

Arizona State University

Boston University

Brandeis University

Brown University

California Institute of Technology

Carnegie Mellon University

Case Western Reserve University

Columbia University

Cornell University

Dartmouth College

Duke University

Emory University

The George Washington University

Georgia Institute of Technology

Harvard University

Indiana University

The Johns Hopkins University

Massachusetts Institute of Technology

McGill University

Michigan State University

New York University

Northwestern University

The Ohio State University

The Pennsylvania State University

Princeton University

Purdue University

Rice University

Rutgers University – New Brunswick

Stanford University

Stony Brook University –

State University of New York

Texas A&M University

Tufts University

Tulane University

University at Buffalo –

State University of New York

The University of Arizona

University of California, Berkeley

University of California, Davis

University of California, Irvine

University of California, Los Angeles

University of California, Riverside

University of California, San Diego

University of California, Santa Barbara

University of California, Santa Cruz

The University of Chicago

University of Colorado Boulder

University of Florida

University of Illinois, Urbana-Champaign

The University of Iowa

The University of Kansas

University of Maryland, College Park

University of Miami

University of Michigan

University of Minnesota, Twin Cities

University of Missouri, Columbia

The University of North Carolina at

Chapel Hill

University of Notre Dame

University of Oregon

University of Pennsylvania

University of Pittsburgh

University of Rochester

University of South Florida

University of Southern California

The University of Texas at Austin

University of Toronto

The University of Utah

University of Virginia

University of Washington

The University of Wisconsin - Madison

Vanderbilt University

Washington University in St. Louis

Yale University

December 22, 2023

Charles L. Nimick, Chief

Business and Foreign Workers Division

Office of Policy and Strategy

U.S. Citizenship & Immigration Services

U.S. Department of Homeland Security

5900 Capital Gateway Drive

Camp Springs, MD 20746

Re: DHS Docket No. USCIS-2023-0005

CIS No. 2745-23

RIN: 1615-AC70

Document Number: 2023-23381

Dear Division Chief Nimick,

The Association of American Universities (AAU) submits these comments in response to Department of Homeland Security (DHS) Docket Number USCIS-2023-0005 regarding the Notice of Proposed Rulemaking (NPRM) on Modernizing H-1B Requirements, Providing Flexibility in the F-1 Program, and Program Improvements Affecting Other Nonimmigrant Workers (H1-B Modernization). AAU applauds the administration for taking steps to add benefits and flexibility to, increase the integrity of, and streamline and improve the efficiency of the H-1B program.

AAU comments today on behalf of our member universities from two unique viewpoints: 1) As leading research institutions educating and training the next generation of skilled scientists, technologists, and experts in fields critical to our national and economic security – including international students from across the globe; and 2) as employers of world-class faculty and researchers at the forefront of innovation. We commend the Biden administration for the previous steps it has taken to attract and retain STEM talent and strengthen our economy and competitiveness¹. The H-1B Modernization NPRM is also central to meeting those objectives. We particularly applaud the proposed shift to a beneficiary-centric system which will greatly assist the international students graduating from AAU institutions.

Below we offer more specific comments on two particular areas addressed in the NPRM: the proposed expansion of the cap-gap extension and the modified definition of “specialty occupation.”

Cap-Gap Extension for Student to Professional Status

AAU supports the proposed rule's increased flexibility for international students transitioning their F-1 student visas to H-1B employment visas. The proposed automatic

¹Fact Sheet: Biden-Harris Administration Actions to Attract STEM Talent and Strengthen our Economy and Competitiveness <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/>

extension of F-1 status and employment authorization for students on STEM OPT through April of the fiscal year for which the H-1B petition is requested – as opposed to terminating in October – will ensure that these individuals can directly transition visa categories without interruption to their lawful status and employment authorization. The extension will provide much needed relief for international student graduates – as well as benefits for employers – entering the workforce by reducing the risk of processing delays. Eliminating uncertainty and potential gaps in employment is especially important in key disciplines where specific skills are in high demand.

Change to Definition of “Specialty Occupation”

AAU shares concerns with a broad multi-sector coalition of partners² that USCIS’s proposed changes to the definition of specialty occupation will significantly hamper H-1B visa eligibility. The proposed definitional changes making a general degree insufficient to qualify for a specialty occupation could greatly hamstring the U.S. innovation ecosystem. AAU’s member institutions provide rich learning environments that equip graduates with specialized skills and knowledge. The true transdisciplinary nature of program curricula cannot be adequately captured by the name of a degree program alone. USCIS’s proposal to outright exclude “general” programs from eligibility – such as business administration – diminishes the value of rigorous degree programs where students can diversify their studies through specific course selections and experiential learning opportunities such as traineeships, fellowships, and other critical academic pursuits.

Additionally, we are concerned about USCIS’s overly narrow emphasis on “fields of study” being seemingly “directly related” to the individual’s occupation. University programs are often organized by broad disciplinary based schools and departments with myriad subdisciplines (i.e. civil engineering, organic chemistry, structural biology). It is often the case that AAU institutions are looking to hire faculty and other personnel with broad training within a discipline, and expertise and knowledge across several subdisciplines. Including such a narrow scope of “direct” relevancy will ultimately hinder the ability of AAU institutions to hire world-class scientists and technologists into integral faculty positions who are uniquely prepared for these jobs.

Conclusion

Research universities are integral partners in generating the discoveries that sustain the American innovation ecosystem. The government-university partnership in science and technology sets the United States apart from strategic competitors and is central to making the U.S. research enterprise the envy of the world. Congress recognized the distinctive employment needs and unique off-cycle hiring timelines for institutions of higher education by codifying the H-1B cap exemption in statute.

As USCIS seeks to modernize the regulation to provide increased flexibility for H-1B beneficiaries, AAU is committed to ensuring the integrity of the program is maintained. We take compliance very seriously and look forward to continuing to work with you to ensure the H-1B program operates efficiently, effectively and with robust integrity safeguards.

Sincerely,



Barbara R. Snyder
President

² Multi-sector specialty occupations letter <https://ifp.org/wp-content/uploads/IFP-Multi-Sector-Joint-Comment-on-Spec-Occupation-12-21-2023.pdf>