immigration laws by wisely using its resources to engage in data-driven initiatives that focus on risk factors, rather than subject entire nonimmigrant categories to an expensive, cumbersome, and time-consuming extension of stay process that largely duplicates the efforts that schools and exchange visitor programs will continue to make to comply with heavy SEVIS reporting obligations. SEVIS gives DHS immediate access to detailed information related to almost every student and exchange visitor event that could impact a student or exchange visitor's compliance with the regulations.

For information not directly submitted in SEVIS, DHS also has the authority to request, “on any individual student or class of students upon notice,” all information and documents that schools are obligated under 8 CFR 214.3 to retain throughout the student's enrollment and for a period of 3 years beyond that.

The DHS claims, in its proposed rule, that the DHS does not have enough control and information on international students and scholars. The DHS, in fact, has more control and information on international students and scholars than any other non-immigrant group. To achieve its national security goals, all DHS has to do is utilize the very extensive SEVIS system it implemented. Any occasional bad actors, whether individual students and scholars or unethical schools, can be found, examined, audited, and, if necessary punished through this system. Instead DHS is proposing duplicative and unduly burdensome procedures for international students.

No other major non-immigrant group, including the B classification (touristic and business travel), the ESTA visa waiver classification, and the H-1b specialty occupation classification has a fraction of the oversight and information the DHS possesses through the SEVIS system on F and J international students and scholars. Despite overseeing such an immense and effective database and information system, the DHS still claims it does not have enough oversight on international students and scholars. This proposed rule change would create an unduly burdensome bureaucratic act on an already heavily regulated and controlled sub-group of non-immigrants.

### **Why Schools and DSOs/ ROs are Better Equipped than the DHS to Handle F & J Extensions and Certain Status Based Employment Benefits — Adjudication v. Notification in the Immigration Context**

The current F and J regulations found their final form with the Immigration Act of 1990 and its regulations in 1991. According to the DHS:

In 1991, the regulations were further revised to implement Section 221(a) of the Immigration Act of 1990 (IMMACT 90), Public Law 101-649, 104 Stat. 4978, which established a three-year off-campus program for F-1 students. In the 1991 Final Rule, legacy INS also clarified and simplified the procedures for F-1 students seeking EOS and employment authorization. This included giving DSOs authority to grant a program extension (and therefore an EOS) for in-status students with a compelling academic or medical reason for failing to complete their educational program by the program end date on their Form I-20. The rule required DSOs to notify legacy INS of the extension. In the rulemaking, legacy INS specifically agreed to allow DSOs to issue program extensions, explaining that “with the DSOs screening out ineligible students, the Service is satisfied that the purposes of the EOS can be effectively met through the notification procedure.” Pursuant to the 1991 Final Rule, DHS has relied on DSOs to report student status violators, issue program extensions, and transfer students between programs and schools.<sup>5</sup>

The legislative intent behind the 1991 regulations was simplicity, efficiency and academic integrity. All the bureaucratic procedures the DHS is proposing now moves to the realm of academic advising and counseling—a realm which is not within the mandate of the DHS and the Department is not equipped to handle, and would be unduly burdensome to both the students, schools and the DHS.

DHS is attempting to revert back to the F and J regulations pre-1978. The reason the duration of status and the “notification” system were created was simply because the government was not equipped to handle academic international student and scholar matters. Therefore, the “notification” system was created.

Most immigration benefits, including most status extensions and employment authorizations require an “adjudication” by the benefits division of the DHS, the United States Citizenship and Immigration Service. However, the Congress and the legacy INS found it necessary to delegate F and J student and scholar status extensions and internship/ practicum employment authorizations (CPT for F-1 students and Academic Training for J-1s) to the schools and their Designated School Officials (DSO)

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<sup>5</sup> DHS’ “Regulatory History of Duration of Status” in the proposed rule, 85 FR 60526, p. 60531, emphasis added, footnotes deleted.

and Responsible Officers. This made perfect sense in 1990 and makes perfect sense today: Student and scholar status extensions are purely academic decisions and the DHS has no business (or abilities) to make academic decisions.

When an international student seeks a status extension in CUNY, there are academic and administrative procedures in place. The DSO works with the student, the student's academic advisor, the student's department, and, if necessary the Registrar's office to make the extension decision. Such decision can only be made with their recommendation. Once the DSO makes the decision, the DSO notifies the DHS through the SEVIS system- if the request is granted, the DSO extends the students Form I-20. If the request is denied, the DSO terminates the student in the SEVIS system, notifying the DHS instantly.

The rule encroaches on the role of the academic institution. It is the institution's, not the federal government's, decision whether and when to grant students additional time to complete a degree. It is inappropriate and overreaching for the rule to give a USCIS officer the ability to evaluate whether a student is making good academic progress, rather than the school.

Academic advising and counseling are professions and require significant training and experience. The DHS, with the proposed rule, is attempting to assume the role of academic advisors and counselors. DHS is not equipped to take this responsibility and assume this role.

For instance, DSOs routinely extend international students' statuses for compelling academic reasons if necessary, after consulting with academic advisors, departments, and other stakeholders on campus. "Compelling academic reasons" are not clearly defined by the rule, and cannot be defined in rulemaking, because they depend on each student's circumstances and each program's requirements. Because it cannot be defined, the proposed rule gives the government more discretionary power over students than their own colleges or universities; a student may apply for an extension of their studies and be approved by their own school, but not by the government.

For instance, at CUNY's Graduate Center, compelling academic reasons for extensions are academic decisions made by the academic program executive officer and the dissertation or thesis advisor overseeing the research the students are working on. The University has firm deadlines for degree completion in place and exceptions to these deadlines are made only based on valid academic or medical circumstances. The average completion of a Doctoral program at the Graduate Center CUNY for any student is between 7 to 10 years. The decision to extend should continue to be based on these academic circumstances in discussion with the academic program, the VP of student affairs, the Office of the Registrar and the DSO at the Office of International Students. These are academic decisions that should continue to be made by the school and processed by the DSO. Extensions should not be decided by the USCIS officers who do not have access to these stakeholders or understand the academic policies and circumstances at the University the student is enrolled. USCIS officers will not be able to accurately determine eligibility for academic extensions and this will lead to many delays due to USCIS requests for evidence (RFE's) and erroneous extension application denials. If denied, many students will have to submit to the USCIS an I-290B Notice of Appeal or Motion for their denied I-539 applications which will cost them an additional \$700 (based on the proposed new fee schedules). These motions typically take the USCIS up to a year to adjudicate. During this time, students will be unable to participate in their on-campus employment or CPT (required research and teaching) and will be delayed in completing their degree requirements for

their program of study and prohibit them from making normal progress in their program of study as required by the F-1 regulations.

Therefore, the proposed rule is a significant unwarranted, unnecessary and harmful intrusion into academic decision-making, and is unnecessary and redundant because the already established and implemented SEVIS system that gives unprecedented control and access to F and J international students, scholars and their families.

### **The Proposed Rule Contradicts Academic Realities with Unrealistic and Impossible Admission Periods**

The proposed date-specific admission does not conform to academic programs and harms students' reliance on duration of status. The rule does not provide an admission period beyond 2- or 4-years. Four-year admission limits are impractical, and do not conform to academic program lengths. Imposing a four-year visa limit will increase the economic burden of international students in the U.S., as well as introduce a significant amount of uncertainty in students' coursework.

We are including the average completion times for all CUNY programs in Appendix A attached herein. For instance, according to our Graduate Center's data, all entering students for Doctoral Programs from years 2003 to 2009, 55% completed their doctoral programs within 10 years and 36% completed within 7 years.

The Fall 2009 entering cohort for doctoral programs at the Graduate Center was 640 students. 248 of these students graduated within 7 years and 381 graduated within 10 years. According to the data, 60% complete their doctoral programs within 10 years and 39% complete within 7 years.

Limiting F-1 status of Doctoral Students to 4 years and requiring them to apply to the USCIS for extensions of status would require our students to apply for 2 to 3 extensions minimum to remain in the US to complete their program of study. They would be required to apply for an additional extension of status to apply for Post-Completion OPT. STEM students would be required to apply for yet another extension with the USCIS. Doctoral students wanting to remain in the US to complete their program of study, and participate in OPT and STEM OPT would need to apply for a minimum of 5 extensions with the USCIS. The financial burden: the current I-539 fee is \$370 per extension request. The I-539 fee is expected to increase to \$390. At the \$390 rate, the extension process alone would cost the doctoral students \$1,950.

If a Doctoral student is limited to 2 years of F-1 status, a doctoral student would need to apply for a minimum of 4 to 5 extensions just to complete their program of study in the US. Doctoral students wanting to remain in the US to complete their program of study, and participate in OPT and STEM OPT would need to apply for a minimum of 7 extensions with the USCIS. At the \$390 rate, the extension process alone would cost the doctoral students \$2,730.

The rule doesn't recognize today's reality of the time needed for degree completion in many academic programs. This affects PhDs, surgery residents, neuroscience postdocs, joint degree program participants, and those pursuing BS/MS programs, among others.

The new proposed rule would hold international students to a different standard influenced by an enforcement-forward strategy. For instance, international students would only be able to request

time off due to “compelling academic reasons,” including medical conditions or other natural disasters or major events.

Same analysis is true for associate and bachelor’s degrees. At CUNY, as Appendix A shows, our standard program completion times, for both domestic and international students, are significantly longer than what the DHS is arbitrarily proposing. And what is true at CUNY is true for most American institutions of higher education—with non-traditional paths, remedial courses, prerequisites, and increased credit/ course-loads, bachelor’s degrees take 5+ years and associates degrees often more than 2 years.

Moreover, restricting international student enrollment in language training programs to a lifetime aggregate of 24 months (including breaks and an annual vacation) is arbitrary. The length of time students require in ESL programs varies, and can extend beyond 24 months. The periods DHS is proposing are academically unrealistic and arbitrary.

### **The Proposed Rule will in Fact Hinder the Normal Academic Progress of International Students**

The proposed rule ignores DHS/USCIS’s serious challenges to timely process extension applications to ensure institutions and students are able to efficiently move forward. Psychological toll for students when waiting for USCIS to adjudicate an application - anxiety, emotional tolls, unreasonable processing times, effect productivity and grades, uncertainty counterproductive to graduating in timely manner.

The rule is logistically unworkable because of the uncertainty and length of processing times for extension of status applications. We anticipate that the extensions and authorizations required by the student rule will create additional backlogs within USCIS, which will in turn result in extended adjudication timelines, resulting in uncertainty, disruption, and potential harm on the student’s and school’s behalf.

Increasing the applications submitted to USCIS by adding redundant and unnecessary applications that are perfectly handled by the SEVIS system at a time when the agency is handling a significant backlog and funding crisis would have an immediate detrimental impact not only to international students, but to the entire legal immigration system as a whole. The increased volatility and uncertainty would drive students from the U.S. following delayed approvals or adjudications and would discourage others from studying in the U.S.

Processing times for I-539 applications have routinely taken the USCIS 6 to 12 months, if not longer, to adjudicate. OPT applications, on the other hand, at times took 6 months or more to process. The USCIS processing times, despite the Service’s promises and commitments, fluctuate significantly and are unpredictable.

The rule will take a psychological toll on students, create intimidation, fear, anxiety, and will be a mental torture for students. The unreasonable proposed rule is counterproductive to students’ academic endeavors and will have an adverse impact on their intended degree completion goals. International Students whose program extension gets denied will experience disruptions in their education and may never be able to complete their degree at CUNY, due to the rule’s obligations.

Moreover, International Students and Scholars involved in CUNY research enterprise may lose the opportunity to contribute to critical research and advance their careers.

Students who lose their F-1 immigration status as a result of the rule will incur significant financial consequences, including losing their ability to obtain necessary work visas to permit them to work under Optional Practical Training during or after completion of their academic trajectory. Additionally, International students will also incur unnecessary program extension expenses, which were never included in their budgetary plans from the very beginning.

Academic programs in the United States, especially in the graduate level, but, also in the undergraduate levels are rigorous, stressful and difficult undertakings. More so when English is the students' second language. Therefore, the students require constant academic and mental counseling as well as guidance, flexibility, and understanding to successfully complete their programs. To achieve this, schools in the United States constantly seek ways to lift pressure and stress from the students—not exert more pressure and stress. The DHS proposed rule, on the other hand, purports to make the students' academic life more difficult by exerting undue pressure on the students that are already going through a stressful and rigorous academic program. To exert more pressure and stress than their domestic counterparts on international students who are also dealing with language and cultural obstacles is unconscionable, unfair, and unjust.

DHS proposes that with this rule, it will assure that international students and scholars will complete their programs in the United States in the unrealistic time periods the DHS arbitrarily came up with. In reality, for the reasons listed above, the rule will actually lengthen the students and scholars time in the United States, hinder their academic progress, and make the successful completion of their programs more difficult. The Rule will thus have a very negative impact on the University's ability to fulfill its pedagogical and educational missions, and will jeopardize and hinder the normal academic progress of international students.

### **Adverse Impact of the Proposed Rule on International Student and Scholar Employment**

The proposed rule does not allow students to begin their OPT while the I-539 application is pending with the USCIS. If a student needs to apply to the USCIS for an extension of status at the time they apply to the USCIS for Optional Practical Training, the student will not be able to begin their OPT employment in time due to the lengthy USCIS processing times for I-539 applications. This will cause many international students to lose their OPT job offers from organizations and companies in the United States. Employers will become hesitant to hire international students due to USCIS processing times. Employers will lose the diversity and talent that international students bring to the workplace. Innovation will suffer as a result.

The proposed rule does not allow students to begin their CPT while the I-539 application is pending with the USCIS. For instance, Doctoral Students at the Graduate Center, CUNY are required by the Curriculum of their programs to participate in research and teaching at both CUNY and at Universities and research facilities across the nation. International Students must apply for and receive their CPT authorizations to complete their degree requirements of the program of study. If students are unable to begin their CPT employment on time due to USCIS delays in processing and adjudication of the I-539 extension applications, students will lose their research and teaching opportunities and will not be able to complete their degree requirements on time. This will delay the

completion of their degree requirements and prohibit students from being able to make normal progress towards their degree.

The proposed rule only allows students to continue on-campus employment for up to 180 days while the I-539 application is pending with the USCIS. The Doctoral Students at the Graduate Center are responsible for teaching courses all throughout CUNY campuses. They are also involved in research projects all throughout CUNY. As the USCIS processing times for I-539 applications routinely exceed 180 days, many of our international students would be required to stop their on-campus employment at CUNY in the middle of a semester, abruptly halting their research and teaching positions. This will have a further negative impact on CUNY as the teaching of many classes would be interrupted all throughout the institution and the University would need to seek replacement instructors last minute for classes, mid-semester, which may not be possible, and would impact the quality of education provided to CUNY students.

Research and teaching positions are part of their fellowships, assistantships and funding packages at the Graduate Center, CUNY. Stopping their employment mid-semester would cause students and their families' extreme financial hardship in the United States. They would also lose their health insurance benefits (NYSHIP). This would cause students and their families' extreme hardship as they were depending on these funding packages to support their academic program and living expenses in the US as indicated on their I-20 forms and at the US Consulate during their F-1 and J-1 visa applications. Losing their funding packages and ability to work on campus due to USCIS processing times would be an extreme hardship on international students which would lead to housing, food and health related insecurities. This policy could have the unintended consequences of students and their family members becoming a public charge.

CUNY, like many other American higher-education institutions, rely on on-campus student employment for essential student services. What we described for our Graduate Center will also hold through for our other student positions- from our libraries to our cafeterias. This will also affect all our colleges because they will have to look for placeholders to continue with their daily operations. Replacements will have to be retrained or staff will have to assume more responsibilities during this waiting period, which could take more than six months.

### **Additional Adverse Effects on CUNY and American International Education**

In addition to the very likely adverse economic impact described above, the proposed rule may force some international students to withdraw from CUNY, and probably other higher education institutions nation-wide. Many students and postdocs are not able to transfer to other programs easily (if at all) if their extension is not approved, and must leave the United States as a result. This will definitely affect both the retention and graduation rates, hence a decrease in state government funding.

The proposed rule fundamentally alters the agreement between students and institutions mid-way between the program. It is a mistake to create yet another hurdle to study in the United States. Implementing the rule would have significantly greater economic effects than estimated by DHS on U.S. higher education institutions, including from the loss of the international student population resulting from the rule. There would also be significant economic costs to students and an economic impact on the economy.

The United States is already losing international students and scholars to competing countries. If U.S. colleges and universities are unable to provide incoming or prospective students and postdocs with the confidence that they will be able to complete their entire academic program with said school in a foreseeable and reasonable manner, they may decide to study in another country as a consequence.

If we add undue and unnecessary legal and bureaucratic burdens, additional stress and anxiety, and unreasonable roadblocks to the students' already rigorous and stressful academic studies, the U.S. could lose not only its competitive advantage and leadership position in the global international education market, but also a critical pipeline of advanced STEM knowledge and talent, potentially to competitor nations.

### Conclusion

As the largest urban university of the United States, as a university of immense international and national respect and recognition, and, as bastion of academic integrity, diversity and excellence, CUNY fully and strongly opposes the proposed rule of the DHS. ***We believe the proposed rule will negatively impact the United States higher education community; the competitiveness of the United States in the global international education market; the United States' educational, due process and fairness principles and ideals; the United States' economy; and US students, both international and domestic.*** Consequently, the proposed rule should be withdrawn in its entirety, and that admission for the duration of status remain in effect.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Félix V. Matos Rodríguez', with a long horizontal line extending to the right.

Félix V. Matos Rodríguez  
Chancellor

## Appendix A

CUNY Courses of Study and Time Necessary to Complete each according to the SEVIS Form I-17 Submitted by CUNY to the Department of Homeland Security:

### Undergraduate Level:

AA Degrees, 80 Programs, 48-84 Credits, 2-3.5 Years, AAS Degrees, 104 Programs, 48-84 Credits, 2-3.5 Years, AS Degrees, 120 Programs, 48-84 Credits, 2-3.5 Years, BA Admin Degrees, 11 Programs, 120 Credits, 5 Years, BA Degrees, 357 Programs, 96-132 Credits, 4-5.5 Years, BS Degrees, 146 Programs, 120-144 Credits, 5-6 Years, BA CBUIS Degrees, 1 Programs, 120 Credits, 5 Years, BBA Degrees, 6 Programs, 120 Credits, 5 Years, BFA Degrees, 15 Programs, 120 Credits, 5 Years, BMUS Degrees, 5 Programs, 120 Credits, 5 Years, BA/BS Degrees, 10 Programs, 120 Credits, 5 Years, BE Degrees, 7 Programs, 120 Credits, 5 Years, BM Degrees, 4 Programs, 120 Credits, 5 Years, BSED Degrees, 2 Programs, 120 Credits, 5 Years, BSW Degrees, 1 Programs, 120 Credits, 5 Years, BPS Degrees, 1 Programs, 120 Credits, 5 Years, BSNURS Degrees, 1 Programs, 120 Credits, 5 Years, BTECH Degrees, 10 Programs, 120 Credits, 5 Years, BA/MA Degrees, 30 Programs, 120-144 Credits, 5-6 Years, BA/MS Degrees, 2 Programs, 144-145 Credits, 5-6 Years, BS/MD Degrees, 1 Programs, 168 Credits, 7 Years, BS/MS Degrees, 3 Programs, 144 Credits, 6 Years, BS/MA Degrees, 5 Programs, 144-150 Credits, 5-6 Years, BSW/MSW Degrees, 1 Programs, 120 Credits, 5 Years, BS/MPA Degrees, 5 Programs, 144 Credits, 6 Years, BA/BS Degrees, 10 Programs, 120 Credits, 5 Years.

### Graduate Level:

MA Degrees, 200 Programs, 18-120 Credits, 1-6 Years, MAT Degrees, 14 Programs, 36-54 Credits, 2-3 Years, MBA Degrees, 5 Programs, 36 Credits, 2 Years, ME Degrees, 4 Programs, 54 Credits, 3 Years, MFA Degrees, 20 Programs, 36-72 Credits, 2-4 Years, MIA Degrees, 3 Programs, 36-54 Credits, 2-3 Years, MLA Degrees, 2 Programs, 54 Credits, 3 Years, MLS Degrees, 1 Programs, 36 Credits, 2 Years, MM Degrees, 3 Programs, 36-54 Credits, 2-3 Years, MMUS Degrees, 2 Programs, 36 Credits, 2 Years, MPA Degrees, 5 Programs, 36-54 Credits, 2-3 Years, MPH Degrees, 6 Programs, 36-48 Credits, 2 Years, MPHIL Degrees, 5 Programs, 54 Credits, 3 Years, MPS Degrees, 1 Programs, 36 Credits, 1.5 Years, MS Degrees, 82 Programs, 27-96 Credits, 1.5-4 Years, MS/MS Degrees, 1 Programs, 54 Credits, 3 Years, MSED Degrees, 80 Programs, 36-72 Credits, 2-4 Years, MSPAS Degrees, 1 Programs, 64 Credits, 2 Years, MSW Degrees, 2 Programs, 48-90 Credits, 2-5 Years, MSW/MDiv Degrees, 1 Programs, 72 Credits, 4 Years, MUP Degrees, 2 Programs, 36-54 Credits, 2-3 Years, MSN/MPA Degrees, 1 Programs, 36 Credits, 2 Years, MA / JD Degrees, 1 Programs, 45 Credits, 2.5 Years, MPA / JD Degrees, 1 Programs, 45 Credits, 2.5 Years, MA/MS Degrees, 1 Programs, 54 Credits, 3 Years,

### Doctoral Level:

AuD Degrees, 2 Programs, 54-90 Credits, 4-5 Years, DMA Degrees, 2 Programs, 112 Credits, 8 Years, DNP Degrees, 7 Programs, 54-180 Credits, 3-6 Years, DNS Degrees, 1 Programs, 84 Credits,

6 Years, DPH Degrees, 4 Programs, 70 Credits, 5 Years, DPSB Degrees, 1 Programs, 36 Credits, 3 Years, DPT Degrees, 2 Programs, 108-144 Credits, 6 Years, EdD Degrees, 2 Programs, 63-108 Credits, 3.5-6 Years, PhD Degrees, 52 Programs, 70-150 Credits, 4-8 Years, JD Degrees, 1 Programs, 72 Credits, 3 Years,

**Certificate Level:**

Post Bachelors Certificate Programs, 1 Programs, 864 hours, 1 years, Bachelors Certificate Programs, 73 Programs, 9-54 Credits, 15 weeks - 3 years, Associate Certificate Programs, 3 Programs, 36 Credits, 1.5 years, Post-Secondary Certificate Programs, 47 Programs, 12-72 Credits, 0.5-3 Years, Masters Certificate Programs, 70 Programs, 12-45 Credits, 15 weeks - 2.5 years, Post Masters Certificate Programs, 1 Programs, 36 Credits, 2 Years,

**ESL:**

ESL Non-Degrees, 13 Programs, 640 - 2808 hours, 1-3 Years, ESL Pathway BA/BS Degrees, 1 Programs, 120 Credits, 5 Years, ESL Pathway MA/MS Degrees, 1 Programs, 54 Credits, 3 Years