DHS Proposed Rule Fact Sheet
September 30, 2020

Disclaimer: The proposed regulations discussed in this document are not law and are subject to change. This information is of a general nature and for informational purposes only.

On September 25, 2020, the U.S. Department of Homeland Security (DHS) proposed a new rule which would change the admission period for F-1 students and their dependents. This proposed rule is not law and is not finalized. The content of the proposed rule gives us an idea of what may become law in the future. This fact sheet summarizes some main points of the proposed rule. All of the information below is subject to change.

Why is DHS proposing a new rule?

DHS has said that “amending the relevant regulations is critical in improving program oversight mechanisms; preventing foreign adversaries from exploiting the country’s education environment; and properly enforcing and strengthening U.S. immigration laws.”

The new rule proposes to eliminate “duration of status” for nonimmigrants in F status and would establish a fixed time period for admission.

Duration of Status
Currently, nonimmigrants in F status are admitted to the U.S. for “duration of status,” meaning their immigration status does not have a specific end date. Under “duration of status,” F-1 nonimmigrants can maintain their F-1 status as long as they are complying with the F-1 regulations. For example, an F-1 student could complete a bachelor’s degree and then continue to a master’s program.

Fixed Time Period of Admission
The proposed rule eliminates “duration of status” and replaces it with a fixed time period of admission. This means F-1 students’ immigration status would have a specific end date. In order to extend that end date, students would need to apply for an Extension of Stay, which would be adjudicated by USCIS.

Limits on admission and extension of stay

The proposed rule also limits the period of admission to four years. There are certain exceptions where the period of admission is two years.

The two-year limitation would apply to:

- Birth or citizenship in a country on the State Sponsors of Terrorism list: Democratic People’s Republic of Korea (North Korea), Iran, Sudan, and Syria.
• Citizens of countries with greater than 10 percent overstay rate, according to the most recent DHS Entry/Exit Overstay report.
• U.S. national interest, to be determined by the Secretary of Homeland Security. This category could include students enrolled in specific technical degree programs.
• Unaccredited schools: UTA is an accredited school. This limitation would not apply.
• Schools not participating in eVerify. This would not apply, as UTA participates in eVerify.

In sum, DHS’s proposal is to transition all F and J nonimmigrants to a fixed admission date by using the program end date noted on their form I-20 or DS-2019 (with the exception of F students engaging in post-completion or STEM OPT extension who would use their EAD’s expiration date) not to exceed four years, plus an additional 60 days for Fs and 30 days for Js as provided in their previous admission. DHS believes this is a natural way to transition the majority of these nonimmigrants to a fixed admission date without creating loopholes.

Under the proposed rule, if you need more time in F-1 status, you would apply for an extension of stay with USCIS. Some examples of when an extension of stay application would be needed:
• You are not able to complete your degree before your admission end date.
• You want to apply for OPT – you would file the extension of stay request and OPT request simultaneously with USCIS.
• You want to change to a new degree program, and you need more time to complete it.

While an extension of stay is pending, you could continue studying and can continue working on-campus or with an economic hardship EAD. You could not continue working on CPT or pre-completion OPT while an extension of stay is pending. You could not begin working on post-completion OPT until the OPT is approved.

What else could change?

The new rule also proposes to:
• Change the grace period from 60 days to 30 days for F-1 students, similar to what is already in place for other visa categories.
• Allow applications for OPT up to 120 days prior to program end date. Therefore, students would still have a five-month period to apply for OPT, as applications would still need be filed by the end of the grace period.
• Limits on ESL study – students may participate in a language training program for a maximum of 24 months.
• Limits on “reverse matriculation” – students may only change to a lower educational level one time.
• Limit on pursuing new F-1 programs at the same educational level. Any student who has completed a program at one educational level would be allowed to change to another program at the same educational level no more than two additional times while in F-1 status, for a total of three programs for the lifetime of the student.
• F-1 cap-gap would be extended. The October 1 end date would be extended to April 1.
What is the Office of International Education doing?

The OIE is continuing to monitor the rulemaking process and review the potential impacts on the UTA community. We will continue to support and advocate for our international students. You are an important part of our university and we are here to support you.

We understand that this is a challenging and uncertain time, and we appreciate your patience and understanding. If you need to speak with an international student advisor, please reach out to us: https://www.uta.edu/oie/