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Chad Wolf  
Acting Secretary  
U.S. Department of Homeland Security  
301 7th Street, SW  
Washington, DC 20528

Sharon Hageman  
Acting Regulatory Unit Chief  
Office of Policy and Planning  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
500 12th Street SW  
Washington, DC 20536


Dear Acting Secretary Wolf and Acting Chief Hageman:

I write on behalf of the University of Rochester to respectfully submit comments to the U.S. Department of Homeland Security (DHS) proposed rule, Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media. This proposal is based on a flawed premise and would severely restrict the ability of international students and exchange visitors to complete their studies, which in turn enhances the U.S. research enterprise and bolsters our nation's health care system at a critical time. We strongly urge DHS to withdraw this rule in its entirety and allow the current policy of admission for duration of status (D/S) to remain in effect.

The University of Rochester is one of the nation's top research universities, the largest private employer in upstate New York, a leading source of new physicians for the Finger Lakes Region, and a major generator of economic growth across the Rochester region and Western New York. Our diverse community includes 12,233 enrolled students, more than 3,000 faculty, and 32,840 staff. In 2018, we received $413 million in sponsored research funding, including $290 million in federal research support toward developing new scientific innovations, treatments, and cures. Our clinical care enterprise, UR Medicine, comprises six hospitals and includes the region's only Level 1 Trauma Center, children's hospital, and many other unique and highly specialized services reaching a population of approximately 2.6 million across the Finger Lakes and Southern Tier.
In the last academic year, the University of Rochester was proud to sponsor 4,568 international students—roughly one-third of our student population—and 450 scholars from 140 countries. In addition to the immeasurable academic and cultural value they provide to our campus and community, these students generate $225 million in economic activity per year and support 2,973 jobs in the Rochester-Finger Lakes Region. Our research enterprise relies heavily on the expertise and talent of our international scientists and postdoctoral researchers as we pursue treatments and cures. Further, as our nation grapples with a physician shortage coupled with the demands of the COVID-19 pandemic, our health care system is more dependent now than ever on immigrants, and our hospitals in rural and underserved areas rely heavily on recruiting U.S.-trained foreign physicians to meet the needs of their communities.

In the years following World War II, the United States became a magnet for international talent that was unrivaled around the world. This influx of top students and scholars has enhanced the U.S. higher education system and contributed to innumerable discoveries and innovations that have improved human health, created new technologies, and thereby strengthened our economic and national security. Today, U.S. leadership in these fields is in jeopardy as we are in fierce competition with other nations like the United Kingdom, Canada, China, and Australia for the world's top talent. In 2018, our nation experienced a third consecutive year of decline in new international student enrollment. Last year, for instance, the University of Rochester saw a 7% decline in international enrollment. The U.S. will continue to lose global market share of research and development expenditures to other countries that have established aggressive national policies and marketing strategies to attract these talented individuals and expand their research enterprise.

Eliminating Duration of Status for F, I, and J visa holders will have a devastating impact on U.S. higher education and our ability to attract the world's best and brightest students, scholars, and physicians. U.S. higher education has been a magnet for global talent for decades, which in turn has bolstered its research enterprise and outcomes, generating beneficial results like vaccine development and numerous Fortune 500 companies—to name only a few. Yet, recent U.S. immigration policies have already left many of our international populations with a feeling of uncertainty about their future here. From travel restrictions, processing delays, increasing costs, and threats of benefit reductions, our students and scholars are frequently focused on planning for a worst-case scenario, rather than embracing the various academic opportunities they may attain in the U.S. U.S. policies must balance efforts to safeguard research and national security with the need to draw the individuals and exchange of ideas that are key to global economic leadership. To help restore our nation's position as the world's leader in higher education and innovation, we strongly urge you to consider the following comments:

**Rule Intrudes on Academic Decision-Making**

DHS is encroaching on the role of academic institutions by regulating the time in which a student is expected to complete a degree program. The proposed EOS process would put federal immigration officials in charge of evaluating whether a student is making good academic progress, rather than the institution of higher education in which they are enrolled. Academic institutions are best suited to make such academic decisions. We are especially alarmed by the claim that "passing a class, or not, is something that is within the student's control." This characterization ignores extremely common issues related to mental health, previously undiagnosed learning disabilities, discretionary resources, diversity of academic experience, and even the logistical hurdles of the current global health crisis. The notion
that DHS would evaluate academic progress against this paradigm demonstrates how removed the agency is from the structural components and considerations of educational institutions.

The University of Rochester has long-standing policies in place to address academic progress, probation, and for dismissal from a program of study. Each semester, academic action is administered by designated committees with the appropriate representation, expertise, and authority to review the academic and advising records of students recommended for consideration by their department. We believe this existing process is thoughtful, informed, inclusive, and therefore the most fair and appropriate method for making these difficult decisions about academic progress.

Reliance on E-Verify Enrollment is an Overreach of Government Influence

The proposed rule makes the claim that institutions and program sponsors that enroll in E-Verify are more likely to comply with U.S. immigration laws than those that do not enroll in the program. There is no evidence to support this assertion and dismisses the SEVP certification process that institutions must complete every two years to obtain and retain their F and J visa programs. This aspect of the proposed rule will penalize students and scholars by limiting their maximum fixed period of stay when there is no justifiable reason to believe that they pose additional compliance risk under the immigration rules. It is, therefore, unnecessary and without merit.

Premise Behind Proposed Rule is Based on Flawed Analysis

We believe the data and analyses referenced to formulate the policies proposed in the rule are selective and misleading to show an artificially high number of visa "overstays" among students and exchange visitors. For instance, the proposal claims that overstays within the F/M/J nonimmigrant categories warrant this change and references a rate of 3.73% from the 2018 DHS Entry/Exit Overstay Report. However, the same report from 2019 indicates an overstay rate of 1.52% for this population, which represents a reduction of nearly 57% from the previous year (38,966 fewer stays).

Based on a flawed premise, DHS is proposing to impose a maximum two-year admission period for broad groups of international students from countries with overstay rates greater than 10%, countries on the State Sponsor of Terrorism List, countries determined by DHS to limit the period of admission for U.S. national interests, as well for students attending institutions that have not fully implemented E-Verify. Later analysis of the 2016 data cited by DHS in its 2019 overstay report found that more than half of the reported overstays had actually left the country but their departures were not recorded, which if taken into account, demonstrated effectively zero growth in visa overstays.1

This erroneous data and analysis will disproportionately affect students and scholars from underrepresented parts of the world that we should be welcoming for exchange, particularly if the U.S. wishes to retain its position as a global influencer of democracy. Because the proposal looks at a proportional number of overstays rather than the total per country, DHS is disadvantaging students and scholars from countries that send fewer F-1 and J-1 visitors to the U.S. About half of the initial list of 60 countries are African and will further hinder a continent in transition that is already underrepresented in the U.S. Within the last academic year, the University of Rochester enrolled approximately 315 students from

these countries who contributed immensely to our Bachelor’s, MBA/MS, and numerous Doctoral programs, among many others across the institution; several of these recent students have received prestigious, competitive awards such as the Schwarzman scholarship and the Davis Peace Prize. At the same time, the State Sponsor of Terrorism List is too broadly applied to students who may have been born in those countries but have no remaining ties to their country of birth like refugees. Such data should not be used as the basis for policymaking purposes.

Eliminating Duration of Status (D/S) Will Impact Program Completion and the Undergraduate to Doctoral Pipeline for F-1 Students

Eliminating D/S in favor of a maximum two- or four-year fixed period in which students must complete a relevant educational program does not conform to the timeline of many academic programs or consider the complexities of academic progression. Such a lack of flexibility will inhibit international students from changing majors, partaking in supportive programs to enrich their educational experience, exploring academics outside of their majors, or extending their studies to pursue an advanced degree. Requiring individuals to file an extension of stay (EOS) – or multiple extensions of stay – to complete their studies would be highly impractical and financially burdensome for our students.

At the University of Rochester, the vast majority of our students complete a bachelor’s degree within four years. Out of the 1,700 international graduate students, approximately 177, or 10% of our F-1 students who enter as undergraduates go on to pursue a master’s, doctoral, or professional degree program. The majority of doctoral international students take an average of 5.3 years from entering a program to completion, while those in a masters/PhD sequence take 7.5 years to complete, which requires anywhere from an additional 2 to 10 or more years. While the length of time the EOS will grant is not clear, we anticipate most of our students will face a required application at some point in their academic career, and many will have to navigate that process multiple times as they transition through various common scenarios. In addition to placing a cumbersome, time-sensitive administrative obligation on students immersed in intense academic or training programs, the additional cost, which DHS estimates will likely be more than $1,000 per extension, will be financially prohibitive for many.

The rule does not consider the need for foundational coursework that some international undergraduates, like many American students, find beneficial to undertake. The University of Rochester maintains a close relationship with our local community college to help students close gaps in their educational experiences, which will prove problematic under the proposals to restrict study at a lower educational level and to require an EOS for changes in academic timing. In addition, the rule places an arbitrary lifetime cap of 24 months on language training programs that could be problematic for English Language Learners (ELL) who often transition from language programs into a full-time program of study on the same F-1 visa. The University of Rochester’s Eastman School of Music, one of the world’s top music conservatories, annually hosts approximately 200 international students – 22% of its total student population – and often enrolls musically gifted prodigy students to a rigorous theoretical curriculum who may need additional English language support prior to or during an interlude from their degree at the University. The proposed rule will significantly impede those students from gaining the language and cultural skills they need to be successful, even if academically viable and supported.

The proposed rule also intends to impose a narrow and discretionary interpretation of "compelling academic reasons" for students to extend their time to completion and to restrict authorization for certain bona fide training activities in the interim. This is inconsistent with the interdisciplinary nature of
academic programs at all levels. The impact of this strategy will create significant impediments for F-1 students that will interfere further with academic collaboration and even time to completion. Such a policy would hold international students to a different standard and is not consistent with the interdisciplinary nature of programs.

**Eliminating Duration of Status will Harm Exchange of J-1 Scholars, Students, and Physicians**

The University of Rochester relies on the J-1 visa program to sponsor visiting scholars, physicians, and students from abroad. The J-1 program is grounded in U.S. diplomacy efforts designed to increase mutual understanding and strengthen ties between Americans and citizens from other nations. Accordingly, J-1 sponsored postdoctoral researchers, physicians, and visiting faculty not only provide enormous value to the University, but also have contributed in immeasurable ways to our community and national interest.

The rule's proposed move from D/S to a fixed time period is largely unworkable for J-1 research scholars, who are permitted for up to five years by the Department of State to complete their research. Limiting scholars to less than the full five years would have an immense impact on the U.S. research enterprise. Postdoctoral programs would also be affected, and fields such as the biomedical sciences, where the majority of postdocs across the country are international students, could be decimated. At the University of Rochester, over 200 J-1 sponsored postdoctoral scholars are involved in research activities. Losing these scholars and their expertise would be devastating for our research and the nearly $300 million in federally sponsored research funding we receive annually.

Foreign nationals seeking medical training, residencies, and fellowships as J-1 exchange visitors would be disproportionately affected by the elimination of D/S. These programs can last from one to seven years depending on the medical specialty or subspecialty pursued, and would require at least one EOS to complete commitments. J-1 physicians are already required to apply annually to the Educational Commission for Foreign Medical Graduates (ECFMG), the Department of State designated sponsor of foreign national physicians, to extend their sponsorship and ensure proper monitoring of their progress in training. Duration of participation in these programs is limited to the time "typically required to complete a program," as defined by the Accreditation Council for Graduate Medical Education (ACGME) and/or one of the specialty boards of the American Board of Medical Specialties (ABMS), and duration is further limited to a maximum stay of no more than seven years. Having to apply for EOS on top of the requirements of compliance with existing Department of State approved regulations would be incredibly onerous for our physicians.

This year, the University of Rochester School of Medicine and Dentistry is training more than 40 residents and fellows from abroad. As it becomes increasingly difficult to attract physicians to rural and other underserved areas, we rely more and more on recruiting physicians who have completed their training through the J-1 visa program to ensure access to high-quality care at facilities like St. James Hospital and Jones Memorial Hospital in New York's Southern Tier, both of which are located in federally-designated health professional shortage areas (HPSAs).

As such, the proposed rule ignores the serious shortage of physicians the U.S. is currently facing, that, according to new data from the Association of American Medical Colleges (AAMC) could reach a need
for as many as 139,000 primary and specialty care physicians by 2033. As our nation continues to grapple with the COVID-19 pandemic, it is more important than ever to ensure we have an immigration system that accommodates the health care workforce necessary to support innovative, high-quality, timely care for patients. The proposed rule comes on top of recent suspensions and delays in visa processing after the worldwide closure of U.S. consulates due to the pandemic that has already complicated the ability of our incoming students and newly hired physicians to train and practice in the U.S. — at a time when they play a critical role in providing care.

**Extension of Stay will Disrupt OPT Experiential Learning Programs**

For decades, Optional Practical Training (OPT) has been a valuable incentive that has drawn international students to study in the U.S. and apply what they learn in post-degree on-the-job training as a capstone to their education. Eliminating D/S in favor of an EOS policy will make applying for OPT burdensome and costly, and could leave students in limbo as they await multiple required approvals. By requiring students seeking OPT to obtain an EOS as well as employment authorization – two completely separate processes – a student would be left unable to begin their planned training program unless both the work authorization and EOS are granted synchronously. Further, students seeking a 24-month STEM (Science, Technology, Engineering, and Mathematics) OPT extension would have to file again for EOS, paying a separate fee each time. Last year, wait times for OPT work authorization increased from three to five months or longer, which created massive logistical issues for students who missed their employment start dates and ultimately had to return home. Adding the ESO requirement will only lead to further disruption and lost opportunities for both students and the U.S. businesses that train them.

At the University of Rochester, over 900 students participate in the OPT and STEM OPT extension programs. Many of these students have studied in biomedical and other scientific research fields in which our nation is experiencing workforce supply challenges and are helping to fill those gaps in the pipeline. According to a 2019 report by the Niskanen Center, experiential learning opportunities like OPT help to increase local innovation and higher average earnings, and do not cost U.S. workers their jobs or decrease their wages. In fact, a recent report by the Business Roundtable found that scaling back OPT would result in the loss of 443,000 jobs, including 255,000 jobs held by American workers. While the U.S. has long been the leader in experiential learning, the U.K. recently restored its two-year post study work visa for foreign students, and Canada, Australia, and China all offer similar programs that have led to dramatic increases in post-secondary enrollments in those nations. If we make it harder for students to seek these opportunities here, they will do so elsewhere, and at the detriment to U.S. higher education, innovation, and our workforce and economy.

**Certificate, Specialty, and Preceptorship Programs**

Certificate, specialty, or preceptorship programs that often involve a non-traditional or non-linear trajectory to completion would also be affected by the proposed rule. Limiting the number of F-1

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programs an international student may pursue to three for the lifetime of the student and limiting "reverse matriculation" to one instance will be particularly complex to assess and most certainly detrimental to students pursuing degrees in the health care field.

While not conferring bachelor or doctoral degrees in dentistry, the University of Rochester's internationally recognized Eastman Institute for Oral Health (EIOH) offers seven Postdoctoral Dental Education and Residency Training Programs, leading to a Certificate of Advanced Study or a Certificate of Completion in the respective program. In addition, several certificate programs of two- and three-year duration offer an additional educational track leading to a Master of Science in Dental Sciences. All such EIOH curricular offerings are fully accredited by the Commission on Dental Accreditation (CODA) and appropriately registered with the New York State Education Department. As such, it is common for EIOH students to progress through multiple programs of specialization and advanced training, despite each carrying the official credential of a Certificate program. Under the proposed rule, the government will arbitrarily and detrimentally limit our international students in pursuing their dental training, and compromise the core EIOH mission and longstanding academic structure. Moreover, EIOH is the only dental residency program in the Rochester area and is the leading source of new dentists in the region, as well as the safety-net provider that cares for a disproportionate number of Medicaid and uninsured patients. Limiting the enrichment and specialty training opportunities providers may seek will only diminish our ability to train high-quality providers, and will be particularly harmful to our most vulnerable patients who otherwise would not have access to care.

**Reporting Requirements are Duplicative of SEVIS**

By virtue of the Student and Exchange Visitor Information System (SEVIS) database, the F/M/J visa categories are arguably some of the most regulated and closely monitored nonimmigrant populations. To justify the proposed rule, DHS routinely cites singular publicized instances to indicate widespread abuse of the system, rather than acknowledging that those instances are unique outliers. If this proposal is implemented, the thousands of compliant SEVP-certified institutions will be held to account for the misuse of only a few fraudulent actors. For institutions like the University of Rochester, which have longstanding, well-regarded, and high-volume pursuits of international exchange and academic mobility, the impact of this rule is severely out of alignment with the reasoning posted in the documentation.

Despite such claims that the proposed changes are necessary to address fraud and abuse, the existing SEVIS system already provides the necessary infrastructure to flag and address issues of noncompliance for F and J nonimmigrants with respect to immigration laws and regulations. SEVIS gives DHS immediate access to detailed information related to nearly every student and exchange visitor event that could impact their compliance. For information not directly submitted in SEVIS, DHS has the authority to request all information and documents that institutions are obligated to retain throughout the student's enrollment or scholar's program engagement.

The rule would require students seeking EOS to obtain information or documentation their school or program has already provided directly through SEVIS. Requiring students to submit the same information to USCIS that DHS already has access to is duplicative and wasteful. It would also place additional burden on institutions that would have to prepare the documentation and help students and scholars navigate the reporting process. DHS can effectively enforce the current immigration laws by using its resources that focus on risk factors, rather than subject entire international populations to an expensive, cumbersome, and time-consuming extension of stay process. Such reporting measures are
performed broadly and frequently, and in contrast to DHS's assertion that the current framework lacks an effective mechanism to monitor compliance among F and J visa holders. As evidenced by DHS enforcement pursuits cited in the proposal and even recent press reports, SEVIS already provides sufficient data to evaluate academic, research, and training activities that might warrant closer evaluation. DHS should utilize existing mechanisms (i.e. SEVIS, I-94 records, CLAIMS Interface) more effectively before burdening students, scholars, and institutions with a superfluous EOS process.

Removing Duration of Status Will Further Delay Processing Times

We are deeply concerned that the extensions and authorizations required by the rule will create an enormous influx of new filings at USCIS that will exacerbate existing backlogs and delays that have caused processing times to increase 46% between fiscal years (F.Y.) 2016 and 2018, and nearly double since F.Y. 2014. Adding an unnecessary submission of an estimated 300,000 to 364,000 more applications to the USCIS workload when the agency is experiencing a significant backlog and funding crisis would have an immediate detrimental impact not only to international students but also to the entire legal immigration system as a whole. The increased volatility, disruption, and uncertainty would drive students and scholars from the U.S. following delayed approvals or adjudications, and would discourage others from studying here.

Many of our students and scholars are currently experiencing protracted visa- and change-of-status delays of six to eight months or more. With increasing frequency, our international populations face incredibly difficult circumstances affecting their U.S. academic/research activities, separation of families, and delayed work permissions directly resulting from excessive processing times and lack of transparency in government determinations. The current proposal will only exacerbate this trend and drive talented students and scholars away.

Reduction in F-1 Period for Departure Will Restrict Academic Transitions

We have concerns about the impact of reducing the time to prepare for departure from 60 to 30 days for F-1 students. Commonly known as the grace period, students may also use this time to transfer to another school. As opposed to the application process for OPT, which can be filed in advance without a specific job offer, the ability to execute a SEVIS Immigration Transfer between School A and School B requires evidence of admission to School B for the upcoming academic term that falls within five months. The SEVIS record will be automatically completed if School A is unable to schedule the transfer within the designated grace period, requiring onerous correction processes for schools and SEVP alike. For the majority of students who complete at the end of the spring semester, the timing of various admission decisions and waitlist cycles for the following fall semester often extends into the mid-summer. Shortening the grace period to only 30 days will put a lot of pressure on students and institutions during times of year that are already subject to competing priorities and uncertainty, ultimately limiting some students to transfer their SEVIS sponsorship to another school legally. To this

extent, the F-1 program may bear some differentiation from the M and J visa categories in terms of standard academic progression across different institutions.

**Adding Extension of Stay Requirements will be burdensome to institutions**

In addition to the impact on students, higher education institutions will also be forced to absorb a considerable administrative and financial burden to implement this rule. DHS notes that an institution's extension of a program of study will no longer be sufficient for extending a period of admission and instead would be used to support a student's EOS application. This will require the production of a considerable volume of documentation to support student applications and associated staff time. Based on our current experience following the Notice of Proposed Rulemaking, the conclusion that DSOs and R.O.s will require a total of 40 hours for rule familiarization, development of training materials, and institutional adaptation efforts grossly underestimate the workload this rule will bring about. For example, significant software updates, data collection, and business-process development will be required, since data transfer across agencies is unreliable at best and the fixed period of stay will only be officially recorded in the external I-94 system or by hardcopy Notice of Action. Additionally, this calculation does not reflect any of the increased advising needs and operational services for our international students and exchange visitors, which will remain prevalent well beyond the first year of this rule.

At the University of Rochester, we estimate this level of reporting would require us to hire at least two full-time equivalents (FTE) employees at a cost of $150,000 or more. However, as one of many cost containment measures our institution has taken in response to significant operating losses we are facing due to the COVID-19 pandemic, the hiring freeze we have in effect would not allow us to hire the staff necessary to adequately implement this requirement. DHS should continue to rely on DSOs to be compliant, diligent, and ethical in evaluating program extensions based on institutional policies, the regulations, and the interest and needs of students. USCIS is not in a position to analyze and evaluate a student's academic programs or progress.
Conclusion

Eliminating Duration of Status in favor of a two or four year fixed time period of admission will create uncertainty for students and scholars that will have a long lasting negative impact on our nation's ability to attract the world's top talent. It is our conclusion that such a policy will not prevent those who intend to overstay from doing so, but instead will create an enormous burden for those who wish to comply with our laws and pursue their academic or research activities here. If U.S. colleges and universities are unable to provide incoming or prospective students and postdocs with the confidence that they will be able to complete their entire academic program, they will study in another country and we will lose this critical pipeline of advanced knowledge and talent – and economic infusion – to competitor nations. We strongly urge DHS to reconsider this proposal and withdraw the rule in its entirety.

Thank you again for the opportunity to provide comments, and please do not hesitate to contact me if I can provide any additional information.

Sincerely,

[Signature]
Ravi Shankar
Assistant Vice Provost and Director International Services Office