

Pending & Anticipated Immigration Activity of Concern to APLU Institutions



[Regulation]		
Rule	Status	Notes
Duration of Status (Establishing a Maximum Period of Authorized Stay for F-1 and Other Nonimmigrants)	Added to Fall 2018 Regulatory Agenda	NPRM expected in Sep 2019 APLU led a community letter in response to rumored changes to Duration of Status first reported in July 2017
Practical Training Reform (CPT, OPT and STEM OPT for F visas)	Published in the Fall 2017 Regulatory Agenda but removed from the Fall 2018 Agenda	Though “Practical Training Programs” have fallen off the regulatory agenda, APLU remains vigilant and will monitor USCIS’ long-term actions
Public Charge (Inadmissibility on Grounds)	NPRM issued on Oct. 10 (deadline Dec. 10)	Proposed rule does not include federal student aid programs (more from NASFAA) Pg. 134: “DHS believes that exclusion of education-related benefits is justifiable in the interest of administrability”
Adjusting Program Fees for the Student and Exchange Visitor Program (Increased SEVIS fees)	ICE is expected to issue a final rule in March 2019 ICE published an NPRM which closed on Sep 17	APLU jointly submitted comments with ACE, AAU, other higher ed associations
J Visas: Two-Year Home-Country Physical Presence Requirement (Exchange visitor visas)	Interim Final Rule expected in November 2018	DOS intends to “change the standard and procedures for the waiver of the “two year home-country physical presence requirement” for certain exchange visitors.
Strengthening the H-1B Nonimmigrant Visa Classification Program	Added to Fall 2018 Regulatory Agenda	NPRM expected in Aug 2019 to redefine “specialty occupation,” “employer-employee relationship” as well as “appropriate wages”
Registration Requirement for Petitioners Seeking To File H-1B Petitions on Behalf of Cap Subject Aliens (reprioritizing of the H-1B regular cap and H-1B masters cap)	Added to Fall 2018 Regulatory Agenda	NPRM expected in October 2018 to “streamline the process for administering the H-1B cap and increase the probability of the total number of petitions selected under the cap filed for H-1B beneficiaries who possess a master’s or higher degree from a U.S. institution of higher education each fiscal year.”

<p>Removing H-4 Dependent Spouses from the Class of Aliens Eligible for Employment Authorization (Work Authorization for H-1B Spouses)</p>	<p>Added to Fall 2018 Regulatory Agenda</p> <p>Rep. Jayapal and Rep. Love circulated a Dear Colleague letter on H-4s in April</p>	<p>NPRM expected in November 2018 to remove H-4 visa holders (spouses of H-1B workers) as a class of nonimmigrants eligible for work authorization</p>
<p>Eligibility Checks of Nominated and Current Designated School Officials of Schools That Enroll F and M Nonimmigrant Students and of Exchange Visitor Program-Designated Sponsors of J Nonimmigrants</p>	<p>Added to Fall 2018 Regulatory Agenda</p>	<p>NPRM expected in March 2019 to “require DSOs and ROs to undergo an eligibility check, the rule to help DHS prevent potential criminal activities or threats to national security that may result from non-compliance by DSOs and SEVP-certified schools, or ROs and Exchange Visitor Program (EVP) sponsors. The rule would also ensure that SEVP has the necessary enforcement and accountability mechanisms built into the SEVIS to safeguard U.S. security interests.”</p>
<p>DHS Regulatory Agenda; Department of State Regulatory Agenda</p>		

[Sub-Regulatory]		
Activity	Status	Notes
F-1 Visa Scrutiny	Reported increases in the number of cases being referred for “administrative processing” Reported increases in delays/rejections	Data remains anecdotal
H-1B Cap-Gap Status for F-1 Students	F-1 students awaiting H-1B approval are no longer permitted to work	This is a relatively new problem since H-1B issuance as slowed down
H-1B Visa Scrutiny	Reported increases in RFEs	The Compete America Coalition, of which APLU is a member, sent a letter to DHS expressing concern over USCIS changes to adjudication standards re: salary requirements, specific specialties of study, and degree requirements
Curricular Practical Training (CPT)		Rumors that USCIS may be adopting an interpretation whereby a period of authorized CPT is deducted from the 12-month OPT eligibility period
Notice to Appear (NTA)	NTA memo issued 6/28 (employment-based policy not yet finalized)	Compete America sent a letter to DHS expressing concern with five policy memos issued over the past year making changes to employment-based immigration
Requests for Evidence (RFE)	RFE/NOID memo issued on 7/13 (effective 9/11)	
Notice of Intent to Deny (NOID)		
Third Party Worksite Policy	Third Party placement memo effective 2/22	
Elimination of Deference	Policy eliminating deference effective 10/23/17	

[Litigation]		
Case	Status	Notes
Deferred Action for Childhood Arrivals	DOJ filed cert on 11/5 petitioning the Supreme Court to expedite review of DACA litigation, bypassing the Court of Appeals	Three Federal Court rulings in California , D.C. and New York require USCIS to continue processing renewals for current DACA recipients The Supreme Court previously declined to expedite review of DACA in February
Unlawful Presence	Lawsuit filed on 10/23 in the Middle District of North Carolina -- assigned to Judge Loretta Copeland Biggs Policy effective as of 8/9	APLU contributed towards the legal fees of the litigation APLU led a community letter in response to the 5/10 USCIS policy memo announcing the change
STEM OPT	In 2016, the Washington Alliance of Technology Workers (WashTech) sued DHS to block the two year extension of OPT for STEM graduates. A U.S. district court ruled against WashTech in 2017. They have since appealed and litigation is ongoing. Thursday's motion was filed as part of the appeal process.	On October 18, the Information Technology Industry Council (ITIC), the U.S. Chamber of Commerce, and the National Association of Manufacturers filed a motion to intervene in the case as a defendant should DOJ not defend the program.

[Other Challenges]		
Action	Status	Notes
1-year visas for Chinese graduate students in STEM (i.e. aviation, high-tech manufacturing and robotics).	The State Dep't is now issuing 1-year, multiple entry visas instead of the maximum five-year multiple entry visas for certain Chinese graduate students. No annual visa interview would be required so long as the Chinese graduate student maintains their "Duration of Status." The one-year visa only comes into play if the student decides to travel outside the United States during his/her academic program. If the visa has expired, the student will need to apply to renew it before returning to the United States, at which time additional screening questions might be asked.	<p>APLU released a statement when the policy change was first reported by the Associated Press in May</p> <p>Rep. Jayapal and Rep. Chu circulated a Dear Colleague Letter on the change</p> <p>In October, the Financial Times reported that the White House considered banning student visas for ALL Chinese nationals.</p> <p>Chinese students were originally issued one-year visas until November 2014 when the Obama Administration and the Chinese government changed their reciprocity agreement.</p>
Travel Ban	<p>The Supreme Court upheld the Administration's travel ban in June</p> <p>APLU, ACE, AAU and others filed an amicus brief in the case</p>	<p>The third iteration of the ban, released in Sep 2017, is now in effect for certain visitors from Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela and Yemen (APLU Statement)</p>
Social Media History	The State Dep't issued a request for Public Comment in March 2018	APLU jointly submitted comments on the State Dep't proposal in May
Supplemental Questions for Visa Applications (Rigorous Evaluation Criteria)	The State Dep't issued a notice of request for emergency OMB approval in May 2017	APLU led a community letter in response to the OMB Emergency Review

Suspension of Premium Processing	Premium processing remains suspended for non-exempt H-1B employers	Following USCIS' decision to suspend premium processing for H-1B petitions, APLU led a community sign-on letter conveying the impact this suspension would have on universities and their affiliated research facilities and medical centers
Temporary Protected Status	Protections have ended for El Salvador, Honduras and Nicaragua	Lawsuits pending

[Legislation]		
Bill	Status	Notes
I-Squared (Immigration Innovation Act)	S. 2344 introduced in Jan 2018 H.R. 6794 introduced in Sep 2018	Sen. Hatch is retiring Rep. Coffman lost his seat APLU cohosted educational Hill briefings in May and July
Per-Country Amendment	H.R. 392 Fairness for High-Skilled Immigrants Act was passed as an amdmt to the FY19 DHS Approps bill S. 281 introduced in Feb 2017	Rep. Yoder lost his seat H.R. 392 has 329 cosponsors S. 281 has 17 cosponsors
DACA Legislation	Senate failed to pass four bills in February including: <ul style="list-style-type: none"> • McCain-Coons: Uniting and Securing America (USA Act) • Rounds-King: Immigration Security and Opportunity Act House failed to pass two bills in June: <ul style="list-style-type: none"> • H.R. 4760 Securing America's Future Act • H.R. 6136 Border Security & Immigration Reform Act • Rumors of lame-duck negotiations (\$25b for border wall in exchange for DACA protections) 	CGA Action Alert on Senate bills APLU released statements on June 20 and June 27