Howdy and Welcome to the International Student Services

Proposed DHS Regulations Webinar for TAMU Students

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Timeline

- September 25, 2020: The Department of Homeland Security published proposed regulation
- September 25, 2020: ISS emailed students and listservs
- October 26, 2020: Written comments must be submitted to the Federal eRulemaking Portal
- October 26 to ???: DHS reviews comments and issues final regulation
- ???: Final regulation goes into effect
What is in the Proposed Regulations?

• End F and J admission expiration of duration of status (D/S)
• Replace it with date specific admission
• Have a fixed period of admission (4 years or 2 years)
• The following will require an application through USCIS
  • Extension of Stay
  • Change in educational level or J matriculation if extension needed
  • Transfer to another school or program if extension is needed
  • Optional Practical Training (OPT) or STEM OPT (I-539 in addition to the I-765)
  • Academic Training
• Shorten the F-1 grace period to 30 days from 60 days
• Limit on education level changes on the same level
• Limit to reverse matriculation
• Transition
Duration of Status

• End F and J admission expiration of duration of status (D/S)
  • Duration of status is defined as the time during which an F-1 student is pursuing a full course of study at an educational institution approved by the Service for attendance by foreign students, or engaging in authorized practical training following completion of studies, except that an F-1 student who is admitted to attend a public high school is restricted to an aggregate of 12 months of study at any public high school(s). 8 CFR 214.2(f)(5)(i)

• The initial admission of an exchange visitor, spouse and children may not exceed the period specified on Form DS-2019, plus a period of 30 days 8 CFR 214.2(j)(1)(ii)
Replace with date specific Admission

• Instead of receiving I-94 marked D/S, the I-94 will have a “date certain.” I.e. May 31, 2022
• Actions by the date certain
  • Leave the United States,
  • Applied for an extension, or
  • Applied for a change of status
Replace with date specific Admission

Consequence of not taking action by date certain (very serious)

• Visa Overstay INA 222(g)
  • Visa shall be voided
  • Can only get a visa in home country

• Unlawful Presence INA 212(a)(9)(B)
  • 3-year bar to readmission to the United States if alien voluntarily departs the United States (before commencement of removal proceedings) after being unlawfully present for more than 180 days but less than 1 year.
  • 10-year bar to readmission to the United States if the alien departs (voluntarily or involuntarily) after being unlawfully present for 1 year or more

• May be able to apply for reinstatement
Fixed Period of Admission

• I-20s and DS-2019s will be issued as normal for students; i.e. 4 years for bachelors, 3 years for masters, 7 years for doctorates

• HOWEVER, students will be given a fixed period of admission to the United States for:
  • The expiration of the I-20 or DS-2019 + 30 day grace period OR for 4 years or 2 years maximum; whichever comes first
  • I-20 expires May 31, 2022, then the date certain could be May 31, 2022
  • I-20 expires May 31, 2028, then the date certain on I-94 could be January 14, 2025. Student would have to apply for an extension
Fixed Period of Admission

• Date Certain dates on I-94s could be up to 4 years, but could be up to 2 years

• Who could get 2 year admissions to the United States?
  • State Sponsor of Terrorism List – born in or is a citizen of
    • Iran, North Korea, Sudan, Syria
  • Countries with Visa Overstay Rates of > 10% (possible list)
    • Afghanistan, Benin, Bhutan, Burkina Faso, Burma, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo-Brazzaville, Congo-Kinshasa, Côte d’Ivoire, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, the Gambia, Ghana, Guinea, Guinea-Bissau, Guyana, Haiti, Iraq, Kenya, Kosovo, Kyrgyzstan, Liberia, Libya, Malawi, Mali, Mauritania, Moldova, Mongolia, Nepal, Niger, Nigeria, Papua New Guinea, the Philippines, Rwanda, Samoa, Senegal, Sierra Leone, Somalia, South Sudan, Sudan, Syria, Tajikistan, Tanzania, Togo, Tonga, Turkmenistan, Tuvalu, Uganda, Uzbekistan, Vietnam, Yemen and Zambia
    • Will have to be published in Federal Register
  • U.S. National Interest – for example, certain majors such as nuclear science
    • Will have to be published in Federal Register
  • Unaccredited Schools – Texas A&M University is accredited
  • School not participating in E-Verify – Texas A&M University participates in E-Verify
Extension of Stay

• Currently, ISS processes extensions
  • F-1 must have I-20 extended before it expires
  • J-1 should have DS-2019 extended before it expires, but could be corrected

• New proposed process
  • All extensions would be recommended by ISS, but processed by USCIS
    • After getting ISS recommendation, students send application to USCIS
    • Use I-539 ($370)
    • Requires Biometrics ($85)
    • Must be received at USCIS before the expiration of the I-94 date certain
    • Long processing times
    • If denied, must leave the country

• Extension of Stay will be for 4 years or 2 years unless less time is needed
Extension of Stay

• Biometrics cannot be done locally
  • Fingerprints, signature and picture
• Requires proof of sufficient funding for F-1 students
• May have to go to an interview with DHS
• Dependents included on the I-539 will have one I-539 fee, but each will have separate biometric fee
• If dependent is not included on I-539, then will have to pay a separate I-539 fee and biometric fee
Extension of Stay

- Reasons USCIS could approve extension
  - Compelling academic reason
  - Documented illness or medical condition
  - Exceptional circumstances beyond the student’s control

- Reasons USCIS could deny extension
  - Academic probation or suspension
  - Insufficient funding
  - “A pattern of failing grades, or has failed to carry a full course of study due to failing grades”
Extension of Stay & Employment

- On-campus employment (F-1)
  - Application for extension must be timely filed at USCIS
  - F-1 could continue working on-campus for up to 180 days if application received by USCIS before the grace period. If received after start of grace period, student could not work

- Curricular Practical Training (F-1)
  - No CPT while extension is pending with USCIS

- Optional Practical Training (F-1)
  - No pre-completion or 12 month OPT while extension is pending
  - STEM OPT will be able to work up to 180 days while extension is pending
  - OPT and STEM OPT will require filing I-539 AND I-765 AND Biometrics
Extension of Stay & Employment

- **On-Campus employment for J-1**
  - If extension is timely filed with USCIS, then J-1 could continue working up to 240 days consistent with the terms and conditions of program

- **Academic Training**
  - Apply for extension if needed
  - Need more clarification
Grace Period Change

- Shorten the F-1 grace period to 30 days from 60 days
- J-1 grace period remains 30 days
Education Level Changes

• Limits number of new programs on same educational level
• "DHS ... proposes to limit the number of times a student can change to another program within an educational level, such as to pursue another bachelor's or master's degree. Specifically, any student who has completed a program at one educational level would be allowed to change to another program at the same educational level no more than two additional times while in F-1 status, for a total of three programs for the lifetime of the student."
Education Level Changes

• Limits reverse matriculation for F-1 students
  • "An F-1 student who has completed a program at one educational level would be allowed to change to a lower educational level one time while in F-1 status."

• Limits on ESL study
  • F-1 students limited to a lifetime aggregate of 24 months of language study (includes breaks and annual vacation)
Transition

- F-1 students and J-1 exchange visitors already inside the United States with D/S upon the effective date of the regulation
  - Will be switched to a fixed date of admission with a date certain based on
    - the program end date of the Form I-20 (or OPT EAD) or DS-2019 that is valid on the final rule's effective date,
    - plus an additional period of 60 days for F nonimmigrants and 30 days for J nonimmigrants, but
  - not to exceed a period of 4 years from the final rule's effective date (even if in a “2-year” category)
Transition

• If the student or exchange visitor leaves the US and is outside the United States after the effective date of the regulations
  • Will be subject to the fixed date framework including the 2 year admissions

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  • Will be subject to the fixed date framework including the 2 year admissions
Transition

- OPT and STEM OPT
  - F-1 applicants for OPT or STEM OPT whose I-765 is pending with USCIS on the final rule effective date could remain in the U.S. while the application is pending. They would not have to file an I-539 or re-file an I-765.
  - If USCIS approves the OPT, the F-1 could remain in F status until the expiration date of the OPT EAD, plus 60 days.
  - If USCIS denies the OPT: If the student’s program end date has not yet passed, could remain in the United States until the program end date listed on their Form I-20, plus 60 days. If the program end date and 60-day grace period has passed by the time USCIS denies the I-765, student must immediately depart the United States with no grace period.
Thank you to NAFSA

Special thanks to NAFSA. Much of this information is from the NAFSA resources.

https://www.nafsa.org/professional-resources/browse-by-interest/proposal-replace-duration-status
Questions

• We do not have all or the majority of answers at this time
• We will continue to provide updates
• Do not panic
• We will get through this together
Thank you for attending!

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