

# PRESIDENTS' ALLIANCE | ON HIGHER EDUCATION AND IMMIGRATION

## **Wanted and Welcomed: International Students and Scholars Recommendations for Executive and Administrative Action**

*Last Updated on November 16, 2021*

In order to bolster the United States' position as the leading destination for international students and scholars seeking higher education opportunities and to ensure that we welcome a diversity of students from throughout the world, the Presidents' Alliance recommends an immediate focus on the following priorities for the Biden administration:

### **I. White House**

We encourage the President and other executive officials to continue efforts to better coordinate welcoming policies for international students and scholars. We recommend the following specific actions:

- A. **Communicate the power of international students and scholars to build back better, solve global and local challenges, and strengthen our security.**  
President Biden, Vice President Harris, Cabinet Secretaries and Administrators, as well as officials in the Domestic Policy Council, National Security Council, and the Office of Science, Technology and Policy can help remind the American people, and the world, how much we gain when international students come here to learn, create jobs, drive innovation and research, enrich our classrooms, share ideas and culture, and benefit our local communities.
- B. **Appoint a White House-level office to coordinate efforts between agencies.**  
Coordination between agencies greatly impacts students' ability to both come to the United States and/or remain here after graduation.
- C. **Facilitate students' and scholars' ability to study and conduct research in the United States.** For example, we commend the White House's action earlier this year to issue National Interest Exceptions for students whose country of origin were under COVID-19 related travel restrictions. We encourage further actions that will facilitate access to higher education opportunities in the United States for refugee learners and other international students.

### **II. U.S. Department of State (DOS)**

We commend DOS for prioritizing student visa applications for the Fall 2021 academic term. We recommend the following additional actions:

- A. **Continue to articulate the importance of international students and scholars.** We urge DOS to be a champion for policies and practices that help implement the [Joint Statement of Principles](#) issued by the U.S. Departments of Education and State earlier this year. In particular, ensure that all U.S. visa policy, processing, and communications signal to international students and scholars that they are welcome here, and that facilitating their admission and entry into the United States is a priority for our campuses, communities, and government.
- B. **Restore F-1 "residence abroad" language to the Foreign Affairs Manual (FAM) and clarify how non-immigrant intent should be viewed for international and refugee students.** On August 8, 2017, DOS updated its FAM guidance on residence abroad for F-1 students, removing long-standing language that instructed consular officers to consider the "inherent difference" between a young F-1 visa applicant and a short-term B-visa applicant. The current FAM entry now applies the

standard nonimmigrant residence abroad entry of 9 FAM 401.1-3(F)(2) to F-1 students as well. DOS should restore the following well-crafted language to the FAM and provide training to consular officers regarding international student visas:

(U) The context of the residence abroad requirement for student visas inherently differs from the context for B visitor visas or other short-term visas (See 9 FAM 401.1-3(F)(2)). The statute clearly presupposes that the natural circumstances and conditions of being a student do not disqualify that applicant from obtaining a student visa. It is natural that the student does not possess ties of property, employment, family obligation, and continuity of life typical of B visa applicants. These ties are typically weakly held by student applicants, as the student is often young, single, unemployed, without property, and is at the stage in life of deciding and developing his or her future plans. Student visa adjudication is made more complex by the fact that students typically stay in the United States longer than do many other nonimmigrant visitors.

(U) The residence abroad requirement for a student should therefore not be exclusively connected to "ties." You must focus on the student applicant's immediate intent, rather than trying to predict what the student may or may not do following completion of studies. Another aspect to consider: students' typical youth often means they do not necessarily have a long-range plan, and hence are relatively less likely to have formed an intent to abandon their homes. Nonetheless, you must be satisfied at the time of application for a visa that the visa applicant possesses the present intent to depart the United States at the conclusion of his or her approved activities. That this intention is subject to change is not a sufficient reason to refuse a visa. Although students may apply to change or adjust status in the United States in the future, this is not a basis to refuse a visa application if the student's present intent is to depart at the conclusion of his or her studies.

The following language should also be added:

(U) For refugee students and students from conflict-affected countries, you must only focus on evaluating the student applicant's immediate intent to enroll as a bona fide student and should be satisfied by an intent to return when conditions in the conflict-affected country of origin are normalized.

- C. Resume issuing annual guidance to consulates to prioritize students (F and J) and other academic-related visas (H, J, and O) during high-volume seasons.**
- D. Continue to improve visa application processing for students and scholars.**  
The unpredictable timeframe for security clearances and administrative processing runs counter to the critical needs of time-sensitive experiments and research. The lack of transparency when applications take longer than 60 days further frustrates the ability of scientists and researchers to do their work. The COVID-19 pandemic has led to yet greater uncertainties, and we appreciate all efforts for our consulates to process visa applications in a timely manner.
- E. Instruct consular officers, as has been done in the past, that attendance at a lesser-known college, English language program, or a community college is**

**not, in itself, a reason for refusing a student visa applicant.** DOS should leave questions of academic choice and qualifications to be decided between the student and the institution, instead focusing on evaluating whether the student meets the requirements of a bona fide student. Furthermore, denial of a visa should not occur based on English-language competency, as it is the purview of the institutions to evaluate language proficiency and to provide English-language training programs (either in-house or outsourced), if necessary, to help students succeed.

- F. **Ensure the consistent application of consular guidance and/or provide training on how to assess financial means and travel documents.** When assessing financial means, consular officials should not ask for proof of multiple years of funding. Just like U.S. students, many students and their families will pay for their education as they go. Proof of funding for the entire duration of the program is not reasonable and should not be required. The language of the Foreign Affairs Manual updated on 5/27/21 gives the appropriate guidance about financial means, but inconsistencies still exist, with some consulates still requesting proof of cash for multiple years of funding.
- G. **Provide Special Student Relief for J-visa holders** to address challenges students and scholars are facing due to the pandemic.
- H. **Provide transparent and clear information to students about visa denials.** When prospective students are denied visas, they are often left to guess what aspects of their application may have led to the denial. When a student visa is denied, the prospective student should be provided a clear written explanation for the denial.
- I. **Convey to EducationUSA all policy changes and updates** to facilitate the ability of overseas advisors to guide students in navigating the visa process.
- J. **Communicate regularly with the U.S. higher education community**, both directly and through their relevant associations, about steps the U.S. government has taken and plans to take to ensure timely visa processing for students and other academic-related travelers. A series of roundtable discussions with key stakeholder communities would be useful, in addition to regular briefings.

In addition to all of the recommendations above, for refugee students and scholars seeking higher education opportunities in the United States, we also recommend that DOS:

- A. **Ensure consular officers are familiar with Convention Travel Documents (CTDs)** and what rights the CTD provides, particularly the right to return to the country of asylum.
- B. **Provide alternatives to in-person consular interviews** for refugees who live in a country that restricts refugee movement within that country. In Kenya, for example, camp-based refugees need permission to travel to Nairobi, where the U.S. embassy is located. Although they can get permission to travel for such embassy appointments, the process can be slow and uncertain.
- C. **Provide reasonable solutions for scholars and students on J-1 visas and their families** by clarifying that a statement of intention to return to their home country when conditions permit will satisfy the non-immigrant intent and home residency requirement provisions of INA section 214(b) and 212(e).

### III. U.S. Department of Education

We encourage the Department of Education to continue to mobilize support for international students.

- A. **Continue to articulate the importance of international students and scholars** and to be a champion for policies and practices that help to implement the [Joint Statement of Principles](#) issued by the U.S. Departments of Education and State earlier this year.
- B. **Continue to provide flexibility to institutions** in administering pandemic relief to students, scholars, and others on their campuses.

#### IV. U.S. Department of Homeland Security (DHS)

We urge DHS, through official statements, social media, engagements, and speeches, to publicly and clearly affirm the importance of welcoming international students and scholars to our campuses and communities. This communications strategy should also commit to developing and implement policies that enhance, rather than hinder, our ability to recruit, support and retain these talented individuals, particularly as we continue to face increasing global competition from other countries with coordinated strategies. Below, we provide our recommendations in support of international students and scholars, with an eye toward updating regulations, guidance, and policy to lay the foundation for an international student recruitment and retention strategy.

- A. **Improve USCIS processing times.** USCIS should prioritize predictable processing times and implement technological improvements. There are dire consequences for students and scholars falling out of or violating immigration status. Reasonable and reliable processing times are critical to ensure maintenance of status.
- B. **Through Special Student Relief, permit limited opportunities for individuals on F-visas to earn money while studying in the United States.** As has been done in the past during emergent circumstances, we urge DHS to issue a Federal Register Notice as soon as possible granting Special Student Relief to international students and exchange visitors. The SSR package would address the hardship that these individuals face due to the pandemic. The current restrictions on work make it harder for non-wealthy international students to consider studying here. Providing relief to these students would help us to compete with other nations for these talented students and would contribute to more diversity in sending countries and income levels of students, thus advancing our foreign policy interests.
- C. **Ensure H-1B regulations do not disadvantage early career professionals, particularly international students attending our colleges and universities.** We commend the administration's decision to postpone the implementation of the H-1B rule issued by the Trump administration, Modification of Registration Requirement for Petitioners Seeking To File Cap-Subject H-1B Petitions, and encourage DHS to indefinitely postpone implementation of the rule or engage in rulemaking to rescind the proposed rule.
- D. **Strengthen and reaffirm Optional Practical Training (OPT).** Optional Practical Training offers an experiential learning opportunity that serves as a key feature of the U.S. higher education experience. Any changes to the program should enhance, not deter, prospective international students from choosing the United States for their degrees.
- E. **Reconstitute the Homeland Security Academic Advisory Council (HSAAC).** The HSAAC provided significant value to DHS as a higher education venue to share best practices, recommendations, and other policy change suggestions at the intersection of higher education and immigration (especially in regards to international students). Unfortunately, the work of the council related to higher education has been put aside in

the past five years. We recommend that DHS resume regular meetings of the HSAAC with an eye toward engaging the higher education community, particularly those representing diverse constituencies, to consider recommendations and best practices to support our recruitment and retention of international students and scholars.

**V. U.S. Agency for International Development (USAID)**

The U.S. Agency for International Development has a key role to play in leveraging the power of international students for our nation's development strategy.

- A. **Prioritize international student recruitment as part of our nation's foreign policy and development strategy**, implementing the [vision articulated by USAID Administrator Sam Power](#) prior to her appointment.
- B. **Re-invest in funding international students from strategic areas of the world.** Too often, students from nations of strategic interest to the United States cannot afford to study in the United States, while other competitor nations are recruiting them and offering them scholarships.