

December 2, 2020

Samantha Deshombres, Chief  
Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue NW  
Washington, DC 20529-2140

Re: DHS Docket No. USCIS-2020-0019

Dear Chief Deshombres,

The American Council on Education (ACE) and the undersigned higher education associations submit these comments in response to Department of Homeland Security (DHS) Docket Number: USCIS-2020-0019 proposed rule regarding the “Modification of Registration Requirements for Petitioners Seeking to File Cap-Subject H-1B Petitions.” The proposed rule would change the current lottery process used to award H-1B visas, and would prioritize the awarding of H-1Bs based on corresponding wage levels. This would have an enormous negative impact on our graduating international students, as it would dramatically reduce access to the H-1B visa program for early-career professionals, including those who have completed master’s or doctoral degrees at U.S. institutions of higher education. In addition, foreign-born doctors who have recently graduated and have entered their residency would have no chance of obtaining an H-1B visa under this new rule. This would also discourage new international student enrollment at U.S. colleges and universities, which has a direct impact on the overall U.S. economy. We also believe this proposed rule is beyond the statutory language and congressional intent included under the Immigration and Nationality Act.

America’s colleges and universities are among the finest in the world. They help preserve our democratic values, ensure the country’s economic strength, and contribute to our nation’s influence and global standing. A central reason for the excellence of our postsecondary institutions is their ability to attract and enroll talented, motivated, and curious students, whether born in this country or abroad. This proposed rule will limit the ability of our institutions to recruit and retain these students, specifically those that wish to remain in the United States. Recent data from the Institute of International Education (IIE) demonstrates that there has been a shocking decline in international student enrollment at U.S. institutions of higher education for the Fall 2020 semester. The recent IIE *Fall 2020 International Student Enrollment Snapshot* found a 43

percent drop.<sup>1</sup> In addition, a recent study from NAFSA: Association of International Educators found that the overall economic impact generated by international students had already started to decline in 2019, down to \$38.7 billion (or \$1.8 billion less than 2018).<sup>2</sup> The declining enrollment numbers for 2020 are likely to perpetuate a large economic impact as we continue to deal with the economic fallout of the global pandemic.

The proposed rule will also have an especially negative impact on our recent international graduates. The proposed rule will prevent the hiring of early-career, foreign-born professionals, including those with degrees from U.S. institutions of higher education, because of the proposed structure and reliance on wage levels. Under current law, Congress has set aside 20,000 of the existing cap-subject new H-1Bs specifically for those graduates, who will be harmed under this proposed rule.

We also believe this proposed rule exceeds congressional intent. Since the H-1B category was created in 1990, Congress has limited the number of H-1Bs made available each year. The current annual statutory cap is 65,000 visas, with 20,000 additional visas for foreign professionals who graduate with a master's degree or doctorate from a U.S. institution of higher learning. In recent years, the limit has been reached only a few days after the petition submission period begins. This change to the awarding of H-1B visas will alter the nature of how the visas are awarded outside of how Congress structured the program. This will also cause confusion for the upcoming H-1B filing season.

We join with the comments submitted by members of the business community and agree that high-skilled immigration is a key component to strengthening the U.S. economy and essential for driving innovation and the creation of jobs across our nation. It is especially important for those international students educated at U.S. colleges and universities. Given the enormous impact this proposed rule will have on our graduates, as well as the overall U.S. economy during the COVID-19 pandemic, we ask that DHS withdraw this proposed rule and allow the current structure to remain in place.

Sincerely,



Ted Mitchell, President

On behalf of:

American Association of Collegiate Registrars and Admissions Officers  
American Association of Community Colleges

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<sup>1</sup> <https://www.iie.org/Research-and-Insights/Open-Doors/Fall-International-Enrollments-Snapshot-Reports>

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

American Association of State Colleges and Universities  
American Dental Education Association  
American Council on Education  
Association of American Universities  
Association of Catholic Colleges and Universities  
Association of Governing Boards of Universities and Colleges  
Association of Jesuit Colleges and Universities  
Association of Public and Land-grant Universities  
Council for Advancement and Support of Education  
Council for Christian Colleges & Universities  
Council for Higher Education Accreditation  
EDUCAUSE  
Hispanic Association of Colleges and Universities  
NAFSA: Association of International Educators  
NASPA - Student Affairs Administrators in Higher Education  
National Association for Equal Opportunity in Higher Education  
National Association of College and University Business Officers  
National Association of Independent Colleges and Universities  
National Association of Student Financial Aid Administrators