

Administrative Agenda for Immigration and Higher Education¹

Last updated April 2022

Introduction

For generations, U.S. colleges and universities have been engines of opportunity and innovation where individuals of every background, foreign and domestic, receive the education they need to rise as high as their talents will take them. Yet today undocumented, international, and refugee students face daunting obstacles in pursuit of higher education, a career, and a stable life in the United States.

This is an enormous loss for all involved—students, their families, higher education, the economy, and society at large. The United States advances when we remain true to our heritage as a land of opportunity for those who dream of a better life for themselves and their families. Today's undocumented, international, and refugee students are resilient and talented. They are ambitious—for themselves and the world—and they deserve fair, forward-looking, and common sense immigration practices and pathways. Their futures depend on it, and so does ours.

Indeed, U.S. higher education and our national economy need the contributions and talents of all three of these student groups and their families, especially with the 2020 census showing U.S. population growth at its slowest in generations, with more projected declines. Expanding efforts to increase access and equity for immigrant and refugee students and attract and retain international students will serve multiple purposes: meeting equity and diversity commitments, addressing the global demand for high-quality education, and filling critical human resource and labor market needs.

This document represents the Presidents' Alliance on Higher Education and Immigration's recommended actions for the Biden administration to support undocumented students, international students, refugee students, and other immigrant students. Broken down by population and by relevant agency, these recommendations outline how the administration can use existing statutory and regulatory authority (guidance, regulations, policy memoranda, and other mechanisms) to make positive, measurable differences in the lives of students, scholars, and their families. During the first year of the Biden administration, the higher education community has celebrated crucial first steps taken for our immigrant, international, and refugee students and scholars—though we note the need for continued progress to create a safe, equitable, and just immigration system for all.² While only Congress can provide true permanent relief and paths toward greater opportunity for all of these populations, the recommendations in this document serve as a critical down payment for future legislative action. Collectively, these

¹ For questions regarding undocumented students and scholars (including those with DACA), please contact Jose Magaña-Salgado at jose@presidentsalliance.org. For questions regarding international students and scholars, please contact Jill Welch at jill@presidentsalliance.org. For questions regarding refugee students and scholars, please contact Laura Wagner at laura@presidentsalliance.org.

² "Coalition of 500+ College and University Leaders Mark Progress and Room for Growth for Undocumented, Refugee, and International Students in the First Year of Biden Presidency," the Presidents' Alliance on Higher Education and Immigration, last updated March 16, 2022, <https://www.presidentsalliance.org/press/coalition-of-500-college-and-university-leaders-mark-progress-and-room-for-growth-for-undocumented-refugee-and-international-students-in-the-first-year-of-biden-presidency/>.

recommendations, if implemented, would allow the administration to design and implement an immigration and higher education strategy focused on legalization, accessibility, and retention for undocumented, international, and refugee students and scholars.

The Presidents' Alliance on Higher Education and Immigration

The nonpartisan, nonprofit [Presidents' Alliance on Higher Education and Immigration](https://presidentsalliance.org) brings college and university presidents and chancellors together on the immigration issues that impact higher education, our students, campuses, communities, and nation. We work to advance just, forward-looking immigration policies and practices at the federal, state, and campus levels that are consistent with our heritage as a nation of immigrants and the academic values of equity and openness. The Alliance is composed of over 500 presidents and chancellors of public and private colleges and universities, enrolling over five million students in 43 states, D.C., and Puerto Rico.

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Administrative Agenda for Undocumented Students and Scholars³

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Introduction

Undocumented immigrants (including DACA recipients) are essential community members, both on and off campus. These students and their families pay taxes and graduate to start businesses and build careers in key industries. According to Census data, over 427,000 students in higher education are undocumented, or approximately two percent of all higher education students in the United States.⁴ Students with DACA or who are DACA-eligible constitute a subset of approximately 181,000 students, or 0.8 percent of all students in higher education.⁵ As we await legislative immigration reform from Congress, these students and scholars will need continued support to pursue their degrees and achieve successful and fulfilling careers. The Migration Policy Institute estimates that 98,000 undocumented students graduate from high school each year.⁶ There are significant opportunities for administrative change to make a significant and positive impact on the lives and education of undocumented students and scholars.

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Recommendations

I. For the White House

A. Employment

1. **Modify Executive Order 11935 to expand civil service jobs to all work-authorized immigrants, including DACA recipients.**

Currently, certain agencies and departments are prohibited from hiring noncitizens, including those with deferred action, under Executive Order 11935.⁷ The

³ For questions regarding undocumented students and scholars (including those with DACA), please contact Jose Magaña-Salgado at jose@presidentsalliance.org. For questions regarding international students and scholars, please contact Jill Welch at jill@presidentsalliance.org. For questions regarding refugee students and scholars, please contact Laura Wagner at laura@presidentsalliance.org.

⁴ “Undocumented Students in Higher Education: How Many Students are in U.S. Colleges and Universities, and Who Are They?” Presidents’ Alliance on Higher Education and Immigration and New American Economy, March 2021, <https://www.higheredimmigrationportal.org/research/undocumented-students-in-higher-education-updated-march-2021/>.

⁵ Id.

⁶ See Jie Zong and Jeanne Batalova, “How Many Unauthorized Immigrants Graduate from U.S. High Schools Annually?” Migration Policy Institute, April 2019, <https://www.presidentsalliance.org/migration-policy-institute-fact-sheet-on-number-of-dreamers-graduating-from-high-school/> (commissioned by the Presidents’ Alliance).

⁷ U.S. Office of Personnel and Management, “Frequently Asked Questions: Employment,” accessed Dec. 14, 2020,

administration can rescind or modify the order and instruct administrative agencies like the Office of Personnel and Management (OPM) to promulgate regulations to the effect. As DHS and other federal agencies “demonstrate [a] commitment to inclusive diversity as a top priority,” opening hiring to include noncitizens will serve that goal.⁸

2. Submit a budget request to rescind all appropriations restrictions on the hiring of noncitizens within the federal government, aside from where prohibited by existing statute.

Currently, the Consolidated Appropriations Act of 2021 and subsequent appropriations legislation prohibit the use of funds to employ noncitizens, even those with work permits.⁹ Your administration should include language in the next budget request to authorize the use of funds for any work-authorized immigrant, aside from where prohibited by other existing statutes.

B. Temporary Protected Status (TPS)

1. Create an interagency task force between DHS, the White House, and State to audit and examine the current TPS process.

This group would be tasked with improving and streamlining the TPS designation process, including an assessment of the potential for simultaneous designations of Special Student Relief (SSR) to accompany TPS designations.¹⁰ The task force would also be responsible for determining potential discrimination based on factors like race or religion that we are concerned may play a part in determination timeline and outcome, especially in Black, Brown, and/or Muslim majority countries. We also recommend regular engagements with stakeholders to keep them abreast of this auditing process.

II. For the U.S. Department of Homeland Security (DHS)

A. Reallocate funds within DHS to provide application financial assistance to DACA recipients who need it and fund the use of the existing fee waivers for DACA applicants.

Unlike many other USCIS application forms, DACA recipients cannot apply for the usual I-912 fee waiver to assist with the cost of applying.¹¹ DACA recipients must meet narrower

<https://www.opm.gov/FAOs/OA.aspx?fid=de14aff4-4f77-4e17-afaa-fa109430fc7b&pid=acfb91ff-c4aa-4b34-b159-7d40c6b45c15&result=1>.

⁸ U.S. Department of Homeland Security, *DHS Inclusive Diversity Strategic Plan for Fiscal Years 2021 – 2024: Elevating the Human Experience*, December 30, 2022,

https://www.dhs.gov/sites/default/files/publications/20_1230_ochco_dhs-inclusive-diversity-strategic-plan_fy21-24_1_1.pdf.

⁹ Consolidated Appropriations Act, 2021, Public Law 116–260, December 27, 2020, 116th Congress, available at <https://www.congress.gov/116/plaws/publ260/PLAW-116publ260.pdf>.

¹⁰ “Policy Brief: Automatic Special Student Relief Announcement to Accompany Temporary Protected Status Country Designation,” Presidents’ Alliance on Higher Education and Immigration, March 22, 2022,

<https://www.presidentsalliance.org/policy-brief-automatic-special-student-relief-announcement-to-accompany-temporary-protected-status-country-designation/>.

¹¹ U.S. Citizenship & Immigration. Services, U.S. Department of Homeland Security, “I-821D, Consideration of Deferred Action for Childhood Arrivals,” last updated December 9, 2020, <https://www.uscis.gov/i-821d>; U.S. Citizenship & Immigration. Services, U.S. Department of Homeland Security, “I-912, Request for Fee Waiver,” last updated October 1, 2020, <https://www.uscis.gov/i-912> (“You may not file Form I-912 if you are requesting consideration of Deferred Action for Childhood Arrivals (DACA). There are no fee waivers for DACA.”).

criteria than the usual fee waiver and receive the exemption *before* they submit their application, adding time to an already delayed process. Almost half of DACA recipients surveyed had to receive financial help from family or other sources to afford application fees, and 36 percent of applicants reported delaying their application in order to raise funds.¹² Funds should be reprogrammed and transferred from border operations and U.S. Immigration and Customs Enforcement (ICE) to DACA recipients who need financial assistance.

B. Temporary Protected Status (TPS)

1. Conduct a timely review of the country conditions of all countries that may meet the statutory criteria for Temporary Protected Status.

Make subsequent timely designations for all qualifying countries, including (but not limited to): Burkina Faso, the Democratic Republic of the Congo, Ethiopia, Guatemala, Guinea, Lebanon, Mali, Mauritania, and Sierra Leone. It is also important to coordinate a simultaneous announcement of Special Student Relief (SSR) for every TPS designation.¹³

2. Release timely a Federal Register Notice (FRN) in conjunction with an announcement of initial, extended, or redesignation of TPS or DED.

The statute states that “at least 60 days before end of the initial period of designation, and any extended period of designation, of a foreign state” DHS “shall provide on a timely basis for the publication of notice of each such determination (including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation...in the Federal Register.” An FRN officially opens the registration for TPS protection from deportation and work authorization. It contains information for TPS holders and their employers about work authorization and how to comply with the law and may also be needed to maintain driver’s licenses, access to bank accounts, apply for student loans, etc. In addition to the tremendous stress and confusion these delays cause for TPS holders and their families, delays also create fertile ground for fraud and those engaged in the unauthorized practice of law to take advantage of people. While initial designations do not have a “due date” like existing designations under the law, we recommend DHS publish an FRN immediately and alongside its designation announcements.

III. For U.S. Citizenship and Immigration Services (USCIS)

A. Adjudications and Application Processing

1. Provide automatic, temporary renewal upon receipt of a DACA renewal application for six months.

Automatic renewal will prevent lapse of status for DACA applicants while U.S. Citizenship and Immigration Services (USCIS) adjudicates the request. USCIS has been forced to cut services and staff to remain open during the concurrent pandemic

¹² Tom K. Wong and Carolina Valdivia, *In Their Own Words: A Nationwide Survey of Undocumented Millennials*, United We Dream 4 (May 20, 2014), available at https://docs.wixstatic.com/ugd/bfd9f2_4ac79f01ab9f4247b580aeb3afd3da95.pdf.

¹³ “Policy Brief: Automatic Special Student Relief Announcement to Accompany Temporary Protected Status Country Designation,” Presidents’ Alliance on Higher Education and Immigration, March 22, 2022, <https://www.presidentsalliance.org/policy-brief-automatic-special-student-relief-announcement-to-accompany-temporary-protected-status-country-designation/>.

- and USCIS budget crisis, increasing the case backlog and wait times tremendously.¹⁴ Applicants also face a variety of COVID-19 barriers, including difficulty in paying filing fees, limited to no access to legal service providers, and the virus itself.
- 2. Provide an *optional* “backdating” of deferred action grants for applicants whose DACA expires and who later apply for initial or renewal of DACA.**
Optional backdating would prevent applicants from accruing unlawful presence should their grant expire due to USCIS adjudication delays or other barriers to renewal. The backdating should be optional, as some applicants may prefer not to cut their two-year grant “short” by backdating the start time or have already accrued unlawful presence prior to DACA.
 - 3. Utilize existing biometrics in processing renewal applications rather than requiring DACA recipients to resubmit for each renewal.**
There is no clear rationale for requiring applicants to travel to Application Support Centers (ASCs) to resubmit biometrics (which cannot physically change between applications) with every renewal. USCIS has successfully used existing biometrics for certain forms during ASC closures for COVID-19, again demonstrating that resubmission is not necessary.¹⁵ Reuse of biometrics would also reduce administrative burden for USCIS officers, who would not have to receive, record, and re-validate biometrics at every renewal.
 - 4. Issue sequential instead of overlapping grant periods of DACA for renewal requests.**
With sequential grants, DACA recipients receive full two-year periods of deferred action rather than one grant “cutting” into the next as they overlap, creating grants of one year and 8-11 months, for example. The Obama administration piloted a program (which the Trump administration ended) making this change, which should be resumed and expanded.
 - 5. Update existing policy regarding expired DACA applications to treat any subsequent application as a renewal.**
Currently, USCIS considered DACA renewals applications filed within one year of expiration “renewal requests,” while considering applications filed more than one year after expiration as “initial requests.” We strongly recommend USCIS consider *all* applications filed after the expiration of a DACA request as “renewal requests” to reduce the burden on requestors who, due to economic or other barriers, are unable to file within one year. This change would also decrease administrative burden on USCIS adjudicators, as renewals require less information and supporting documentation than initial applications.
 - 6. Automatically extend work authorization for DACA requests for 180 days from expiration.**
USCIS is currently experiencing a significant backlog in approving DACA requests, leading to many individuals losing their status. An automatic extension of

¹⁴ Sarah Pierce and Doris Meissner, “USCIS Budget Implosion Owes to Far More than the Pandemic,” MPI, June 2020, <https://www.migrationpolicy.org/news/uscis-severe-budget-shortfall>.

¹⁵ See “USCIS to Continue Processing Applications for Employment Authorization Extension Requests Despite Application Support Center Closures,” U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, last reviewed/updated March 30, 2020, <https://www.uscis.gov/news/alerts/uscis-to-continue-processing-applications-for-employment-authorization-extension-requests-despite>.

employment authorization—currently accomplished in a variety of other contexts for other immigration statuses—would help alleviate the negative impact of these expirations.

7. Establish an administrative “statute of limitations” for consideration of convictions in the DACA application process that occurred five or more years before the application date.

The criminal justice system at its best is about second chances, the ability to rehabilitate oneself, and our commitment as a nation to reintegrate those who have received their due punishment back into society. DACA-eligible youth have developed deep ties to family and community in the United States, and they deserve the chance to reenter society and contribute like anyone else.

8. Include DACA recipients in post-conviction relief, including expunged and sealed convictions.

In the criminal justice system, an expunged conviction is removed from the system entirely. However, a person can still be found inadmissible due to an expunged conviction in the immigration system.¹⁶ The definition of “conviction” for immigration purposes in the DACA adjudication context should not include an adjudication or judgment of guilt that has been dismissed, expunged, deferred, annulled, invalidated, withheld, sealed, vacated, or pardoned, an order of probation without entry of judgment, or any similar rehabilitative disposition.

9. Allow pre-processing of temporary visa waivers from the United States, similar to the Obama-era plan for green card waivers.¹⁷

While most DACA and DACA-eligible people would get a waiver of unlawful presence based on the “balancing test” (the risk of having them in the United States vs. the benefit of having them in the United States), the only way to apply for the waiver is to leave the United States and wait five months. If the waiver could be processed in the United States rather than abroad, graduated students could then consider applying for an H1-B visa through consular processing rather than taking the risk of leaving the United States without knowing if they would be able to return.

B. Parole

1. Broaden the grounds for advance parole to include any reason for travel, similar to Temporary Protected Status (TPS).

Currently, DACA recipients must request advance parole only on employment, educational, or humanitarian grounds, despite there being no such statutory or regulatory restriction of advance parole for others.¹⁸

¹⁶ Emily Kendall, “Do Expunged or Sealed Records Show Up For Immigration Purposes?,” AllLaw, 2020, <https://www.alllaw.com/articles/nolo/us-immigration/expunged-sealed-criminal-records-show.html>.

¹⁷ U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, “I-601A, Application for Provisional Unlawful Presence Waiver,” last reviewed/updated December 23, 2021, <https://www.uscis.gov/i-601a>.

¹⁸ U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, “I-131, Application for Travel Document,” last updated March 23, 2022, <https://www.uscis.gov/i-131>.

2. Utilize humanitarian parole to allow deported immigrant youth to return to the United States on a case-by-case basis.

Even though unaccompanied minors were eventually exempt from Title 42 expulsions,¹⁹ hundreds of children have been swiftly deported with little due process since the beginning of the pandemic and should be given the opportunity to return to the United States to fairly argue their case.²⁰

3. Establish a new parole-in-place program that allows DACA recipients and other undocumented immigrants with U.S. citizen sponsors to apply for parole and adjust their status to lawful permanent resident (LPR).

Many DACA recipients may adjust their status but do not have an admission or parole that would allow them a path to permanent legal status or citizenship. One iteration of this parole-in-place program could be for undocumented students enrolled or who graduated from a higher education institution.

C. Temporary Protected Status (TPS)

1. Create a public, standardized process with the U.S. Department of State for TPS considerations for countries.

Including (a) the ability for stakeholders to formally request reviews for countries, (b) regular responses on the status of those reviews, (c) explanation of criteria after a decision not to grant TPS, (d) specific timelines and deadlines for reviews, and (e) public acknowledgment of which countries are being considered for TPS.

IV. For the U.S. Department of Education (Ed)

A. Promulgate guidance that classifies DACA and undocumented students as domestic students for the purposes of admissions and enrollment.

Many private higher education institutions classify DACA recipients and undocumented students as “international students” instead of domestic students. This classification leads to lower admission rates, fewer financial aid opportunities and makes higher education less attainable for many immigrant students. In addition, many public colleges and universities classify undocumented students as non-state residents and international students, even when—apart from their immigration status—they have met the residency requirements for in-state tuition and financial aid; this classification leads to significantly higher tuition rates, as well as fewer financial aid opportunities, and again makes higher education less attainable for many immigrant students. In the DACA FAQs, USCIS states: “Individuals granted deferred action are not precluded by federal law from establishing domicile in the U.S.”²¹ This language was added to ensure that states did not interpret DACA as in any way undermining the ability to obtain in-state tuition. We encourage the Department of Education to promulgate guidance—in addition to the existing FAQ

¹⁹ “Title 42 Termination with Respect to Unaccompanied Noncitizen Children,” Center for Disease Control and Prevention, U.S. Department of Health and Human Services, March 12, 2022, <https://www.cdc.gov/media/releases/2022/s0311-title-42-termination.html>.

²⁰ Caitlin Dickerson, “10 Years Old, Tearful and Confused After a Sudden Deportation,” *New York Times*, May 20, 2020, <https://www.nytimes.com/2020/05/20/us/coronavirus-migrant-children-unaccompanied-minors.html>.

²¹ “Consideration of Deferred Action for Childhood Arrivals (DACA): Frequently Asked Questions,” U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, last reviewed/updated August 31, 2022, <https://www.uscis.gov/humanitarian/consideration-of-deferred-action-for-childhood-arrivals-daca/frequently-asked-questions>.

language—that encourages private institutions of higher education to classify these students as “domestic” for the purposes of enrollment and admissions.

B. Allow TRIO programs to serve undocumented students.

Current requirements state that TRIO students must be U.S. citizens or in the country for other than a temporary purpose, which excludes DACA, TPS, and other undocumented students.²² Programs like TRIO work to provide first-generation and economically disadvantaged students the opportunity to prepare for higher education by providing a support system from middle school through college.²³ The Department of Education should broaden eligibility TRIO for all domestic students through new regulations.

V. For the U.S. Department of Defense (DOD)

A. Open DOD general enlistment to DACA recipients.

There are DACA holders that want to put their expertise and U.S. education to use in the military that are currently unable to do so. The Military Accessions Vital to National Interest (MAVNI) program was a pilot program that allowed certain non-citizens temporarily legally present in the United States with needed skills to join the military and later apply for citizenship.²⁴ The MAVNI program was narrow in scope only to those with certain skills, but your administration should open DOD enlistment and naturalization programs to *all* otherwise qualified noncitizens who would like to enlist.

²² “Programs: Student Support Services Program: Frequently Asked Questions,” U.S. Department of Education, accessed April 1, 2022, <https://www2.ed.gov/programs/triostudsupp/faq.html>.

²³ See Kat Trejo and Amy Patricia Morales, “Policy Brief: Expanding TRIO to Be Inclusive of All Students Regardless of Immigrant Statuses and Providing Federal Financial Aid Funding for Undocumented, TPS, and DACA Students,” UnidosUS and Avanzando Fellowship, August 2021, https://www.unidosus.org/wp-content/uploads/2021/08/kattrejo_amypatriciamorales_expandtrio_lafpb.pdf.

²⁴ “What is MAVNI? Information for Designated School Officials,” U.S. Department of Homeland Security, accessed April 1, 2022, <https://studyinthestates.dhs.gov/schools/additional-resources/what-is-mavni-information-for-designated-school-officials>.

Administrative Agenda for International Students & Scholars²⁵

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Introduction

International students and scholars contribute greatly to their campuses and the United States, intellectually, culturally, and economically.²⁶ Recent analysis finds that international students studying at U.S. colleges and universities contributed \$28.4 billion and supported 306,308 jobs to the U.S. economy during the 2020-2021 academic year. For every three international students in the United States, one U.S. job is created.²⁷ However, international student enrollment at U.S. universities has been falling in recent years. Even prior to the COVID-19 pandemic, enrollment declined 7.2 percent between the 2016 and 2020 academic years.²⁸ Once the pandemic hit, U.S. international student enrollment dropped another 22.7 percent from 2019 to 2021.²⁹ We urge the administration to build on its *Joint Statement of Principles in Support of International Education* to develop and implement a policy agenda and corresponding communications strategy that publicly and clearly affirms the importance of welcoming international students and scholars to our campuses and communities.³⁰ We need 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 a robust international student recruitment and retention strategy.

The Presidents' Alliance on Higher Education and Immigration

The nonpartisan, nonprofit [Presidents' Alliance on Higher Education and Immigration](https://presidentsalliance.org) brings college and university presidents and chancellors together on the immigration issues that impact higher education, our students, campuses, communities, and nation. We work to advance just, forward-looking immigration policies and practices at the federal, state, and campus levels that are consistent with our heritage as a nation of immigrants and the academic values of equity and

²⁵ For questions regarding undocumented students and scholars (including those with DACA), please contact Jose Magaña-Salgado at jose@presidentsalliance.org. For questions regarding international students and scholars, please contact Jill Welch at jill@presidentsalliance.org. For questions regarding refugee students and scholars, please contact Laura Wagner at laura@presidentsalliance.org.

²⁶ "How International Students Contribute to our Campuses, Communities, and Country," Presidents' Alliance on Higher Education and Immigration, January 18, 2022, <https://www.presidentsalliance.org/how-international-students-contribute-to-our-campus-communities-and-country/>.

²⁷ "Economic Value Statistics," NAFSA: Association of International Educators, accessed March 22, 2022, <https://www.nafsa.org/policy-and-advocacy/policy-resources/nafsa-international-student-economic-value-tool-v2>.

²⁸ "Analysis of U.S. and Canadian International Student Data," National Foundation on American Policy, March 2022, <https://nfap.com/wp-content/uploads/2022/03/Analysis-of-International-Student-Data.NFAP-Policy-Brief.March-2022.pdf>.

²⁹ Id.

³⁰ "Joint Statement of Principles in Support of International Education," U.S. Department of Education, U.S. Department of State, and EducationUSA, July 27, 2021, https://educationusa.state.gov/sites/default/files/intl_ed_joint_statement.pdf.

openness. The Alliance is composed of over 500 presidents and chancellors of public and private colleges and universities, enrolling over five million students in 43 states, D.C., and Puerto Rico.

Recommendations

I. For the 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 a stronger economy, 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 to issue National Interest Exceptions for students whose country of origin was under COVID-19 related travel restrictions and other actions taken in January 2022 to attract STEM talent and strengthen our economic competitiveness.³¹ We encourage further actions that will facilitate access to higher education opportunities in the United States for refugee learners and other international students.

II. For the U.S. Department of State (DOS)

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.³² 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.

³¹ "Fact Sheet: Biden-Harris Administration Actions to Attract STEM Talent and Strengthen our Economy and Competitiveness," White House, January 21, 2022.

<https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/21/fact-sheet-biden-harris-administration-actions-to-attract-stem-talent-and-strengthen-our-economy-and-competitiveness/>.

³² "Joint Statement of Principles in Support of International Education," U.S. Department of Education, U.S. Department of State, and EducationUSA, July 27, 2021,

https://educationusa.state.gov/sites/default/files/intl_ed_joint_statement.pdf.

B. We commend the Department for restoring F-1 and J-1 “residence abroad” language to the Foreign Affairs Manual (FAM) and urge the Department to clarify how non-immigrant intent should be viewed for refugee students.

The following language should be added to the FAM:

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. 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 of our consulates to process visa applications in a timely manner. **Continue issuing annual guidance to consulates to prioritize students (F and J) and other academic-related visas (H, J, and O) during high-volume seasons and share that outreach with the higher education community.**

D. Continue to remind consular officers that attendance at a lesser-known college, English language program, or 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.

E. 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 May 27, 2021 gives the appropriate guidance about financial means, but inconsistencies still exist, with some consulates still requesting proof of cash for multiple years of funding.

F. Provide Special Student Relief (SSR) for J-visa holders to address challenges students and scholars are facing due to emergent circumstances.

We urge the State Department to provide SSR to J-visa holders whenever relief is provided by the Department of Homeland Security for F-1 visa holders. We also urge State to coordinate with DHS to ensure a simultaneous announcement of SSR for countries designated for Temporary Protected Status (TPS).³³

³³ “Policy Brief: Automatic Special Student Relief Announcement to Accompany Temporary Protected Status Country Designation,” Presidents’ Alliance on Higher Education and Immigration, March 22, 2022,

G. 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.

H. Expedite processing of 212(e) waivers for Afghan Fulbrighters and other exchange visitors who have received J-1 visas but for whom it's impossible to fulfill the 2-year home residency requirement.

We support the blanket waiver recommended by Members of Congress.³⁴

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.**

Communicate 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.

III. For the U.S. Department of Education**A. Continue to articulate the importance of international students and scholars.**

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.³⁵

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)****A. Articulate the importance of international students and scholars.**

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. Given the value of international students to our national interests, DHS should endorse the Joint Statement.³⁶

B. 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

<https://www.presidentsalliance.org/policy-brief-automatic-special-student-relief-announcement-to-accorpany-temporary-protected-status-country-designation/>.

³⁴ "What Congress Can Do to Help our Afghan Fulbrighters and Other Exchange Visitors," Presidents' Alliance on Higher Education and Immigration, February 28, 2022,

<https://www.presidentsalliance.org/what-congress-can-do-to-help-our-afghan-fulbrighters-and-other-exchange-visitors/>.

³⁵ "Joint Statement of Principles in Support of International Education," U.S. Department of Education, July 28, 2021,

<https://www.ed.gov/news/speeches/joint-statement-principles-support-international-education>.

³⁶ "How International Students Contribute to our Campuses, Communities, and Country," Presidents' Alliance on Higher Education and Immigration, January 18, 2022,

<https://www.presidentsalliance.org/how-international-students-contribute-to-our-campuses-communities-and-country/>.

violating immigration status. Reasonable and reliable processing times are critical to ensure maintenance of status.

C. Through Special Student Relief, permit opportunities for individuals on F-visas to alter their course loads and 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 would help us to compete with other nations for these talented students and increase international student diversity (by country and income), thus advancing our foreign policy interests.

D. Connect SSR to TPS and streamline processing.

We urge the simultaneous announcement of Special Student Relief whenever Temporary Protected Status is announced. We also urge the Department to move expeditiously to publish the necessary Federal Register announcements for these two forms of relief, to clarify how both can benefit international students and scholars, and to process applications expeditiously. For example, students applying for SSR whose country of origin has already been identified as an SSR-eligible country should not have to prove individual severe economic hardship.

E. 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 withdraw 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*.³⁷ We urge DHS to promulgate a regulation to preclude such a rule in the future.

F. 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. We commend the administration for adding twenty-two new fields of study to the STEM OPT program,³⁸ and we encourage the administration to take the expansion a step further to include health-related fields.

G. Reconstitute the Homeland Security Academic Advisory Council (HSAAC).

We applaud Secretary Mayorkas's decision to reconstitute this Council, which in the past has provided significant value to DHS as a higher education venue to share best

³⁷ "Modification of Registration Requirement for Petitioners Seeking To File Cap-Subject H-1B Petitions, Implementation of Vacatur," Federal Register, 86 FR 72516, Document Number: 2021-27714, U.S. Department of Homeland Security, December 22, 2021,

<https://www.federalregister.gov/documents/2021/12/22/2021-27714/modification-of-registration-requirement-for-petitioners-seeking-to-file-cap-subject-h-1b-petitions>.

³⁸ "Update to the Department of Homeland Security STEM Designated Degree Program List," Federal Register, 87 FR 3317, Document Number 2022-01188, U.S. Department of Homeland Security, January 21, 2022,

<https://www.federalregister.gov/documents/2022/01/21/2022-01188/update-to-the-department-of-homeland-security-stem-designated-degree-program-list>.

practices, recommendations, and other policy change suggestions at the intersection of higher education and immigration (especially in regards to international students). We look forward to supporting DHS as it resumes 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. For the U.S. Agency for International Development (USAID)

A. Prioritize international student recruitment as part of our nation's foreign policy and development strategy.

Implementing the vision articulated by USAID Administrator Samantha Power prior to her appointment.³⁹

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.

³⁹ Samantha Power, "The Can-Do Power: America's Advantage and Biden's Chance," *Foreign Affairs*, January/February 2021, <https://www.foreignaffairs.com/articles/united-states/2020-11-20/samantha-power-can-do-power>.

Administrative Agenda for Refugee Students & Scholars⁴⁰

Last updated April 2022

Introduction

The UNHCR estimates that only five percent of refugees have access to higher education (up from only one percent in 2019).⁴¹ This is far below the global average among non-refugees, which stands at 39 percent. We recommend the administration incorporate college- and university-based sponsorship initiatives as a critical component of expanding opportunities for U.S. institutions to formally sponsor refugees. College and university-based sponsorship will improve refugee integration outcomes, expand access to higher education for refugee students, capitalize on the many resources available in and through campus communities, and reaffirm the United States' role as a leader in helping refugees reach safety. We also recommend that the administration support expanded access to higher education for refugees already in the United States. The recommendations below are part of the [RESPONSE campaign](#). For full details, please check out the [full report](#), [policy brief](#), and complete [Recommendations to Update the F1-Visa Program](#). We also recommend that the Administration provide additional guidance about and support expanded access and pathways to higher education for refugees, SIV holders, and humanitarian parolees already in the United States.

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Recommendations

I. For the White House

A. The President and agencies can use existing legal authority under the 1980 Refugee Act to create a new Priority 4 (P-4) refugee processing category.

As mentioned in the recent 2021 Report to Congress on annual refugee admissions. We are greatly heartened by the enthusiasm and commitment of PRM and other parts of the administration to establish private sponsorship initiatives through the P-4 category. Unlike other existing forms of community sponsorship (including co-sponsorship with resettlement agencies) private sponsorship would expand humanitarian immigration pathways to the United States, made possible in part by harnessing the interest and resources of the private sector—including higher ed institutions. We commend the

⁴⁰ For questions regarding undocumented students and scholars (including those with DACA), please contact Jose Magaña-Salgado at jose@presidentsalliance.org. For questions regarding international students and scholars, please contact Jill Welch at jill@presidentsalliance.org. For questions regarding refugee students and scholars, please contact Laura Wagner at laura@presidentsalliance.org.

⁴¹ "Tertiary Education," United Nations High Commissioner for Refugees, accessed March 22, 2022, <https://www.unhcr.org/en-us/tertiary-education.html>.

administration for its willingness to make private sponsorship a reality and urge an expedient start.

II. For the U.S. Department of Education (Ed)

We commend the Department of Education's efforts to host webinars and create opportunities to share how campuses are working to support Afghans, specifically *Keeping the Promise: Higher Education and Afghan Newcomers*.⁴² We also recommend the Department:

A. Create guidance and tools for campuses to engage in supporting refugee students.

1. Create additional guidance and tools to support higher education institutions to understand eligibility requirements and federal financial aid opportunities for refugees and humanitarian parolees.
2. Encourage higher education institutions and state systems to seek in-state tuition waivers and access federal financial aid for refugee and parolee students.
3. Collaborate with other government agencies on behalf of refugee students, including engaging with the Department of Health and Human Services (HHS) for students to be able to access benefits while enrolled as full-time students.

III. For the U.S. Department of Health and Human Services (HHS)

A. Consider refugees and humanitarian parolees as eligible for Office of Refugee Resettlement (ORR) benefits, even when enrolled as full-time students.

Allowing refugees and humanitarian parolees to enroll as full-time students while accessing ORR benefits creates a more individualized approach to resettlement, resulting in longer-term economic self-sufficiency and integration.

IV. For the U.S. Department of State (DOS)

A. Priority 4 (P-4) Refugee Resettlement Category

1. Approach P-4 program design with additionality in mind so that sponsored refugees are ultimately additional to government-assisted refugees.
2. Enable higher education institutions or an implementing organization representing them to nominate directly, or identify, students to be privately sponsored and resettled to the United States.
3. Offer a mechanism for sponsors to cover travel costs and offer postponement of travel loan repayments to account for the unique context of university sponsorships.
4. Make every effort to accommodate strict academic admissions timelines, requiring students to arrive in the U.S. by the middle of August preceding the academic year.
5. Consider an alternative indicator of success for P-4 university-sponsored refugees other than early post-arrival economic self-sufficiency.

⁴² Diya Abdo et al., “Keeping the Promise: Higher Education and Afghan Newcomers,” (webinar from the U.S. Department of Education, March 4, 2022)

B. 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.

C. 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.

D. Provide reasonable solutions for scholars and students applying for F-1 or J-1 visas and their families.

Clarify that consular officers should 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.

E. In cases of mass displacement of individuals who hold or have held J-1 visas, provide blanket waivers for the home residency requirement provisions of INA section 212(e), as recommended by Members of Congress.⁴³

V. For the U.S. Department of Homeland Security

A. Allow applicants whose refugee status is pending to access the USRAP.

For those without prior official recognition, allow a designated organization to screen candidates for likely U.S. refugee status conferral.

⁴³ Representative John Garamendi et al. to Secretary Antony J. Blinken, U.S. Department of State and Secretary Alejandro Mayorkas, U.S. Department of Homeland Security, February 4, 2022, https://www.presidentsalliance.org/wp-content/uploads/2022/02/Letter-StateDHS_AfghanFulbrighters-from-Rep.-Garamendi-et-al.pdf.