

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 214, 248, and 274a

[DHS Docket No. ICEB–2025–0001]

RIN 1653–AA95

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

AGENCY: U.S. Immigration and Customs Enforcement (ICE), U.S. Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS) is amending its regulations to change the admission period in the F, J, and I classifications from duration of status to an admission for a fixed time period, and additional changes to admission and extension requirements. This final rule will provide additional protections and oversight of these nonimmigrant categories and will allow DHS to better evaluate whether these nonimmigrants are maintaining status while temporarily in the United States. This final rule provides amendments to the proposed rule covering this topic that was published in the **Federal Register** on August 28, 2025.

DATES: This rule has been classified as a major rule subject to congressional review. The effective date is September 15, 2026. However, at the conclusion of the congressional review, if the effective date has been changed, DHS will publish a document in the **Federal Register** to establish the actual effective date or to terminate the rule.

FOR FURTHER INFORMATION CONTACT: Office of Principal Legal Advisor, U.S. Immigration and Customs Enforcement, Department of Homeland Security, 500 12th Street SW, Washington, DC 20536–5901. Telephone 202–732–6960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Acronyms and Abbreviations

ACGME Accreditation Council for Graduate Medical Education
ADIS Arrival and Departure Information System
ARO Alternative Responsible Officer
AUD Admit Until Date
CBP U.S. Customs and Border Protection
CFR Code of Federal Regulations
CPT Curricular Practical Training
DOJ U.S. Department of Justice
DHS U.S. Department of Homeland Security
D/S Duration of Status

DoS U.S. Department of State
DSO Designated School Official
EAD Employment Authorization Document
ECFMG Educational Commission for Foreign Medical Graduates
ED U.S. Department of Education
ELT English language training
EOS Extension of Stay
ESL English as a second language
FY Fiscal year
GAO U.S. Government Accountability Office
ICCPR International Covenant on Civil and Political Rights
ICE U.S. Immigration and Customs Enforcement
IIRIRA Illegal Immigration Reform and Immigrant Responsibility Act of 1996
INA Immigration and Nationality Act
INS U.S. Immigration and Naturalization Service
NPRM Notice of Proposed Rulemaking
NIH National Institutes of Health
OPT Optional Practical Training
PDSO Principal Designated School Officials
POE Port of Entry
PRC People's Republic of China
RFE Request for Evidence
RO Responsible Officer
SAR Special Administrative Region
SEVIS Student and Exchange Visitor Information System
SEVP Student and Exchange Visitor Program
SSR Special Student Relief
STEM Science, Technology, Engineering and Mathematics
UDHR Universal Declaration of Human Rights
USA PATRIOT Act Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001
USCIS U.S. Citizenship and Immigration Services

II. Executive Summary

A. Purpose of the Regulatory Action

Studying and participating in exchange visitor and academic programs in the United States offers aliens access to world-renowned, individualized instructional and educational programs. Similarly, the United States allows foreign news and media members access to the United States as part of their foreign employment. Millions of aliens have come to the United States on a temporary basis in the F (academic student),¹ J (exchange visitor),² and I (representatives of foreign information media)³ nonimmigrant classifications.⁴

¹ See Immigration and Nationality Act (INA) 101(a)(15)(F), 8 U.S.C. 1101(a)(15)(F).

² See INA 101(a)(15)(J), 8 U.S.C. 1101(a)(15)(J).

³ See INA 101(a)(15)(I), 8 U.S.C. 1101(a)(15)(I).

⁴ See Office of Homeland Security Statistics, *Yearbook of Immigration Statistics—Yearbook 2023, Table 25, Nonimmigrant Admissions by Class of Admission: Fiscal Years 2014 to 2023* (last updated July 31, 2025), <https://ohss.dhs.gov/topics/immigration/yearbook-immigration-statistics/yearbook-2023>.

Unlike aliens in most nonimmigrant classifications who are admitted until a specific departure date, F, J, and I (except for some I nonimmigrants from the People's Republic of China (PRC)) nonimmigrants are admitted into the United States for an unspecified period of time to engage in activities authorized under their respective nonimmigrant classifications. This unspecified period of time is referred to as “duration of status” (D/S). D/S for F academic students is generally the time during which a student is pursuing a full course of study at an educational institution approved by DHS, or engaging in authorized practical training following completion of studies, plus authorized time to depart the country.⁵ D/S for J exchange visitors is the time during which an exchange visitor is participating in an authorized program, plus authorized time to depart the country.⁶ D/S for I representatives of foreign information media is the duration of their foreign employment duties in the United States.⁷ For dependents of principal F, J, or I nonimmigrants, D/S generally corresponds with the principal's period of admission so long as the dependents are also complying with the requirements of their particular classifications.⁸

Since D/S was first introduced in 1978 for F nonimmigrants and in 1985 for J and I nonimmigrants,⁹ the number of F, J, and I nonimmigrants admitted each year into the United States has significantly increased.¹⁰ In fiscal year (FY)2024 alone, there were over 1.8

⁵ Statutory and regulatory requirements restrict the duration of study for an alien who is admitted in F–1 status to attend a public high school to an aggregate of 12 months of study at any public high school(s). See INA 214(m), 8 U.S.C. 1184(m); see also 8 CFR 214.2(f)(5)(i) (2025).

⁶ See 8 CFR 214.2(j)(1)(ii) (2025) (explaining the initial admission period) and 8 CFR 214.2(j)(1)(iv) (2025) (explaining that extensions of stay can be obtained with a new Form DS–2019). See also 22 CFR 62.43 (permitting responsible officers to extend J nonimmigrant's program beyond the original DS–2019 end date according to length permitted for the specific program category).

⁷ 8 CFR 214.2(i) (2025).

⁸ See 8 CFR 214.2(f)(3) (2025), (f)(5)(vi)(D) (2025) (discussing F–2 period of authorized admission); 214.2(j)(1)(ii) (2025), (j)(1)(iv) (2025) (discussing J–2 authorized period of admission); INA 101(a)(15)(I), 8 U.S.C. 1101(a)(15)(I); 22 CFR 41.52(c).

⁹ See *Admission of Nonimmigrant Students for Duration of Status*, 43 FR 54618 (Nov. 22, 1978) and *Nonimmigrant Classes; Admission Period and Extensions of Stay*, 50 FR 42006 (Oct. 17, 1985).

¹⁰ In 1985, when D/S was introduced for I and J nonimmigrants, there were 16,753 admissions in I status, 141,213 admissions in J status, and 251,234 admissions in F status. DOJ, Immigration and Naturalization Service, *1997 Statistical Yearbook of the Immigration and Naturalization Service* (Oct. 1999), https://ohss.dhs.gov/sites/default/files/2023-12/Yearbook_Immigration_Statistics_1997.pdf.

million admissions in F status, a dramatic rise from when the legacy U.S. Immigration and Naturalization Service (INS) first shifted to D/S admission in 1979 and more than an 11 percent increase since FY 2023.¹¹ For example, in the 1980–81 school year, there were approximately 260,000 admissions in F status.¹² Similar growth in the J nonimmigrant population has also occurred over the past decades. In FY 2024, there were over 500,000 admissions in J status, up over 300 percent from the 141,213 J admissions into the United States in 1985 and up over 7 percent since FY 2023.¹³ Finally, there were 37,330 admissions for I nonimmigrant foreign media representatives in the United States in FY 2024, over double the 16,753 admissions into the U.S. in 1985 and a nearly 15 percent increase from the prior fiscal year.¹⁴

The significant increase in the volume of F academic students, J exchange visitors, and I representatives of information media under D/S poses a challenge to DHS's ability to monitor and oversee these nonimmigrants while they are in the United States. During the length of their stay for D/S, a period of admission without a specified end date, these nonimmigrants are not required to have direct interaction with DHS, except for a few limited instances, such as when applying for employment authorization for optional practical training (OPT), or for reinstatement if they have failed to maintain status.

¹¹ In FY 2024, there were 1,816,480 admissions in F–1 status and 63,510 in F–2 status. See DHS Off. of Homeland Sec. Stat., *Legal Immig. and Adjustment of Status Report Fiscal Year 2024, Quarter 4*, tbl.4B, https://ohss.dhs.gov/sites/default/files/2025-06/2025_0624_ohss_legal-immigration-adjustment-of-status-fy-2024q4_0.xlsx. Compare this to FY 2023, when there were 1,625,740 admissions in F–1 status and 61,910 in F–2 status. See DHS Off. of Homeland Sec. Stat., *Legal Immig. and Adjustment of Status Report Fiscal Year 2023, Quarter 4*, tbl.4B, https://ohss.dhs.gov/sites/default/files/2024-06/2024_0507_ohss_legal-immigration-adjustment-of-status-fy-2023q4.xlsx.

¹² In the 1980–81 school year, 312,000 nonimmigrant students were admitted into the United States. Approximately 83 percent of the nonimmigrant students admitted into the United States during the 1980–81 school year were in F status. Therefore, approximately 258,960 nonimmigrant students in F status were admitted into the United States in the 1980–81 school year. See U.S. Gov't Accountability Office (GAO), *Controls Over Foreign Students in U.S. Postsecondary Institutions Are Still Ineffective; Proposed Legislation and Regulations May Correct Problems* (Mar. 10, 1983), <https://www.gao.gov/assets/hrd-83-27.pdf>.

¹³ See FY 2024, Quarter 4, tbl.4B, *supra* note 11, sum of J–1 514,170 and J–2 68,010. See also DHS FY 2023, Quarter 4, tbl.4B, *supra* note 11, sum of J–1 481,280 and J–2 62,000.

¹⁴ See FY 2024, Quarter 4, tbl.4B, *supra* note 11. See also DHS FY 2023, Quarter 4, tbl.4B, *supra* note 11, sum of I nonimmigrants 32,470.

Admission for D/S, in general, does not afford immigration officers enough predetermined opportunities to directly verify that aliens granted such nonimmigrant statuses are engaging only in those activities their respective classifications authorize while they are in the United States. In turn, this has undermined DHS's ability to effectively enforce compliance with the statutory inadmissibility grounds related to unlawful presence and has created incentives for fraud and abuse.

For F and J visa holders, the Immigration and Nationality Act (INA) specifically states that aliens must have a residence in a foreign country which they have no intention of abandoning and seek to enter the United States temporarily,¹⁵ yet, DHS has many examples of students and exchange visitors staying for decades in their student or exchange visitor status.¹⁶

The events of 9/11 highlighted the potential for abuse of the student visa. In the wake of 9/11, a Homeland Security Presidential Directive titled, *Combating Terrorism Through Immigration Policies* directed, among other things, that a program be developed to track the status of foreign students. It also mandated that the government develop guidelines that may include control mechanisms such as limited duration of student status.¹⁷ The 9/11 Commission reiterated the need to track foreign students and place tighter controls on student visas.¹⁸ From these mandates and the statutory authorities described below, the Student and Exchange Visitor Program (SEVP) was created, and the electronic Student and Exchange Visitor Information System (SEVIS) was implemented. SEVIS is a DHS computer system that stores and processes information about foreign students and exchange visitors in the U.S.

SEVIS ensures government agencies have essential data related to nonimmigrant students and exchange visitors to preserve national security. SEVIS also implements Section 641 of the Illegal Immigration Reform and

¹⁵ See INA sec. 101(a)(15)(F) and (J); 8 U.S.C. 1101(a)(15)(F) and (J).

¹⁶ DHS has identified over 2,100 aliens who first entered as F–1 students between 2000 and 2010 and remain in active F–1 status as of Apr. 6, 2025. See Student Exchange Visitor Program analysis of data in the Student Exchange Visitor Information System and valid as of Apr. 6, 2025.

¹⁷ See Homeland Sec. Presidential Directive 2, *Combating Terrorism Through Immig. Policies* (Oct. 29, 2001) (HSPD–2), <https://georgewbush-whitehouse.archives.gov/news/releases/2001/10/text/20011030-2.html>.

¹⁸ Kean, T.H. & Hamilton, L.H., *The 9/11 Commission report: final report of the National Commission on Terrorist Attacks upon the United States*, New York: Norton, at 81, 187 (2004).

Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208 (codified at 8 U.S.C. 1372), which requires DHS to collect current information from nonimmigrant students and exchange visitors continually during their stay in the United States. In addition, section 416 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Public Law 107–56 (amending IIRIRA sec. 641), mandated full implementation and expansion of SEVIS.

Given these mandates and concerns, DHS believes that the admission of F, J, and I nonimmigrants for D/S is not appropriate. The final rule replaces the D/S framework for F, J, and I nonimmigrants with a return to an admission period with a specific date upon which an authorized stay ends. Nonimmigrants who would like to stay in the United States beyond their fixed period of admission will need to apply directly to DHS for an extension of stay (EOS)¹⁹ or gain readmission by traveling abroad and re-entering the United States. DHS anticipates that many F, J, and I nonimmigrants will be able to complete their respective activities within their period of admission. However, those who are unable will generally be able to request an extension of their period of admission from an immigration officer. DHS believes that this process will help to mitigate risks posed by aliens who seek to exploit these programs and live in the United States on a non-temporary basis in contradiction with the underlying statutory language that applies to their nonimmigrant status.

Replacing admissions for D/S with admissions for a fixed time period of authorized stay is consistent with most other nonimmigrant categories.²⁰ It will

¹⁹ See generally 8 CFR 214.1(c) (setting forth the general EOS requirements applicable to most other nonimmigrants).

²⁰ For example, see 8 CFR 214.2(a)(1) (setting forth a period of admission for the A–3 nonimmigrant classification); (b)(1) (period of admission for aliens admitted under the B nonimmigrant classification); (c)(3) (period of admission for aliens in transit through the United States); (e)(19) (periods of admission for most E nonimmigrants); (g)(1) (period of admission for the G–5 nonimmigrant classification); (h)(5)(viii) (9)(iii) and (13) (various periods of admission and maximum periods of stay for the H–1B, H–2A, H–2B, and H–3 nonimmigrant classification); (k)(8) (period of admission for the K–3 and K–4 nonimmigrant classification); (l)(11)–(12) (periods of admission and maximum periods of stay for the L nonimmigrant classification); (m)(5), (10) (period of stay for the M nonimmigrant classification); (n)(3) (period of admission for certain parents and children eligible for admission as special immigrants under section 101(a)(27)(I); (o)(6)(iii)

Continued

provide additional protections and oversight of these nonimmigrant categories and will allow DHS to better evaluate whether these nonimmigrants are maintaining status while temporarily in the United States. DHS does not believe such a requirement will place an undue burden on F, J, and I nonimmigrants. Rather, providing F, J, and I nonimmigrants a fixed time period of authorized stay that will require them to apply to extend their stay, change their nonimmigrant status, or otherwise obtain authorization to remain in the United States (e.g., adjustment of status) by the end of this specific admission period is consistent with requirements applicable to most other nonimmigrant classifications and consistent with the practices for F–1 students prior to 1979.²¹

These changes will ensure that DHS has an effective mechanism to periodically and directly assess whether these nonimmigrants are complying with the conditions of their classifications and U.S. immigration laws, and to obtain timely and accurate information about the activities these aliens have engaged in and plan to engage in during their temporary stay in the United States. If immigration officers discover a nonimmigrant in one of these classifications has overstayed or otherwise violated his or her status, the alien will accrue unlawful presence for purposes of unlawful presence-related statutory grounds of inadmissibility under the INA. Unlawful presence in the United States may result in an alien becoming inadmissible upon departing the United States.²² As a result of this inadmissibility, the alien may become ineligible for a nonimmigrant or immigrant visa, admission to the United States, or benefits for which admissibility is required, such as adjustment of status to that of a lawful permanent resident.²³ This will encourage aliens to maintain lawful status and reduce instances in which F, J, and I nonimmigrants unlawfully remain in the United States after their program, practical training, or activities

or assignments consistent with the I classification end. DHS believes this greater oversight will deter F, J, or I nonimmigrants from engaging in fraud and abuse and will strengthen the integrity of these nonimmigrant classifications while enhancing national security.

DHS believes that the provisions of each new regulatory amendment function independently of other provisions. However, to protect DHS's goals for this rule, DHS added regulatory text stating that the provisions are severable so that, if necessary, the regulations may continue to function even if a provision is rendered inoperable.

B. Public Participation—Overview of Comments

On August 28, 2025, DHS published a notice of proposed rulemaking (NPRM), *Establishing a Fixed Time Period of Admission and an Extension of Stay (EOS) Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media* (90 FR 42070). The public was given 32 days to comment on the proposed rule and 60 days to comment on the information collections described in the *Paperwork Reduction Act* section of the NPRM. DHS received close to 22,000 public comments. To see comments go to <https://www.regulations.gov> and enter this rulemaking's eDocket number: DHS Docket No. ICEB–2025–0001 in the “Search” box.

C. Summary of Changes

Following careful consideration of public comments received, DHS has made several changes to the regulatory text proposed in the NPRM.²⁴ However, most of the changes proposed in the NPRM have been adopted. A summary of the changes as compared to the NPRM is outlined in section V.A. below. As discussed in detail elsewhere in this preamble, the changes this final rule makes to the Code of Federal Regulations (CFR) include the following:

- Amend 8 CFR 214.1, Requirements for admission, extension, and maintenance of status, by:
 - Striking all references to D/S for F, J, and I nonimmigrants;
 - Describing requirements for F and J nonimmigrants seeking admission, including after travel abroad and those

approved for OPT and academic training;

- Updating the cross reference and clarifying the standards for admission in the automatic extension visa validity provisions that cover F and J nonimmigrants applying at a Port of Entry (POE) after an absence not exceeding 30 days solely in a contiguous territory or adjacent islands;
- Outlining the process for EOS applications for F, J, and I nonimmigrants;

○ Providing a short-term reprieve from filing for EOS during the first 6 months after the rule takes effect if applying for employment authorization for either post-completion OPT or STEM OPT;

- Specifying the effect of departure while an F, J, or I nonimmigrant's application for an EOS in F, J, or I nonimmigrant status and/or employment authorization (and an associated employment authorization document (EAD)) is pending;

○ Providing procedures specific to the transition from D/S to admission for a fixed time period of authorized stay for F, J, and I nonimmigrants;

- Replacing references to specific form names and numbers with general language, to account for future changes to form names and numbers; and

○ Codifying that an F–1 student who has timely filed an EOS application, will be authorized to continue pursuing a full course of study after the expiration of the admission period until USCIS adjudicates the EOS application.

- Amend 8 CFR 214.2, Special requirements for admission, extension, and maintenance of status, by:

○ Setting the authorized admission and extension periods for F and J nonimmigrants up to the program length, not to exceed a 4-year period;

○ For F–1 students changing educational objectives or transferring to an SEVP-certified school, requiring that the student complete his or her first academic year of a program of study at the school that initially issued his or her Form I–20 or successor form, unless an exception is authorized by SEVP;

- Prohibiting F–1 students at the graduate education level or above from changing educational objectives at any point during a program of study;

○ Prohibiting F–1 students at the graduate education level or above from transferring at any point during their program of study, unless an exception is authorized by SEVP for extenuating circumstances;

- Outlining procedures and requirements for F–1 nonimmigrants who change educational objectives while in F–1 status;

and (10) (period of admission for the O nonimmigrant classification); (p)(8)(iii) and (12) (period of admission for the P nonimmigrant classification); (q)(2) (period of admission for the Q nonimmigrant classification); (r)(6) (period of admission for the R nonimmigrant classification); (s)(1)(ii) (period of admission for the NATO–7 nonimmigrant classification); (t)(5)(ii) (period of admission for the S nonimmigrant classification); and (w)(13) and (16) (period of admission for the CW–1 nonimmigrant classification).

²¹ See *Special Requirements for Admission, Extension, and Maintenance of Status*, 38 FR 35425 (Dec. 28, 1973).

²² See INA 212(a); 8 U.S.C. 1182(a).

²³ See INA 212(a), 8 U.S.C. 1182(a); INA 245(a); 8 U.S.C. 1255(a).

²⁴ See *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*, 90 FR 42070 (Aug. 28, 2025).

- Requiring any nonimmigrant who has completed a program at one educational level to only be allowed to begin another program at a higher educational level as an F–1 student and prohibiting a change to the same or a lower educational level while an F–1 student;

- Providing DHS the ability to delay implementation of the prohibition on changing schools, educational objectives, and levels if needed;

- Clarifying the circumstances under which a continuing F–1 student may be granted an EOS;

- Decreasing the period allowed for F–1 nonimmigrants to prepare to depart from the United States after completion of a course of study or an authorized period of post-completion practical training from 60 to 30 days;

- Requiring that if an F–1 student ends study or training early, the student and eligible dependents must depart the U.S. or take action to maintain lawful status within 30 days of the end date;

- Providing for collection of biometric information in conjunction with an EOS application for F, J, and I nonimmigrants as may be required by 8 CFR 103.16;

- Limiting language training students to an aggregate 24-month period of stay, including breaks and an annual vacation;

- Providing that a delay in completing one's program by the program end date specified on the Form I–20, which includes but is not limited to delays caused by academic probation or suspension or a student's repeated inability or unwillingness to complete his or her course of study, is generally an unacceptable reason for program extensions for F nonimmigrants;

- Allowing F nonimmigrants whose timely filed EOS applications remain pending after their admission period has expired to receive an auto-extension of their current authorization for on-campus and off-campus employment based on severe economic hardship resulting from emergent circumstances under existing 8 CFR 214.2(f)(5)(v). The length of the auto-extension of employment authorization will be up to 240 days or the end date of the **Federal Register** notice announcing the suspension of certain regulatory requirements, whichever is earlier;

- Replacing D/S for I nonimmigrants with admission for a fixed time period until they complete the activities or assignments consistent with the I classification, not to exceed 240 days (with the exception of some I nonimmigrants from the PRC), with an EOS available for I nonimmigrants who can meet specified EOS requirements;

- Codifying the definition of a foreign media organization for I nonimmigrant status, consistent with long-standing U.S. Citizenship and Immigration Services (USCIS) and U.S. Department of State (DoS) practice;

- Updating the evidence an alien must submit to demonstrate eligibility for the I nonimmigrant classification;

- Clarifying that J–1 nonimmigrants who are employment authorized with a specific employer incident to status continue to be authorized for such employment for up to 240 days under the existing regulatory provision at 8 CFR 274a.12(b)(20) if their status expires while their timely filed EOS application is pending, whereas J–2 dependents, who must apply for employment authorization as evidenced by an EAD, do not have the benefit of continued work authorization once the EAD expires;

- Providing a temporary reprieve for those J–1s whose D/S status expires shortly after the rule takes effect by allowing them to apply for EOS and continue to work for the duration of the time on their new Form DS–2019 regardless of how long the EOS application takes to adjudicate;

- Requiring that if the program end date is shortened, the J–1 exchange visitor and any J–2 accompanying dependents must leave the United States within 30 days from the new program end date or otherwise seek to maintain lawful status in that 30-day period;

- Providing the responsibilities of the responsible officer (RO) when submitting late requests for extension of current program end date for exchange visitors;

- Clarifying that I nonimmigrants are authorized to continue working in the United States for their foreign employer, under 8 CFR 274a.12(b)(20), for up to 240 days (with the exception of I nonimmigrants from the PRC who may continue working for up to 90 days) while their timely filed EOS application is pending;

- Striking all references to “duration of status” and/or “duration of employment” for the F, J, and I nonimmigrant classifications; and

- Including a severability clause. In the event that any provision of this rule is not implemented for whatever reason, the remaining provisions can be implemented in accordance with the stated purposes of this rule.

- Amending 8 CFR 214.2(f)(5)(ii)(E) to limit the ability to delay or suspend the implementation of 8 CFR 214.2(f)(5)(ii)(A) through (C) for a period of two years from the effective date of

the rule since this provision is not needed indefinitely.

- Amend 8 CFR 248.1, Eligibility, by:

- Establishing requirements to determine the period of stay for F or J nonimmigrants whose change of status application was approved before the final rule's effective date and who depart the United States, then seek admission after the final rule's effective date; and

- Codifying the long-standing policy under which DHS deems abandoned an application to change to another nonimmigrant status, including F or J status, if the alien who timely filed the application departs the United States while the application is pending.

- Amend 8 CFR 274a.12, Classes of aliens authorized to accept employment, by updating the employment authorization provisions to incorporate the revisions in 8 CFR 214.2.

D. Summary of the Costs and Benefits

Currently, aliens in the F (academic student), J (exchange visitor), and most I (representatives of foreign information media) nonimmigrant classifications are admitted to the United States under the D/S framework. However, this framework poses a challenge to DHS's ability to efficiently monitor and oversee these nonimmigrants to assess whether these nonimmigrants are complying with the terms and conditions of their status and whether they present national security concerns. To address these vulnerabilities, DHS is replacing D/S with an admission for a fixed time period for F, J, and I nonimmigrants. Admitting aliens in the F, J, and I classifications for a fixed period of time will require all F, J, and I nonimmigrants who wish to remain in the United States beyond their specific authorized admission period to apply for authorization to extend their stay with USCIS if in the United States, thus requiring periodic assessments by DHS in order for the alien to remain in the United States for a longer period. This change will impose incremental costs on F, J, and I nonimmigrants as well as schools and exchange visitor program sponsors but will in turn protect the integrity of the F, J, and I programs by having immigration officers evaluate and assess the appropriate length of stay for these nonimmigrants.

The period of analysis for the rule covered 10 years and assumed the rule would go into effect in 2026. Therefore, the analysis period goes from 2027 through 2036. This analysis estimates the annualized value of future costs using two discount rates: 3 percent and 7 percent. In Circular A–4, OMB recommends that a three percent

discount rate be used when a regulation affects private consumption, and a seven percent discount rate be used in evaluating a regulation that will mainly displace or alter the use of capital in the private sector. The discount rate accounts for how benefits or costs that occur sooner are more valuable. The rule will have an annualized cost ranging from \$443.1 million to \$448.6 million (with 3 and 7 percent discount rates, respectively). When considering U.S. parties only, annual costs range from \$119.9 million to \$125.1 million (with 3- and 7-percent discount rates, respectively).

III. Background and Purpose

A. Legal Authority

The authority of the Secretary of Homeland Security (the Secretary) to implement the regulatory amendments in this rule can be found in various provisions of the immigration laws. Section 102 of the Homeland Security Act of 2002 (HSA) (Pub. L. 107–296, 116 Stat. 2135), 6 U.S.C. 112, and section 103(a)(1) and (3) of the INA, 8 U.S.C. 1103 (a)(1), (3), charge the Secretary with the administration and enforcement of the immigration and naturalization laws of the United States. Section 214(a) of the INA, 8 U.S.C. 1184(a), gives the Secretary the authority to prescribe, by regulation, the time and conditions of admission of any alien as a nonimmigrant, including F, J, and I nonimmigrant aliens. *See also* 6 U.S.C. 271(a)(3), (b) (describing certain USCIS functions and authorities, including USCIS's authority to establish national immigration services policies and priorities and adjudicate benefits applications) and 6 U.S.C. 252(a)(4) (describing the authority of Immigration and Customs Enforcement (ICE) to collect information relating to foreign students and exchange program participants and to use such information to carry out its enforcement functions).

Section 248 of the INA, 8 U.S.C. 1258, permits DHS to allow certain nonimmigrants to change their status from one nonimmigrant status to another nonimmigrant status, with certain exceptions, as long as they continue to maintain their current nonimmigrant status and are not inadmissible under section 212(a)(9)(B)(i) of the INA, 8 U.S.C. 1182(a)(9)(B)(i). Similar to extensions of stay, change of status adjudications are discretionary determinations.²⁵ Also, section 274A of the INA, 8 U.S.C. 1324a, governs the employment of aliens who

are authorized to be employed in the United States by statute or in the discretion of the Secretary.

Finally, the INA establishes who may be admitted as F, J, or I nonimmigrants. Specifically, section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i), established the F nonimmigrant classification for, among others, bona fide students qualified to pursue a full course of study who wish to enter the United States temporarily and solely for the purpose of pursuing a full course of study at an academic or language training school certified by the SEVP, as well as for the spouse and unmarried children under the age of 21 of such aliens. *See also* INA 214(m), 8 U.S.C. 1184(m) (limiting the admission of nonimmigrants for certain aliens who intend to study at public elementary and secondary schools).

Section 101(a)(15)(J) of the INA, 8 U.S.C. 1101(a)(15)(J), established the J nonimmigrant classification for aliens who wish to come to the United States temporarily and have no intention of abandoning their residence in a foreign country, to participate in exchange visitor programs designated by the DoS, as well as for the spouses and unmarried children under the age of 21 of such aliens in certain J–1 categories.

Section 101(a)(15)(I) of the INA, 8 U.S.C. 1101(a)(15)(I), established, upon a basis of reciprocity, the I nonimmigrant classification for bona fide representatives of foreign information media (such as press, radio, film, print) seeking to enter the United States to engage in such vocation, as well as for the spouses and children of such aliens.

Within DHS, SEVP is administered by ICE. SEVP is authorized to administer the program to collect information related to nonimmigrant students and exchange visitors under various statutory authorities. Section 641 of IIRIRA authorizes the creation of a program to collect current and ongoing information provided by schools and exchange visitor programs regarding F and J nonimmigrants during the course of their stays in the United States, using electronic reporting technology where practicable. Consistent with this statutory authority, DHS manages these programs pursuant to Homeland Security Presidential Directive-2 (HSPD–2), Combating Terrorism Through Immigration Policies (Oct. 29, 2001), as amended, (<https://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39618/pdf/CPRT-110HPRT39618.pdf>), and section 502 of the Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107–173, 116 Stat. 543, 563 (May 14,

2002) (EBSVERA). HSPD–2 requires the Secretary of Homeland Security to conduct periodic, ongoing reviews of institutions certified to accept F nonimmigrants, and to include checks for compliance with recordkeeping and reporting requirements. Section 502 of EBSVERA directs the Secretary to review the compliance with recordkeeping and reporting requirements under 8 U.S.C. 1101(a)(15)(F) and 1372 of all schools approved for attendance by F students within 2 years of enactment, and every 2 years thereafter.

B. Background

1. F Classification

Section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i), permits aliens who are bona fide students to temporarily be admitted to the United States solely for the purpose for pursuing a full course of study at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic language training program. Principal applicants are categorized as F–1 nonimmigrants and their spouses and children who may accompany or follow to join as F–2 dependents.²⁶

From 1973 to 1979, F students were admitted for one year and could be granted an EOS in increments of up to 12 months if they established that they were maintaining status.²⁷ However, on July 26, 1978, given the large number of nonimmigrant students in the United States at the time and the need to continually process their EOS applications, legacy INS proposed amending the regulations to permit F–1 students to be admitted for the duration of their status as students.²⁸ Legacy INS explained the changes would facilitate the admission of nonimmigrant students, provide dollar and manpower savings to the Government, and permit more efficient use of resources.²⁹ On November 22, 1978, a final rule was published to amend the regulations at 8 CFR 214 to allow the legacy INS to admit F–1 students for a D/S period.³⁰ That rule became effective on January 1, 1979.

²⁶ INA 101(a)(15)(F)(i)–(ii), 8 U.S.C. 1101(a)(15)(F)(i)–(ii); 8 CFR 214.2(f)(3). DHS notes the terms “F–1 nonimmigrant” and “F–1 student” are used throughout this final rule and the regulatory text. These terms are synonymous.

²⁷ *See* 38 FR 35425 (Dec. 28, 1973) (The period of admission of a nonimmigrant student shall not exceed one year.).

²⁸ *See Admission of Nonimmigrant Students for Duration of Status*, 43 FR 32306 (July 26, 1978).

²⁹ *Id.* at 32306–07.

³⁰ *See* 43 FR 54618 (Nov. 22, 1978) (The period of admission of a nonimmigrant student shall be for

²⁵ *See* INA 248(a), 8 U.S.C. 1258(a); 8 CFR 248.1(a).

Subsequently, between January 23, 1981, and October 29, 1991, the INS amended the regulations addressing admission periods for F–1 students four more times.³¹ On January 23, 1981, a rule changed admission for F–1 nonimmigrants to a fixed period of admission, *i.e.*, the time necessary to complete the course of study, with the opportunity for an EOS on a case-by-case basis.³² Legacy INS explained this was necessary because admitting nonimmigrant students for D/S resulted in questionable control over foreign students and contributed to problems in record keeping.³³

On April 5, 1983, D/S was reinstituted with, among other changes, the implementation of new notification procedures for transfers between schools, improved reporting requirements for Designated School Officials (DSOs),³⁴ a limit for enrollment in one educational level, and a requirement for F–1 students to apply for an EOS and, if applicable, a school transfer to pursue another educational program at the same level of educational attainment.³⁵

On April 22, 1987, a final rule outlined medical and academic reasons that would allow F–1 students to drop below a full-time course of study while remaining in D/S status and clarified when an EOS or reinstatement must be requested.³⁶

Finally, in 1991, the regulations were revised to implement Section 221(a) of the Immigration Act of 1990 (IMMACT 90), Public Law 101–649, 104 Stat. 4978, which established a three-year off-campus program for F–1 students,³⁷ and clarified the procedures for F–1 students seeking EOS and employment

the duration of status in the United States as a student if the information on his/her Form I–20 indicates that he/she will remain in the United States as a student for more than 1 year. If the information on Form I–20 indicates the student will remain in the United States for 1 year or less, he/she shall be admitted for the time necessary to complete his/her period of study).

³¹ See *Nonimmigrant Classes; Revised Requirements for Nonimmigrant “F–1” Students*, 46 FR 7267 (Jan. 23, 1981), *Nonimmigrant Classes; Change of Nonimmigrant Classification; Revisions in Regulations Pertaining to Nonimmigrant Students and the Schools Approved for Their Attendance*, 48 FR 14575 (Apr. 5, 1983); *Nonimmigrant Classes; F–1 Academic Students*, 52 FR 13223 (Apr. 22, 1987); *Nonimmigrant Classes; Students F and M Classifications*, 56 FR 55608 (Oct. 29, 1991).

³² See 46 FR 7267 (Jan. 23, 1981).

³³ *Id.*

³⁴ A DSO means a regularly employed member of the school administration whose office is located at the school and whose compensation does not come from commissions for recruitment of foreign students See 8 CFR 214.3(l).

³⁵ See 48 FR 14575 (Apr. 5, 1983).

³⁶ See 52 FR 13223 (Apr. 22, 1987).

³⁷ See 56 FR 55608 (Oct. 29, 1991).

authorization utilizing the Form I–20.³⁸ The rule also gave DSOs the authority to grant program extensions (essentially an EOS) for F–1 students with a compelling academic or medical reason that prevented them from completing their educational program by a program end date and then to notify INS of the extension.³⁹ Since then, and pursuant to the 1991 final rule, the DHS has relied on DSOs to report on student status, issue program extensions, and transfer students between programs and schools. Information from these nonimmigrant students is now tracked in SEVIS to ensure government agencies have essential data related to nonimmigrant students to preserve national security. This is consistent with the requirements in IIRIRA, the USA PATRIOT Act, Public Law 107–56, and the recommendations of the 9/11 Commission Report. Changes to D/S were proposed for F students in 2020, but the proposal was withdrawn in 2021.⁴⁰

2. J Classification

The J nonimmigrant classification was created in 1961 by the Mutual Educational and Cultural Exchange Act of 1961, also known as the Fulbright-Hays Act of 1961, Public Law 87–256, 75 Stat. 527 (22 U.S.C. 2451, *et seq.*), to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges. It authorizes aliens to participate in a variety of exchange visitor programs in the United States. The Exchange Visitor Program regulations cover the following program categories: professors and research scholars, short-term scholars, trainees and interns, college and university students, teachers, secondary school students, specialists, alien physicians, international visitors,

government visitors, camp counselors, au pairs, and summer work travel.⁴¹

Prior to 1985, J exchange visitors were granted an initial admission for the period of their program up to one year.⁴² In 1985, the regulations were amended to allow J exchange visitors to be admitted for the duration of their program plus 30 days.⁴³ This change from being admitted for a fixed period to D/S was implemented as part of a continuing effort to reduce reporting requirements for the public as well as the paperwork burden on the agency associated with processing extension requests.⁴⁴ Changes to D/S were proposed for J exchange visitors in 2020, but the proposal was withdrawn in 2021.⁴⁵

A prospective exchange visitor must be sponsored by a DoS-designated program sponsor to be admitted to the United States in the J nonimmigrant classification and participate in an exchange visitor program. The DoS designated sponsor will issue a prospective J exchange visitor a Form DS–2019, Certificate of Eligibility for Exchange Visitor (J–1) Status. The DS–2019 permits a prospective exchange visitor to apply for a J–1 nonimmigrant visa at a U.S. embassy or consulate abroad or seek admission as a J–1 nonimmigrant at a POE. A J–1 exchange visitor is admitted into the United States for D/S, which is the length of his or her exchange visitor program.⁴⁶

⁴¹ See INA 101(a)(15)(J), 8 U.S.C. 1101(a)(15)(J); 22 CFR 62.20–62.32.

⁴² See 8 CFR 214.2(j)(1)(ii) (1985).

⁴³ See 50 FR 42006 (Oct. 17, 1985).

⁴⁴ *Id.*

⁴⁵ See 85 FR 60526 (Sept. 25, 2020) and 86 FR 35410 (July 6, 2021).

⁴⁶ Form DS–2019, Certificate of Eligibility for Exchange Visitor (J–1) Status, is the document required to support an application for an exchange visitor visa (J–1). It is a 2-page document that can only be produced through SEVIS. SEVIS is the DHS database developed to collect information on F, M, and J nonimmigrants (see 8 U.S.C. 1372 and 6 U.S.C. 252(a)(4)). The potential exchange visitor's signature on page one of the form is required. Page 2 of the current Form DS–2019 consists of instructions and certification language relating to participation. No blank Forms DS–2019 exist. Each Form DS–2019 is printed with a unique identifier known as a “SEVIS ID number” in the top right-hand corner, which consists of an “alpha” character (N) and 10 numerical characters (*e.g.*, N0002123457). The DoS' Office of Private Sector Exchange Designation in the Bureau of Educational and Cultural Affairs (ECA/EC/D) designates U.S. organizations to conduct exchange visitor programs. These organizations are known as program sponsors. When designated, the organization is authorized access to SEVIS and is then able to produce Form DS–2019 from SEVIS. The program sponsor signs the completed Forms DS–2019 in blue ink and transmits them to the potential exchange visitor and his or her spouse and unmarried children under the age of 21. J visa applicants must present a signed Form DS–2019 at

Extensions of J exchange visitor programs are governed by DoS regulations.⁴⁷ If there is authority to extend a program, the exchange visitor program sponsor's RO,⁴⁸ similar to the DSO in the F-1 student context, is authorized to extend a J exchange visitor's program by issuing a duly executed Form DS-2019.⁴⁹ Requests for extensions beyond the maximum program duration provided in the regulations must be approved by DoS, which adjudicates these extensions. USCIS does not adjudicate these program extensions; however, USCIS does adjudicate requests to change into J status from another nonimmigrant status. As outlined above, consistent with the requirements in IIRIRA and the USA PATRIOT Act, Public Law 107-56, J exchange visitor programs are also monitored using SEVIS.

3. I Classification

Section 101(a)(15)(I) of the INA defines the I classification as, upon a basis of reciprocity, an alien who is a bona fide representative of foreign press, radio, film, or other foreign information media who seeks to enter the United States solely to engage in such vocation, and the spouse and children of such a representative, if accompanying or following to join him or her. Most nonimmigrant representatives of information media (with the exception of those presenting a passport issued by

the time of their visa interview. Once the visa is issued, however, the biographic information on the SEVIS record cannot be updated until the participant's program is validated ("Active" in SEVIS). The sponsor is required to update the SEVIS record upon the exchange visitor's entry, and no corrections to the record can be made until that time. In addition, in the event a visa is needed, sponsors may issue a Form DS-2019 for a dependent spouse or child; the system will not permit a new Form DS-2019 to be created as long as the primary's SEVIS record is validated in initial or active status. See 9 FAM 402.5-6(D)(1)(U), *The Basic Form*, <https://fam.state.gov/FAM/09FAM/09FAM040205.html> (last updated Aug. 15, 2024). While applicants must still present a paper Form DS-2019 to DoS in order to qualify for a visa, the SEVIS record is the definitive record of student or exchange visitor status and visa eligibility. See 9 FAM 402.5-4(B)(U), *Student and Exchange Visitor Information System (SEVIS) Record is Definitive Record*, <https://fam.state.gov/FAM/09FAM/09FAM040205.html> (last updated Apr. 22, 2024).

⁴⁷ See 22 CFR part 62. These programs vary in length. For example, professors and research scholars are generally authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, provided such time does not exceed five years. See 22 CFR 62.20(i)(1). Alien physicians are also generally limited to 7 years. See 22 CFR 62.27(e)(2).

⁴⁸ An RO is an employee or officer of a sponsor who has been nominated by the sponsor, and approved by DoS, to carry out the duties outlined in 22 CFR 62.11.

⁴⁹ See 22 CFR 62.43. An RO must be a citizen of the United States or a lawful permanent resident of the United States. See 22 CFR 62.2.

the PRC) are currently admitted for the duration of their employment. They are not permitted to change their information medium or employer until they obtain permission from USCIS.⁵⁰

From 1973 to 1985, aliens admitted to the United States in I nonimmigrant status were admitted for a period of 1 year with the possibility of extensions.⁵¹ In 1985, legacy INS amended the regulations to allow nonimmigrant representatives of information media to be admitted for the duration of their employment.⁵² This change from a set time period of admission to admission for duration of employment for I nonimmigrants was implemented as part of a continuing effort to reduce reporting requirements for the public, as well as the paperwork burden associated with processing extension requests on the agency.⁵³ Through its administration of the regulations authorizing I nonimmigrants admission for duration of employment, DHS currently admits all I nonimmigrants for D/S, with the exception of those presenting a passport issued by the PRC (other than a Hong Kong Special Administrative Region (SAR) passport or a Macau SAR passport).⁵⁴ Changes to D/S were proposed for I foreign media representatives in 2020, but the proposal was withdrawn in 2021.⁵⁵

C. Need for Rulemaking

1. Risks to the Integrity of the F, J, and I Nonimmigrant Classifications

DHS welcomes F academic students, J exchange visitors, and I representatives of foreign information media, but it also acknowledges that the sheer size of the population complicates oversight and vetting functions. Since 1980, the number of F nonimmigrant students admitted into the United States has more than sextupled.⁵⁶ Similarly, since

D/S was introduced for J and I nonimmigrants in 1985, the number of exchange visitors admitted into the United States has more than quadrupled while the number of representatives of foreign information media has more than doubled.⁵⁷

DHS uses SEVIS, a web-based system, to maintain information regarding: SEVP-certified schools; F-1 students studying in the United States (and their F-2 dependents); M-1 students enrolled in vocational programs in the United States (and their M-2 dependents); DoS-designated Exchange Visitor Program sponsors; and J-1 Exchange Visitor Program participants (and their J-2 dependents). SEVIS is necessary for national security and is consistent with the requirements in IIRIRA, the USA PATRIOT Act, and the 9/11 Commission Report.

Employees of educational institutions and program sponsors, specifically DSOs and ROs, play a large role in SEVIS. They are responsible for monitoring students and exchange visitors, accurately entering information about the students' and exchange visitors' activities into SEVIS, and properly determining whether the student or exchange visitor's SEVIS record should remain in active status or change to reflect a change in circumstances.⁵⁸ Under this framework, an academic student or exchange visitor generally maintains lawful status by complying with the conditions of the program, as certified by the DSO or RO. However, a program extension and an extension of an alien's nonimmigrant stay are different. DHS believes it is appropriate for the DSO to recommend an extension of an academic program and an RO to recommend an extension of an exchange visitor program; however, an EOS involves an adjudication of whether an alien is legally eligible to extend his or her stay in the United States in a given nonimmigrant status and has been complying with the terms and conditions of his or her admission.⁵⁹ DHS believes that the determinations of program extension and EOS should be

⁵⁰ See 8 CFR 214.2(i).

⁵¹ See 38 FR 35425 (Dec. 28, 1973). See also 50 FR 42006 (Oct. 17, 1985) (indicating that, prior to the publication of this rule, I nonimmigrants were admitted for one year).

⁵² See 8 CFR 214.2(i); 50 FR 42006 (Oct. 17, 1985).

⁵³ *Id.*

⁵⁴ See *Period of Admission and Extensions of Stay for Representatives of Foreign Information Media Seeking to Enter the United States*, 87 FR 61959 (Oct. 13, 2022) and *Period of Admission and Extensions of Stay for Representatives of Foreign Information Media Seeking to Enter the United States*, 85 FR 27645 (May 11, 2020).

⁵⁵ See 85 FR 60526 (Sept. 25, 2020) and 86 FR 35410 (July 6, 2021).

⁵⁶ For example, approximately 260,000 F-1 students were admitted into the United States during the 1980-81 school year. See GAO, *Controls Over Foreign Students in U.S. Postsecondary Institutions Are Still Ineffective*, *supra* note 12, pg. ii. In fiscal year (FY) 2024, 1,816,480 F-1 students were admitted into the United States. See DHS FY 2024, Quarter 4, tbl.4B, *supra* note 11.

⁵⁷ In 1985, 110,942 exchange visitors and 16,753 representatives of the foreign information media were admitted into the United States. See 1997 *Statistical Yearbook of the Immigration and Naturalization Service* (Oct. 1999), Tbl. 39, 118-19, *supra* note 10. In FY 2024, 514,170 exchange visitors and 37,330 representatives of the foreign information media were admitted into the United States. See DHS FY 2024, Quarter 4, tbl.4B, *supra* note 11.

⁵⁸ See 8 CFR 214.3(g)(1), (g)(2) (detailing a DSO's reporting requirements); 214.4(a)(2) (stating that failure to comply with reporting requirements may result in loss of SEVP certification).

⁵⁹ See 8 CFR 214.1(a)(3).

separated, with the DSO's and RO's recommendation being one factor an immigration officer reviews while adjudicating an application for EOS. Changing to a fixed period of admission will give immigration officers a mechanism to make this evaluation at reasonably frequent intervals.

Additionally, DHS expects this change will deter and prevent fraud, as a requirement to check in directly with an immigration officer is inherently likely to deter exploitation of perceived vulnerabilities in the F and J nonimmigrant classifications. The same benefits of direct evaluation, better recordkeeping, and fraud prevention will also apply to the I population.

2. Risks Within the F Classification

DHS is aware that the F–1 program is subject to fraud, exploitation, and abuse. Since 2008, multiple school owners and others have been criminally prosecuted for “pay-to-stay” fraud, in which school officials, in return for cash payments, falsely report that F–1 students who do not attend school are maintaining their student status.⁶⁰ In some cases, convicted school owners operated multiple schools and transferred students among them to conceal the fraud.⁶¹ DHS is also concerned that DSOs at these schools were complicit in these abuses; some DSOs intentionally recorded a student's status

inaccurately.⁶² Further, DSOs have issued program extensions to students who did not have compelling medical or academic reasons for failing to complete their program by its end date and DHS continues to observe F–1 students enrolling in schools for extended periods of time. For example, DHS previously identified in the NPRM a nonimmigrant who was an F–1 student at a dance school from 1991–2021. Although the reported normal length of the dance program is 5 years, the school issued 17 program extensions between 2003 (when the use of SEVIS was mandated) and 2020, claiming that the student needed more time despite nearly 30 years of enrollment. The student subsequently transferred to an English language training program at another school with a program start date in November 2022, despite more than 30 years in the United States as an F–1 student. She remained enrolled there until December 2025, when she transferred to another school to commence additional language training with a program start date of January 19, 2026, and a program end date of January 19, 2029. She has been an F–1 student for approximately 35 years. If she remains at the school through the current program end date, she will have spent nearly 38 years in the United States in F–1 status.⁶³ In another case, DHS also identified a nonimmigrant who has been in F–1 student status for more than 18 years since he enrolled in an English language training program that began on April 21, 2008. He has enrolled in four language training programs, four bachelor's programs, and is currently enrolled in a master's in

theology/theological studies program with a program end date in August 2027.⁶⁴ Another student who was enrolled at the same school from 2009 to 2020 and had been an F–1 student since 2005, was granted 14 program extensions. DHS also identified three F–1 students in doctoral programs that have taken over 20 years to complete their programs, and 5 F–1 students at community colleges have been enrolled in associate degree programs for periods in excess of 5 years—some for as long as a decade.⁶⁵ There are also examples where some DSOs permitted students who failed to maintain status to transfer to another school rather than apply for reinstatement.⁶⁶ Beyond cases publicly identified by DHS and the U.S. Department of Justice (DOJ), DHS is concerned about cases where DSOs were not aware of status violations by students.

Apart from concerns about DSOs and school owners involved in fraudulent schemes, DHS also has concerns about the actions of the aliens themselves. Some aliens have used the F classification to reside in the United States for decades by continuously enrolling in or transferring between schools, a practice facilitated by the D/S framework.⁶⁷ DHS identified over 2,100 aliens who first entered as F–1 students between 2000 and 2010 and remain in active F–1 status as of April 6, 2025.⁶⁸ To extend their stay, these aliens enrolled in consecutive educational programs, repeatedly transferred to new schools, or DSOs repeatedly extended their program end dates. This practice is not limited to any one particular type of school; students at community or junior colleges, universities, and language training schools have maintained F–1 status for lengthy periods. DHS is concerned that such instances of extended stays may violate the underlying statutory intent given that student status is meant to be temporary, with the alien having no intention of abandoning their residence in a foreign country, and for the primary purpose of studying, not as a way to

⁶⁰ U.S. Dep't of Justice, Press Release, *Operator of English language schools charged in massive student visa fraud scheme* (Apr. 9, 2008), <https://www.justice.gov/archive/usao/cac/Pressroom/pr2008/038.html>; U.S. Dep't of Justice, Press Release, *Owner/Operator and employee of Miami-based school sentenced for immigration-related fraud* (Aug. 30, 2010), <https://www.justice.gov/archive/usao/fls/PressReleases/2010/100830-02.html>; Immig. & Customs Enf't, Press Release, *Pastor sentenced to 1 year for visa fraud, ordered to forfeit building housing former religious school* (June 13, 2011), <https://www.ice.gov/news/releases/pastor-sentenced-1-year-visa-fraud-ordered-forfeit-building-housing-former-religious>; U.S. Dep't of Justice, Press Release, *School Official Admits Visa Fraud* (Mar. 12, 2012), https://www.justice.gov/archive/usao/pae/News/2012/Mar/tkhir_release.htm; Immig. & Customs Enf't, Press Release, *Owner of Georgia English language school sentenced for immigration fraud* (May 7, 2014), <https://www.ice.gov/news/releases/owner-georgia-english-language-school-sentenced-immigration-fraud>; Immig. & Customs Enf't, Press Release, *3 Senior Executives of For-profit Schools Plead Guilty to Student Visa, Financial Aid Fraud* (Apr. 30, 2015), <https://www.ice.gov/news/releases/3-senior-executives-profit-schools-plead-guilty-student-visa-financial-aid-fraud>; Immig. & Customs Enf't, Press Release, *Owner of Schools That Illegally Allowed Foreign Nationals to Remain in U.S. as “Students” Sentenced to 15 Months in Federal Prison* (Apr. 19, 2018), <https://www.ice.gov/news/releases/owner-schools-illegally-allowed-foreign-nationals-remain-us-students-sentenced-15>.

⁶¹ Immig. & Customs Enf't, Press Release, *3 Senior Executives of For-profit Schools Plead Guilty to Student Visa, Financial Aid Fraud*, *supra* note 60.

⁶² Goff Wilson, *Former DSO Official Found Guilty of Visa Fraud* (May 20, 2019), <https://www.goffwilson.com/Blawg-entries/2019/former-DSO-Official-Guilty-of-Visa-Fraud.aspx>; ImmigrationReform.com, *U.S. Removes 4,600 Fraudulent OPT Participants from the Program* (July 14, 2020), <https://www.immigrationreform.com/2020/7/2014/OPT-fraud-dhs-crackdown-immigrationreform-com>; U.S. Dep't of Justice, Press Release, *Operator of English Language Schools Charged in Massive Student Visa Fraud Scheme*, *supra* note 60; U.S. Dep't of Justice, Press Release, *Owner/Operator and Employee of Miami-based School Sentenced for Immigration-related Fraud*, *supra* note 60; Immig. & Customs Enf't, Press Release, *Pastor Sentenced to 1 Year for Visa Fraud, Ordered to Forfeit Building Housing Former Religious School*, *supra* note 60; U.S. Dep't of Justice, Press Release, *School Official Admits Visa Fraud*, *supra* note 60; Immig. & Customs Enf't, Press Release, *Owner of Georgia English Language School Sentenced for Immigration Fraud*, *supra* note 60; Immig. & Customs Enf't, Press Release, *3 Senior Executives of For-profit Schools Plead Guilty to Student Visa, Financial Aid Fraud*, *supra* note 60; Immig. & Customs Enf't, Press Release, *Owner of Schools That Illegally Allowed Foreign Nationals to Remain in U.S. as “Students” Sentenced to 15 Months in Federal Prison*, *supra* note 60.

⁶³ DHS analysis of data in SEVIS and valid as of June 2, 2026.

⁶⁴ *Id.*

⁶⁵ DHS analysis of data in SEVIS and valid as of May 7, 2025.

⁶⁶ Immig. & Customs Enf't, Press Release, *3 Senior Executives of For-profit Schools Plead Guilty to Student Visa, Financial Aid Fraud*, *supra* note 60.

⁶⁷ Monitoring F–1 students on post-completion OPT can be even more complicated because the students are no longer attending classes. See GAO, *GAO–14–356, Student and Exchange Visitor Program, DHS Needs to Assess Risks and Strengthen Oversight of Foreign Students with Employment Authorization* (Feb. 27, 2014), <https://www.gao.gov/assets/gao-14-356.pdf>.

⁶⁸ DHS analysis of data in SEVIS identifying the number of F–1 active students who began studying between 2000 and 2010, valid as of Apr. 6, 2025.

remain in the United States indefinitely.⁶⁹

The use of the F classification to remain in the United States for decades raises doubts that the alien's intention was to stay in the United States temporarily, as required by the INA.⁷⁰ It also raises concerns as to whether those aliens are bona fide nonimmigrant students who are maintaining valid lawful status by complying with the terms of their admission, which include solely pursuing a full course of study and progressing to completing a course of study. Likewise, it raises concerns as to whether these aliens truly have the financial resources to cover tuition and living expenses without engaging in unauthorized employment.

Even when employment is authorized under programs such as the Optional Practical Training (OPT), DHS has found fraud that enabled students to stay in the U.S. without actually having legitimate jobs. ICE Acting Director Todd Lyons told reporters at a press conference on May 12, 2026, that ICE had identified more than 10,000 cases of potential fraud associated with the OPT program. The cases were identified after site visits and other investigative techniques showed that some employers were just shell companies helping recent graduates stay in the U.S. without actual work at a legitimate U.S. company or working for supposedly U.S. based companies managed from abroad, which violates the law requiring U.S. training and direction.⁷¹

Further, while some school owners and school executives have faced legal consequences for their violation of the law, nonimmigrants admitted for D/S generally do not accrue unlawful presence for purposes of the 3- and 10-year bars described in INA 212(a)(9)(B) and (C), 8 U.S.C. 1182(a)(9)(B) and (C), unless an immigration officer finds they have violated their status in the context of adjudicating an immigration benefit request, or an immigration judge orders them excluded, deported, or removed.⁷²

Because F-1 students are admitted for D/S, they generally do not file applications or petitions, such as EOS applications, with USCIS, and therefore, immigration officers do not generally have an opportunity to determine whether the students are engaging in F-1 nonimmigrant activities in the United States and maintaining their F-1 nonimmigrant status.

The U.S. Government Accountability Office (GAO) has reported on DHS's concerns about DSOs and nonimmigrant students. In 2019, GAO and ICE published a report identifying fraud risks to SEVP related to managing school recertification and program training. The report included vulnerabilities associated with involving school owners and DSOs in overseeing the maintenance of status of F-1 students.⁷³ In the report, GAO identified fraud vulnerabilities on the part of both students and schools. Examples include students claiming to maintain status when they are not, such as failing to attend class or working without appropriate authorization, or school owners not requiring enrolled students to attend classes or creating fraudulent documentation for students who are ineligible for the academic program. GAO recommended that ICE develop a fraud risk profile and use data analytics to identify potential fraud indicators in schools petitioning for certification, develop and implement fraud training for DSOs, and strengthen background checks for DSOs.⁷⁴

DHS believes it can mitigate fraud risks in this rule in part through setting

the authorized admission and extension periods for F nonimmigrants as the length of the F nonimmigrant's specific program, not to exceed a 4-year period. The rule will establish a mechanism for immigration officers to assess these nonimmigrants at defined periods (such as when applying for an EOS in the United States beyond a 4-year admission period) and determine whether they are complying with the conditions of their classification. Immigration officers receive background checks, clearances, and training before DHS authorizes them to implement the nation's immigration laws, which includes as part of adjudicating the application whether nonimmigrants meet the requirements to extend their stay, whether a student has violated his or her nonimmigrant status without the DSO's awareness or whether DSOs are engaging in fraud by not requiring students to attend classes or by falsifying documents. Immigration officers are further trained to assess applications for fraud indicators and conduct reviews and vetting that may assist in the detection of fraud or abuse. This will provide further opportunities for DHS to identify and hold accountable aliens who violate their F-1 status, as well as their educational institutions. DHS currently employs out-of-cycle reviews and recertification of SEVP-certified schools outlined in 8 CFR 214.3(h) to ensure the school's compliance with regulatory recordkeeping and reporting requirements. DHS may also conduct on-site reviews of schools at any time, which may lead to withdrawal of SEVP certification upon findings of noncompliance or regulatory violations. Under the current D/S framework, DHS might not detect an individual F-1 status violation for an extended period if the student stays enrolled in a school, does not seek readmission to the United States, and does not apply for additional immigration benefits. If DHS makes periodic assessments to verify that F-1 students are maintaining their student status, DHS could better detect and mitigate against these violations as well as violations by their school.⁷⁵ The rule creates opportunities for this scrutiny if these nonimmigrants wish to remain beyond their fixed period of admission. This may also have the effect of deterring individuals who would otherwise seek to come to the United

⁶⁹ See INA section 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i).

⁷⁰ See INA section 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i).

⁷¹ Bazail-Eimil, E., Politico, *ICE: More than 10,000 Potential Fraud Cases Related to Student Job Program* (May 12, 2026) https://www.politico.com/news/2026/05/12/ice-optional-practical-training-fraud-00916797?fbclid=IwZXh0bgNhZWQCMTEAc3J0YwZhcHBfaWQKjYyODU2ODM3OQABHu-ImKwboqhNMO80GLrZjBo_qLLfwUY-Z6jPDnwwm6kP5wOjevFE6OQSF-t_aem_6dBAJf-5UnBoRuB5hQnZAQ

⁷² See USCIS, *Interoffice Memorandum: Consolidation of Guidance Concerning Unlawful Presence for Purposes of Sections 212(a)(9)(B)(i) and 212(a)(9)(C)(i)(I) of the Act* (May 6, 2009), https://www.uscis.gov/sites/default/files/document/memos/revison_redesign_AFM.PDF.

⁷³ In a 2019 report, GAO was asked to review potential vulnerabilities to fraud in the SEVP. GAO examined, among other things, the extent to which ICE (1) implemented controls to address fraud risks in the school certification and recertification processes and (2) implemented fraud risk controls related to DSO training. See GAO, *GAO-19-297, DHS Can Take Additional Steps to Manage Fraud Risks Related to School Recertification and Program Oversight* (Mar 2019), <https://www.gao.gov/assets/gao-19-297.pdf>; GAO, *GAO-11-411, Overstay Enforcement: Additional Mechanisms for Collecting, Assessing, and Sharing Data Could Strengthen DHS's Efforts but Would Have Costs* (Apr. 15, 2011), <https://www.gao.gov/assets/320/317762.pdf>; and GAO, *GAO-12-572, Student and Exchange Visitor Program: DHS Needs to Assess Risks and Strengthen Oversight Functions* (June 18, 2012), <https://www.gao.gov/assets/600/591668.pdf>.

⁷⁴ Since publishing its 2019 report, GAO has updated its website to include comments to the Recommendations for Executive Action included therein. ICE has taken steps to implement the report's recommendations, including making a public announcement regarding changing the timeline for the recertification notification process for schools. See GAO, *Student and Exchange Visitor Program: DHS Can Take Additional Steps to Manage Fraud Risks Related to School Recertification and Program Oversight, Recommendations* (Mar. 18, 2019), https://www.gao.gov/products/GAO-19-297?mobile_opt_out=1#summary_recommend (last visited Jun. 9, 2026).

⁷⁵ For example, SEVP may withdraw a school's certification or deny a school's recertification if a DSO willfully issues a false statement, including wrongful certification of a statement by signature, in connection with a student's school transfer or application for employment or practical training. See 8 CFR 214.4(a)(2)(v).

States and engage in some of the behaviors discussed above, believing they would be able to do so undetected for long periods of time. DHS believes this is a more appropriate way to maintain the integrity of the U.S. immigration system. Additionally, DHS believes the changes will allow immigration officers to directly verify, among other things, that students applying for an EOS: have the funds needed to live and study in the United States without engaging in unauthorized work; are maintaining a residence abroad to which they intend to return; have pursued and are pursuing a full course of study; and are completing their studies within the 4-year generally applicable timeframe relating to their post-secondary education programs in the United States or are able to provide a permissible explanation for taking a longer period of time to complete the program.

Finally, because the D/S framework reduces opportunities for direct vetting of foreign academic students by immigration officers, it creates opportunities for foreign adversaries to exploit the F-1 program and undermine U.S. national security. Under the D/S framework, DHS has identified national security threats within the F-1 program. For example, on March 24, 2023, a Russian man was charged with acting as an agent of a foreign power, visa fraud, bank fraud, wire fraud, and other charges stemming from his illegal activities in the United States functioning as an “illegal” agent for a Russian Intelligence Service. He obtained an F-1 visa in 2018 under an assumed Brazilian identity, which he used to enter the United States and enroll in a U.S. university from 2018 to 2020.⁷⁶ In recent years, multiple F-1 students have been arrested in connection with illegal activities pertaining to U.S. military bases.⁷⁷ On January 18, 2024 the Federal Bureau of Investigation (FBI) arrested a student from China for prohibited operation of an unmanned aircraft system, violation of national defense airspace, and photography of defense installations after an investigation revealed the

student utilized a commercial drone to take photographs of U.S. naval bases in the Norfolk, Virginia area. The U.S. District Court for the Eastern District of Virginia’s Newport News Division convicted him for use of an aircraft for the unlawful photographing of designated installation without authorization on October 2, 2024, and he was removed from the United States on May 7, 2025.⁷⁸ In June 2020, three Chinese nationals were sentenced to federal prison for illegal photography of a U.S. naval installation in Key West, Florida. Two of those arrested were F-1 students, and one was a J-1 exchange visitor.⁷⁹ In October 2024, five Chinese students were charged with conspiracy, making false statements and destroying records in connection with a federal investigation after they were observed with cameras at Camp Grayling in Michigan during a training exercise in August 2023 where thousands of military officials, including some from Taiwan, were participating.⁸⁰ Each of these examples was part of DHS’s analysis of SEVIS data on June 2, 2026.

In addition to creating risks to national security, some F-1 students pose risks to public safety and have been charged with criminal acts. DHS has identified multiple F-1 students arrested since 2024 for their roles in sophisticated financial scams targeting vulnerable and elderly victims in the United States. Some of these schemes resulted in hundreds of thousands of dollars in losses to victims. In some instances, multiple F-1 students were arrested for their involvement in the same schemes.⁸¹

⁷⁸ Immig. & Customs Enf’t, Press Release, *ICE removes Chinese national convicted of photographing military installations* (May 14, 2025), <https://www.ice.gov/news/releases/ice-removes-chinese-national-convicted-photographing-military-installations>.

⁷⁹ U.S. Dep’t of Justice, Press Release, *Three Chinese Nationals Sentenced to Prison for Illegal Photography of U.S. Naval Installation in Key West, Florida* (June 5, 2020), <https://www.justice.gov/usao-sdfl/pr/three-chinese-nationals-sentenced-prison-illegal-photography-us-naval-installation-key>.

⁸⁰ Blake, J., Inside Higher Ed, *Chinese U of Michigan Grads Charged in Countersurveillance Probe* (Oct. 4, 2024), <https://insidehighered.com/news/quick-takes/2024/10/04/five-chinese-u-m-students-charged-countersurveillance-probe>.

⁸¹ See Iowa Insurance Division, Press Release, *Chicago Man Arrested for Conspiracy Related to Gold Bar Scam* (Oct. 16, 2025), <https://iid.iowa.gov/press-release/2025-10-16/chicago-man-arrested-conspiracy-related-gold-bar-scam/>; Sebastian, C., El Paso County Sheriff, *Suspect Arrested in Multi-State Government Impersonation Scam* (Oct. 16, 2025), <https://epcsheriffsoffice.com/suspect-arrested-in-multi-state-government-impersonation-scam/>; Bensen, J., NBC 4 Washington, *DC Police Arrest Suspects in Elaborate Gold Bar Scam* (Aug. 6, 2025), <https://www.nbcwashington.com/news/local/dc-police-arrest-suspects-in-elaborate-gold-bar-scam/3971831/>; U.S. Dep’t of Justice, Press Release, *Massachusetts Man Charged and Detained in Ongoing Elder Fraud Investigation* (Nov. 24, 2025), <https://www.justice.gov/usao-ri/pr/massachusetts-man-charged-and-detained-ongoing-elder-fraud-investigation>; and U.S. Dep’t of Justice, Press Release, *Three Nigerian Citizens Indicted for Wire Fraud and Money Laundering* (Jan. 25, 2024), <https://www.justice.gov/usao-edwi/pr/three-nigerian-citizens-indicted-wire-fraud-and-money-laundering>. This was part of DHS’s analysis of SEVIS data on June 2, 2026.

An open education environment in the United States offers benefits, but it also places research universities and the nation at risk for economic, academic, or military espionage by foreign students. Foreign adversaries are using progressively sophisticated and resourceful methods to exploit the U.S. educational environment, including well-documented cases of espionage through the student program.⁸²

⁸² In January of 2023, Ji Chaoqun, a Chinese national who came to the United States to study electrical engineering at the Illinois Institute of Technology in 2013, was sentenced to eight years for spying for the Chinese government. See CNN Politics, *Chinese Engineer Sentenced to 8 years in U.S. Prison for Spying* (Jan. 25, 2023), <https://www.cnn.com/2023/01/25/politics/chinese-engineer-sentence-spying-intl-hnk/index.html>. In December 2019, Weiyun (Kelly) Huang, the owner of Findream and Sinocontech, pleaded guilty to conspiracy to commit visa fraud in the U.S. District Court for the Northern District of Illinois in Chicago. In return for payments, Findream listed aliens as OPT workers, providing them with what appeared to be legal status. The FBI charged one of those aliens with spying. See NBC Bay Area, *Kelly Huang Criminal Complaint* (Mar. 28, 2019), <https://media.nbcbayarea.com/2019/09/KellyHuangCriminalComplaint.pdf>. Huang was sentenced to 37 months in federal prison for conspiracy to commit visa fraud. U.S. Dep’t of Justice, Press Release, *Chinese Business Woman Sentenced to 37 Months in Federal Prison for Conspiracy to Commit Visa Fraud* (June 26, 2020), <https://www.justice.gov/usao-ndil/pr/chinese-businesswoman-sentenced-37-months-federal-prison-conspiracy-commit-visa-fraud>. This vulnerability presented in the nonimmigrant student classification has been highlighted by the FBI. In a 2018 hearing before the Senate Intelligence Committee, the FBI Director testified about the threat from China, noting “that the use of nontraditional collectors, especially in the academic setting, whether it’s professors, scientists, students, we see in almost every field office that the FBI has around the country. It’s not just in major cities. It’s in small ones as well. It’s across basically every discipline. I think the level of naiveté on the part of the academic sector about this creates its own issues. They’re exploiting the very open research and development environment that we have, which we all revere, but they’re taking advantage of it. So, one of the things we’re trying to do is view the China threat as not just a whole of government threat, but a whole of society threat on their end. I think it’s going to take a whole of society response by us. So, it’s not just the intelligence community, but it’s raising awareness within our academic sector, within our private sector, as part of the defense.” See Senate Select Committee on Intelligence Hearing, *Worldwide Threats* (Feb. 13, 2018), transcript available at <https://www.intelligence.senate.gov/2018/02/08/hearings-open-hearing-worldwide-threats-0/>; see also Senate Finance Committee, *Foreign Threats to Taxpayer—Funded Research: Oversight Opportunities and Policy Solutions: Hearing before*

⁷⁶ See U.S. Dep’t of Justice, Press Release, *Russian National “Illegal” Charged with Acting as Agent of a Russian Intelligence Service in the United States* (March 24, 2023), <https://www.justice.gov/usao-dc/pr/russian-national-illegal-charged-acting-agent-russian-intelligence-service-united-states>. See also DHS analysis of data in SEVIS and valid as of June 2, 2026.

⁷⁷ See Lubold, G., Stobel, W.P., and Viswanatha, A., The Wall Street Journal, *Chinese Gate-Crashers at U.S. Bases Spark Espionage Concerns* (last updated Sept. 4, 2023), <https://www.wsj.com/politics/national-security/chinese-gate-crashers-at-u-s-bases-spark-espionage-concerns-cdef8187>.

Detecting and deterring emerging threats to U.S. national security posed by adversaries exploiting the F–1 program requires additional oversight. In 2022, in response to a Congressional inquiry, GAO investigated and made recommendations that ICE modify the SEVIS system to include factors that potentially indicate which foreign students or scholars may pose more risk of transferring technology at U.S. universities.⁸³

DHS believes that replacing admissions for D/S for F–1 students with admission for a fixed time period will help mitigate these national security risks by ensuring an immigration official directly and periodically vets applicants for extensions of stay and, in so doing, confirms they are engaged only in activities consistent with their student status. F–1 nonimmigrants applying for EOS will also be required to establish they are admissible, and failure to do so will result in denial of the EOS. Admissibility grounds are complex and are properly assessed by a trained DHS officer. Such an assessment is not currently made when F–1 nonimmigrants apply for an extension of their program with their institution.⁸⁴ Significantly, under the changes to the period of admission of F nonimmigrants and the applicable EOS process, DHS may collect biometrics and other information (such as evidence of financial resources to cover expenses and evidence of any criminal activity) from F nonimmigrant students more frequently, thereby enhancing the Government's oversight and monitoring of these aliens.

3. Risks Within the J Classification

DHS believes that the national security risks posed by D/S admissions for individuals admitted under the J classification are similar to those posed by the F classification.⁸⁵ According to a

December 2018 report by a panel of experts commissioned by the National Institutes of Health (NIH) to study foreign influence on federally-funded scientific research, “Small numbers of scientists have committed serious violations of NIH policies and systems by not disclosing foreign support (*i.e.*, grants), laboratories, or funded faculty positions in other countries.”⁸⁶ As with F nonimmigrants, setting the length of the J nonimmigrant's specific program to not exceed a 4-year period will establish a mechanism for immigration officers to assess these nonimmigrants at defined periods (such as when applying for an EOS in the United States beyond a 4-year admission period) and determine whether they are complying with the conditions of their classification. This will increase vetting of the J nonimmigrant population, which can help to prevent and deter nefarious actors.

There are multiple examples of ongoing national security threats posed by J nonimmigrants under the D/S framework, thereby supporting the need for increased oversight within the program. For example, in 2009, an Iranian national was issued a J–1 visa to be a visiting professor in computer science at a U.S. university from September 2009 to August 2010. On November 8, 2012, the U.S. Department of the Treasury's Office of Foreign Assets Control (“OFAC”) designated him as a person whose property and interests in property are blocked pursuant to Executive Order 13628 of October 9, 2012, “Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Threat Reduction and Syria Human Rights Act of 2012 and Additional Sanctions With Respect to Iran.”⁸⁷ He was reportedly attempting to acquire equipment related to the

States Government's efforts to curb China's extensive influence and espionage activities in academic and commercial settings. The Commission noted that these efforts took the form of visa restrictions for Chinese nationals, greater scrutiny of federal funding awarded to universities, legal action against those suspected of theft or espionage, and new legislation. See U.S. Commission on China, *U.S.-China Economic And Security Review Commission, 2019 Annual Report to Congress* (Nov. 2019), <https://www.uscc.gov/annual-report/2019-annual-report>.

⁸⁶ See U.S. National Institutes of Health Advisory Committee to the Director (ACD), *ACD Working Group for Foreign Influences on Research Integrity* (Dec. 2018) (discussing measures to address concerns about foreign influences related to graduate students and post-doctoral fellows, as well as foreign employees).

⁸⁷ Office of Foreign Assets Control, U.S. Dep't of Treasury, *Designation of Four (4) Individuals and Five (5) Entities Pursuant to Executive Order 13628 of October 9, 2012*, 77 FR 68820 (Nov. 16, 2012). This was part of DHS's analysis of SEVIS data on June 2, 2026.

monitoring of Short Message Service (SMS) traffic from abroad as of February 2009 and, as of early July 2012, was actively assisting the Government of Iran's internet censorship activities.⁸⁸ On November 5, 2025, three J–1 research scholars from China were charged with conspiracy to smuggle biological materials into the United States and for making false statements to U.S. Customs and Border Protection officers.⁸⁹ In June 2025, the U.S. Department of Justice announced that two Chinese national J–1 exchange visitors were charged with conspiracy and smuggling a dangerous biological pathogen into the U.S. for their work at a U.S. university laboratory.⁹⁰ On November 5, 2025, one of the J–1 exchange visitors pleaded guilty to charges of smuggling a biological pathogen into the U.S. and then lying to FBI agents about it.⁹¹

In another example, in September 2019, a stark illustration of state-sponsored efforts to illegally obtain United States technology emerged when the FBI charged Chinese government official Zhongsan Liu with conspiracy to fraudulently procure United States research scholar visas for Chinese officials whose actual purpose was to recruit United States scientists for high technology development programs within China.⁹² Liu was convicted of

⁸⁸ United Against Nuclear Iran, *Sanctioned Persons—Jalili, Rasool*, <https://www.unitedagainstnucleariran.com/sanctioned-person/jalili-rasool> (last visited Jun 2, 2026). See also Rezaei, R., *Iranwire, Who is Rasoul Jalili, the So-Called “Father of Filtering” of the Islamic Republic?* (Apr. 19, 2026), <https://iranwire.com/en/features/151390-who-is-rasoul-jalili-the-so-called-father-of-filtering-of-the-islamic-republic/>. This was part of DHS's analysis of SEVIS data on June 2, 2026.

⁸⁹ U.S. Dep't of Justice, Press Release, *Three Chinese National Scholars from University of Michigan Laboratory Charged for Conspiring to Smuggle Biological Materials into the U.S.* (Nov. 5, 2025), <https://www.justice.gov/opa/pr/three-chinese-national-scholars-university-michigan-laboratory-charged-conspiring-smuggle>. This was part of DHS's analysis of SEVIS data on June 2, 2026.

⁹⁰ U.S. Dep't of Justice, Press Release, *Chinese Nationals Charged with Conspiracy and Smuggling a Dangerous Biological Pathogen into the U.S. for their Work at a University of Michigan Laboratory* (June 3, 2025), <https://www.justice.gov/usao-edmi/pr/chinese-nationals-charged-conspiracy-and-smuggling-dangerous-biological-pathogen-us>. This was part of DHS's analysis of SEVIS data on June 2, 2026.

⁹¹ U.S. Dep't of Justice, Press Release, *Chinese National Pleads Guilty and is Sentenced for Smuggling a Dangerous Biological Pathogen into the U.S. While Working at a University of Michigan Laboratory* (Nov. 12, 2025), <https://www.justice.gov/usao-edmi/pr/chinese-national-pleads-guilty-and-sentenced-smuggling-dangerous-biological-pathogen>. This was part of DHS's analysis of SEVIS data on June 2, 2026.

⁹² U.S. Dep't of Justice, Press Release, *Chinese Government Employee Charged in Manhattan Federal Court with Participating in Conspiracy to*

the Senate Finance Committee (June 5, 2019) (Statement of Louis A. Rodi III), <https://www.finance.senate.gov/imo/media/doc/05JUN2019RodiSMNT.pdf>. DSOs are not trained immigration officers nor are they in a position to make such determinations.

⁸³ See GAO, *GAO 23–106114, China, Efforts Underway to Address Technology Transfer Risk at U.S. Universities, but ICE Could Improve Related Data* (Nov. 2022), <https://www.gao.gov/assets/gao-23-106114.pdf>.

⁸⁴ In addition, DSOs may be unaware of a student's failure to maintain status, including by engaging in criminal activity, nor do they have the authority or ability to acquire such information. Admitting F–1 nonimmigrants for a fixed period of admission would provide trained immigration officers with the opportunity to vet these individuals.

⁸⁵ In its 2019 Report to Congress, the United States-China Economic and Security Review Commission, the Commission described the United

participating in conspiracy to defraud the United States and fraudulently obtain U.S. visas.⁹³

Additionally, in December 2019, Zaosong Zheng, a 29-year-old graduate student in J-1 status participating in an exchange visitor program at Harvard University, was stopped at Boston Logan International Airport. Federal agents determined he was a “high risk for possibly exporting undeclared biological material” after finding 21 vials of brown liquid wrapped in a plastic bag inside a sock in his checked luggage; typed and handwritten notes indicated “that [the exchange visitor] . . . was knowingly gathering and collecting intellectual property. . . possibly on behalf of the Chinese government.”⁹⁴ Zheng was indicted on one count of smuggling goods from the United States and one count of making false, fictitious or fraudulent statements.

In January 2020, Yanqing Ye was charged with one count each of visa fraud, making false statements, acting as an agent of a foreign government and conspiracy after Ye falsely identified herself on her J-1 visa application as a “student” and lied about her ongoing military service at a top military academy directed by the Chinese Communist Party. It was further alleged that while studying at Boston University’s Department of Physics, Chemistry, and Biomedical Engineering, Ye continued to work as a People’s Liberation Army Lieutenant completing numerous assignments from People’s Liberation Army officers such as conducting research, assessing United States military websites and sending

United States documents and information to China.⁹⁵

In June 2020, a Chinese national who entered the United States on a J-1 visa to conduct research at the University of California, San Francisco was arrested at Los Angeles International Airport while attempting to return to China and charged with visa fraud. According to court documents, he allegedly is an officer with the PRC People’s Liberation Army and provided fraudulent information about his military service in his visa application. He allegedly was instructed by his military lab supervisor to bring information back to China about the lab at University of California, San Francisco.⁹⁶

In 2025, a J-1 Chinese research scholar at the University of Michigan was charged in a criminal complaint for conspiracy, smuggling goods into the United States, false statements, and visa fraud. The FBI arrested the exchange visitor for allegedly smuggling a noxious fungus which is responsible for billions of dollars in economic losses worldwide each year and causes health problems for both humans and livestock. The J-1 allegedly received Chinese government funding for her work on this pathogen and is a loyal member of the Chinese Communist Party.⁹⁷

As with F nonimmigrants, DHS believes that replacing admissions for D/S for J-1s with admission for a fixed time period will help mitigate the national security concerns described above. Exchange visitor program categories include college and university students, which share similarities with the F-1 nonimmigrant classification. Students enrolled in such programs are pursuing post-secondary studies alongside F-1 nonimmigrants. J-1 college and university students in a degree program may be authorized to participate in the exchange visitor program so long as they meet the requirements for duration of participation, including pursuing a full course of study, echoing the full course of study requirements for F-1 nonimmigrants. A J-1 exchange visitor’s program may also be extended by the ROs, subject to regulation and/or

approval by DoS, without an application to DHS. These similarities give rise to the same concerns about national security related to F-1s, as described above, and about fraud and abuse by J-1s and their ROs. By requiring the same fixed period of admission for F-1s and J-1s, J-1 college and university students in exchange visitor programs will be unable to circumvent the intent of this rule,⁹⁸ which is to protect the integrity of these programs and provide additional protections and mechanisms for oversight. Because J exchange visitors are also tracked in SEVIS, DHS believes it will be more effective for an immigration officer to periodically confirm that an alien has properly maintained status, rather than relying on the checks of an RO that the J-1 is pursuing the activities permitted by the exchange visitor program. As noted above, DHS believes it is more appropriate for immigration officers, with their background checks, clearances, and training from the U.S. government, to adjudicate maintenance of nonimmigrant status and whether an alien is eligible for an additional admission period. Switching from D/S to a fixed period of admission will permit immigration officers the opportunity to determine whether an alien is eligible for an additional period of time. If an officer finds a violation of status while adjudicating the alien’s request, the consequences could be immediate. Applicants for EOS must also establish that they are admissible, and failure to do so will result in denial of the EOS.⁹⁹ Admissibility grounds are complex and are properly assessed by a trained DHS officer. Such an assessment is not currently made when J exchange visitors apply for an extension of their program with their RO.¹⁰⁰ Thus, admitting J exchange visitors for a fixed period, instead of for D/S, will give DHS more frequent opportunities to directly vet these foreign visitors and ensure they are bona fide exchange visitors, and it will prevent and deter nefarious actors within the J exchange visitor population. Under the changes to the period of admission of J exchange visitors and the applicable EOS process, DHS may more frequently collect biometrics and other information from J exchange visitors, enhancing the

Fraudulently Obtain U.S. Visas (Sept. 16, 2019), <https://www.justice.gov/archives/opa/pr/chinese-government-employee-charged-mahattan-federal-court-participating-conspiracy>.

⁹³ See U.S. Dep’t of Justice, Press Release, *Chinese Government Employee Convicted of Participating in Conspiracy to Defraud the United States and Fraudulently Obtain U.S. Visas* (Mar. 23, 2022), <https://www.justice.gov/usao-sdny/pr/chinese-government-employee-convicted-participating-conspiracy-defraud-united-states>.

⁹⁴ See Boston Herald, *China May Be Behind Theft of Bio Samples by Harvard-Sponsored Chinese Student, Fed Says* (Dec. 30, 2019), <https://www.bostonherald.com/2019/12/30/peoples-republic-of-china-may-be-behind-theft-of-bio-samples-by-harvard-sponsored-chinese-student-feds-say/>; see also The Daily Beast, *China Might Be Behind Harvard Student’s Theft of Cancer Research, Feds Claim* (Dec. 31, 2019), <https://www.thedailybeast.com/china-might-be-behind-harvard-student-zaosong-zheng-s-theft-of-cancer-research-feds-claim/>; U.S. Dep’t of Justice, Press Release, *Harvard University Professor and Two Chinese Nationals Charged in Three Separate China Related Cases* (Jan. 28, 2020), <https://www.justice.gov/archives/opa/pr/harvard-university-professor-and-two-chinese-nationals-charged-three-separate-china-related>.

⁹⁵ U.S. Dep’t of Justice, Press Release, *Harvard University Professor and Two Chinese Nationals Charged in Three Separate China Related Cases*, *supra* note 94.

⁹⁶ See U.S. Dep’t of Justice, Press Release, *Officer of China’s People’s Liberation Army Arrested at Los Angeles International Airport* (June 11, 2020), <https://www.justice.gov/usao-ndca/pr/officer-china-s-people-s-liberation-army-arrested-los-angeles-international-airport>.

⁹⁷ See *Chinese Nationals Charged with Conspiracy and Smuggling a Dangerous Biological Pathogen into the U.S. for their Work at a University of Michigan Laboratory*, *supra* note 90.

⁹⁸ References to “this proposed rule” and “this proposed rulemaking” throughout this document refer to the rulemaking being proposed within this NPRM.

⁹⁹ See 8 CFR 214.1(a)(3).

¹⁰⁰ ROs may be unaware of a student’s failure to maintain status, including by engaging in criminal activity. Admitting J-1s for a fixed period of admission would provide trained DHS officers with the opportunity to vet these individuals.

Government's oversight and monitoring of these aliens.

4. Risks Within the I Classification

Admitting most I nonimmigrants for D/S affords them different treatment from most other nonimmigrants, who are admitted for a specified period of time. DHS believes admitting aliens temporarily to the United States for a fixed period will strengthen vetting and information collection and help immigration officers ensure that the I nonimmigrants are, and will be, engaged in activities that are permissible under INA 101(a)(15)(I). In addition, this rulemaking requires individuals who wish to remain in I nonimmigrant status beyond the end date of their authorized stay to apply for an EOS with USCIS, at which point immigration officers can review their activities in the United States. It also clarifies what DHS will require these individuals to present as evidence supporting their EOS request.¹⁰¹

IV. Response to Public Comments on the Proposed Rule

A. Support for the Proposed Rule

1. General Endorsement

Comments: Commenters expressed support for the proposed rule, stating that the rule would curtail fraud and abuse associated with these nonimmigrant classifications, enhance national security through periodic vetting, promote compliance and fair competition, and generally have a positive impact on the economy, schools, and students. Multiple commenters supported the rule by remarking that it strengthens competitiveness and the ability of the United States to attract the world's brightest students while ensuring that only law-abiding students remain in the system. Some commenters added that the rule balances the interests of foreign nonimmigrants with the need to protect national interests and safeguard opportunities for American students and workers. Several commenters expressed support for the fixed term and believed that the requirements to reapply for an extension would not be an issue for the foreign students. In support of the rule, several commenters also mentioned that the F, J, and I classifications should be aligned with other visa classifications for consistency. Some commenters stated

¹⁰¹ These proposed changes, including additional evidence relating to foreign media organizations and activities the alien intends to engage in while in I status, would also apply to a nonimmigrant in the United States who requests to change his or her nonimmigrant status to that of an I nonimmigrant.

that individuals in these visa classifications should focus on their course of study and not on employment. Additionally, while showing support, some commenters indicated that the rule does not go far enough and called for more restrictions. Additionally, some commenters expressed support for the proposed rule, while also acknowledging that many nonimmigrant students provide value to the United States. Some stated that the rule is well within the federal government's lawful authority and plenary power over immigration, follows the rulemaking procedures under the Administrative Procedure Act, and does not implicate constitutional rights, as visas confer a privilege and not an entitlement.

Response: DHS appreciates the support and in-depth understanding of these issues. DHS agrees with commenters' assessment about the impacts of this rule and agrees the rule is well within its lawful authority. As noted above, DHS believes the rule will give DHS the ability to monitor and oversee these nonimmigrants while they are in the United States, curtailing fraud and abuse associated with these nonimmigrant classifications.

2. Positive Impacts on Immigration System

a. Fraud and Abuse, Overstays, and National Security

Comments: Commenters expressed support for the proposed time limits and elimination of D/S, noting that such measures would help address instances of abuse and fraud where the foreign student has no intent to study and remains in the United States indefinitely. Commenters stated that the fixed admission period for F, J, and I nonimmigrants creates consistency across other nonimmigrant categories, as most nonimmigrant categories have fixed admission terms, and creates fairness and clarity to the system.

Specifically, commenters provided examples of fraud and abuse, such as in the indefinite language training programs, visa mills, criminal enterprises, "pay-to-stay" fraud—where school officials falsely report that F–1 students who do not attend school are maintaining their student status in return for cash payments, schools with classes that require minimum in-person presence, issues with "Day-1 CPT"—where Curricular Practical Training (CPT) allows certain foreign graduate students to start working in the United States immediately upon admission, and foreign nationals abusing and misusing resources provided by the university as well as by the local

community. For example, one commenter remarked that, as an American, the commenter lost his job due to coordinated visa fraud. Another commenter remarked that fraudulent IT consultancies train students and secure jobs for them using fake resumes. Another commenter remarked that online forums contain evidence of students with immigrant intent, crafting their interview answers to get approved. One commenter remarked that there is no attendance requirement or verification that F–1 students are attending class and that students can drop classes with no verification that they are slowing down the completion of their program to stay and work in the United States longer. Another commenter noted that fraud by certain schools and multiple large-scale "sham school operations" exacerbate inequities, and referenced Tri-Valley University, which was noncompliant and closed operations.¹⁰² The commenter also mentioned the University of Northern New Jersey, stating it involved an ICE undercover sting that revealed more than 1,000 foreign nationals enrolled through recruiters at a fake university to maintain status, and Farmington University (sic), stating it involved an ICE sting that exposed over 600 foreign students paying to remain in the United States with no real classes.¹⁰³ The commenter noted that these schemes not only defraud the education system but also exploit students financially and can result in unauthorized work arrangements akin to trafficking conditions.

Relatedly, a research organization pointed out that there are many documented cases of visa abuse or fraud across U.S. visa categories,¹⁰⁴ and that

¹⁰² The commenter did not provide citations or references to support this assertion, but see, e.g., U.S. Dep't of Justice, Press Release, *CEO and President of East Bay University Sentenced to 198 Months for Fraud Scheme* (Nov. 3, 2014), <https://www.justice.gov/usao-ndca/pr/ceo-and-president-east-bay-university-sentenced-198-months-fraud-scheme>.

¹⁰³ The commenter did not provide citations or references to support this assertion, but see, e.g., Manning, W., Nat'l L. Rev., *The "University of Northern New Jersey" Visa Fraud Sting Operation Shutdown After Arrest of 21* (Apr. 12, 2016), <https://natlawreview.com/article/university-northern-new-jersey-visa-fraud-sting-operation-shutdown-after-arrest-21> and Immig. & Customs Enft, Press Release, *Final Defendant Sentenced in ICE HSI University of Farmington Investigation*, (Jan. 29, 2020), <https://www.ice.gov/news/releases/final-defendant-sentenced-ice-hsi-university-farmington-investigation>.

¹⁰⁴ The commenter referenced Vaughan, J., *Statement for the U.S. House of Representatives Committee on the Judiciary, Restoring Integrity and Security to the Visa Process* (June 25, 2023); GAO, *U.S. Citizenship and Immigration Services: Additional Actions Needed to Manage Fraud Risks*

eliminating D/S will support the integrity of the immigration system by allowing DHS to more easily uncover fraud and abuse in the F, J, and I nonimmigrant visa programs. The research organization cited a USCIS report stating that in some of these cases, school owners operate multiple schools and transfer students between these schools to help conceal the fraud.¹⁰⁵

A few commenters also noted what they view as fraud and abuse of the J–1 program. A commenter remarked that healthcare systems are abusing these visas to train foreign doctors in very competitive fields. The commenter noted that there are hundreds of competent American physicians and medical students who are overlooked by healthcare systems to hire J–1 medical residents/fellows. Another commenter stated that J students are susceptible to abuse from employers more than other visas. The commenter asserted that the GAO and the DoS Inspector General had recommended that DoS should not be operating the J program and reported that the visa results in American workers being denied jobs. The commenter also highlighted articles regarding J–1 nonimmigrants, though no specific citations were provided: that J visa ‘Summer Work Travel Program’ refers to the summer of the guestworkers and that it can be used to avoid hiring Americans year-round (“Visa program encourages seasonal hiring of foreign students while U.S. youths go jobless” Denver Post); that the J–1 program has become a ‘money machine,’ with over \$100 million received every year in fees (“J–1 Visas: Cheap Labor as Cultural Exchange,” Center for Immigration Studies); that there are efforts to recruit foreign youth to the program and into U.S. jobs to help employers calculate how much money they can save by not hiring American youth (Panel Transcript: Summer Work Travel Program, Center for Immigration Studies); and that there is a strong lobby to expand the Summer Work Travel program but no lobby for American youth. Another commenter also wrote in support of the proposed rule, and with respect to J–1, the commenter stated that if a nonimmigrant Ph.D. student is making legitimate progress in their program of study, the new extension

process should not present an issue to the nonimmigrant student.

Commenters expressed support for a fixed period of admission, reasoning that it promotes accountability and compliance, and decreases overstay. A commenter stated that the current D/S policy allows over 1 million nonimmigrants to remain in the United States without defined end dates, increasing the risk of overstay and weakening oversight. The commenter further stated that the implementation of a fixed admission period would improve compliance tracking and help address the reported overstay rate, which is currently estimated to be around 2-to-3-percent.

Many commenters addressed the rates of overstay among students admitted for D/S, stating that a fixed admission period ensures tracking of nonimmigrant visa holders’ stays, thereby reducing the risk of overstay. One organization stated that terminating D/S would address visa overstay. The organization noted that in 1978, DOJ proposed a rule allowing nonimmigrants to be admitted “for the duration of their status as students.”¹⁰⁶ The organization reported that these changes were proposed despite a 1975 General Accounting Office document, which reported high numbers of foreign student overstay and found that among the 222,000 foreign students in the United States in December 1974, 42 percent were in illegal status resulting from overstaying their visas.¹⁰⁷ The organization also stated that individuals on student visas are more likely to be authorized to work today than in 1979, due to the creation and subsequent expansion of the OPT program and the addition of an extension for Science, Technology, Engineering and Mathematics (STEM) OPT. The organization concluded that the potential for employment increases enforcement challenges, given that work authorization increases the risks of overstay and other violations. In support of the rule, another commenter asserted that visa overstay for student or exchange visitors is among the highest of all nonimmigrant groups at 3.67 percent.

A few commenters discussed support for the rule with respect to protecting national security. Commenters remarked that adversary countries use foreign students to steal intellectual property, sabotage agriculture, and engage in

espionage. One commenter expressed that there are foreign students who use U.S. resources while engaging in activities that do not reflect positively on the United States, including sharing content that is critical of the country on social media. The commenter requested greater attention to how such resources are allocated, to ensure they are used constructively and in support of the broader goals of the nation. In support of the rule, a commenter noted that in extreme cases, there have been reports of foreign students intimidating others from their home countries who hold differing political views, creating a chilling effect within communities.

Commenters expressed concern that the current D/S framework weakens DHS’s ability to enforce immigration laws, further stating that the newly proposed rule will foster national security by implementing periodic reviews of nonimmigrant statuses, as a method for DHS to routinely assess and mitigate risks. Some commenters referenced the September 11, 2001, attacks, noting that some of the perpetrators had entered the United States on student visas. The commenters further stated that the proposed rule aligned with the 9/11 Commission’s recommendations of increasing information sharing between federal agencies by supporting visa compliance through better tracking systems of lawful status.

Similarly, commenters raised concerns about general national security risks posed by foreign students, particularly those from China and India, citing examples of espionage, intellectual property theft, hazardous material transportation, and technology transfer. Commenters pointed to espionage concerns, such as referencing the case of Ji Chaoqun, who was sentenced to eight years in prison for spying while in F–1 status. The commenters also raised concerns regarding countries that may exploit student and exchange programs to place individuals in sensitive academic fields, potentially for espionage or intellectual property theft. Another commenter pointed out that a 2023 National Intelligence Council report showed a 30 percent rise in espionage cases linked to foreign students since 2019. Commenters stated that this rule would facilitate periodic vetting, reduce administrative burdens on DSOs, and ensure that individuals in sensitive programs are closely monitored, reducing risks to national security.

Another commenter stated that there are documented cases of foreign students smuggling dangerous biological materials across the United States, and

(Sept. 19, 2022); and North, D., Center for Immigration Studies, *The Dregs of Higher Education Damage Our Immigration System* (Sept. 11, 2017).

¹⁰⁵ The commenter referenced North, D., Center for Immigration Studies, *Higher Education Fraud Comes in Two Different Packages, Part 1* (Jan. 8, 2018).

¹⁰⁶ 43 FR 32306 (July 26, 1978).

¹⁰⁷ The commenter referenced GAO, *Better Controls Needed to Prevent Foreign Students from Violating the Conditions of Their Entry and Stay While in the United States* (Feb. 4, 1975).

of foreign nationals stealing cutting-edge American research, directly threatening national security and intellectual property.¹⁰⁸ One comment raised concerns on the current immigration system being incompatible with the financial interests of universities and employers that maximize foreign enrollment and employment, even when the FBI is reporting that a new China-related counterintelligence case is opened approximately every 10 hours, and where global air travel is increasingly accessible, allowing foreign nationals to take advantage of United States' university systems and immigration policies.¹⁰⁹

Response: DHS appreciates the commenters' support on this rule and agrees that this rule will strengthen the integrity of the U.S. immigration system, specifically relating to F, J, and I nonimmigrants, and enhance national security. DHS acknowledges that the D/S framework is vulnerable to fraud, abuse (including overstays), and national security threats. While the commenter did not provide any specific evidence supporting their claims of theft of American research or threats to intellectual property or national security, DHS has provided examples of national security threats and intellectual property theft in transferring sensitive research back to China.¹¹⁰ In another recent example, in 2024, an F-1 student visa overstay and an alien released after

illegally crossing the border and being issued a Notice to Appear, posed as Amazon drivers and attempted to breach a Marine Corps Base in what experts believe may have been a dry run for a terrorist attack.¹¹¹ DHS agrees that this rule will reduce status violations (e.g., overstays), strengthen oversight, and yield additional benefits to enhance the U.S. immigration system. DHS believes that this rule establishes an effective mechanism to periodically and directly assess whether nonimmigrants in F, J, and I status are complying with the conditions of their nonimmigrant classifications and U.S. immigration laws, and to obtain timely and accurate information about the activities these aliens have engaged in and plan to engage in during their temporary stay in the United States. It will allow DHS to vet and screen aliens in these nonimmigrant classifications for fraud, abuse, and security threats, and identify aliens subject to inadmissibility and removability grounds. DHS believes that this rule will encourage aliens to maintain lawful status and reduce instances in which F, J, and I visa holders unlawfully remain in the United States after their program, practical training, or activities or assignments end. Furthermore, admitting individuals in the F, J, and I visa classifications for a fixed period of time will require those F, J, and I nonimmigrants who wish to remain in the United States beyond their specifically authorized admission period to apply for an EOS directly with USCIS. The other option of departing the country and then applying for admission with U.S. Customs and Border Protection (CBP) at a POE has always been available to all nonimmigrants whether on a fixed admission period or on D/S. Requiring nonimmigrants who wish to stay in the United States longer than their initial authorization without leaving the country to apply to USCIS for an EOS will provide DHS with an additional mechanism to exercise the oversight necessary to enforce our nation's immigration laws, protect the integrity of these nonimmigrant programs, and promptly detect national security concerns.

b. Impacts on Schools, Higher Education, and Exchange Programs

Comments: In support of the rule, commenters stated the rule will address inequities that American students and American workers face resulting from

abuses in these visa classifications and employer incentives to hire foreign students. Multiple commenters remarked that universities should give preference to American students and expressed concern that foreign students are taking spots from more qualified American students. A commenter remarked that extended stays by foreign students artificially increase demand at universities. Commenters stated that the rule will reduce tuition costs, open job markets for Americans, open degree and course options for American students, by reducing foreign student demand at universities and job-markets. Some commenters view that the rule will also further protect institutions' financial interests in intellectual property. In support of the rule, commenters stated that the proposed rule would simplify compliance and reporting requirements, including systems like SEVIS, reduce administrative burden, enhance efficiency, and promote consistent performance. A few commenters stated that the time limits were necessary and benefit the institution because it will ensure students perform consistently and are able to advance towards a higher level of capability, resulting in equitable treatment across institutions and participants. Commenters added that requiring extensions through DHS would help safeguard the reputation of U.S. educational institutions and exchange programs by ensuring participants remain engaged in legitimate activities.

Response: DHS appreciates the commenters' support on this rule and agrees that this rule will create these positive impacts on schools, higher-education and exchange programs. DHS acknowledges that the D/S framework is vulnerable to fraud, abuse (including overstays), and other issues. DHS believes that this rule establishes an effective mechanism to periodically and directly assess whether nonimmigrants in F, J, and I status are complying with the conditions of their nonimmigrant classifications and U.S. immigration laws, and to obtain timely and accurate information about the activities these aliens have engaged in and plan to engage in during their temporary stay in the United States.

DHS notes that this rule is not intended to address whether foreign students are taking opportunities away from American students/workers and such issue is beyond the scope of this rule. DHS acknowledges the valuable contribution of foreign students and exchange visitors but also underscores that admission to the United States is not a guarantee, and that all foreign nationals must be eligible and comply

¹⁰⁸ The commenter did not provide citations or references to support this assertion, but see, e.g., *Three Chinese National Scholars from University of Michigan Laboratory Charged for Conspiring to Smuggle Biological Materials into the U.S.*, supra note 89; ET Online, *The Economic Times Students or Spies? How China Infiltrated U.S. Universities* (May 29, 2025), <https://economictimes.indiatimes.com/news/international/world-news/students-or-spies-how-china-infiltrated-us-universities/articleshow/121492092.cms>; Winter, T., NBC News, *Chinese Couple Charged with Smuggling a Biological Pathogen into the U.S.* (Jun. 3, 2025), <https://www.nbcnews.com/politics/justice-department/chinese-couple-charged-smuggling-biological-pathogen-us-rcna208658>.

¹⁰⁹ The commenter did not provide citations or references to support this assertion, but see, e.g., *China's Attempt to Influence U.S. Institutions*, Remarks by FBI Director Christopher Wray, Hudson Institute Video Event, Washington, DC (July 7, 2020), <https://www.fbi.gov/news/speeches-and-testimony/the-threat-posed-by-the-chinese-government-and-the-chinese-communist-party-to-the-economic-and-national-security-of-the-united-states> (Director Wray advised the FBI was opening a new China-related counterintelligence case about every 10 hours). See also e.g., *Countering Threats Posed by the Chinese Government Inside the U.S.*, Remarks by FBI Director Christopher Wray, Ronald Reagan Presidential Library and Museum, Simi Valley, CA (Jan. 31, 2022), (Director Wray advised that roughly every 12 hours the FBI opens new cases to counter the CCP's intelligence operations).

¹¹⁰ *Students or Spies? How China Infiltrated U.S. Universities*, supra note 108; Winter, T., *Chinese Couple Charged With Smuggling a Biological Pathogen Into the U.S.*, supra note 108.

¹¹¹ Ruiz, M., *Jordanian Quantico Breach Suspect Freed Under Biden Arrested Again by ICE: Report* (Mar. 4, 2025), <https://www.foxnews.com/us/jordanian-quantico-breach-suspect-freed-under-biden-arrested-again-ice-report>.

with the terms and conditions of their status.

c. Impacts on U.S. Economy, Citizens, and Communities

Comments: Commenters generally supported the rule by discussing the benefits to American students, students in general, workers, the economy, American taxpayers and American culture. Commenters also stated that the rule strengthens oversight and compliance, deters exploitation, reinforces the U.S. immigration and education systems, benefits both the U.S. institutions and U.S. workforce and levels the playing field for all. Commenters supported limiting media representatives from indefinitely residing and working in the United States. Multiple commenters stated the benefits to American students are with respect to employment, the job market, and educational opportunities.

Response: DHS believes that this rule will strengthen oversight and compliance, deter exploitation, and reinforce the credibility of the U.S. immigration and education systems, thereby resulting in a positive economic impact for all stakeholders, including foreign students and U.S. students and workers. DHS believes that this rule will discourage aliens who are not bona fide students, exchange visitors, and foreign information media representatives from indefinitely residing and working in the United States unlawfully in violation of their status. The rule makes it clear that timely filed EOS will not guarantee an extension for F, J, and I nonimmigrants, as such decisions are discretionary and subject to eligibility and compliance with all requirements in the rule.

DHS recognizes the contributions of foreign students and scholars and believes that this rule will benefit all involved stakeholders, including foreign students and American students and workers. Through this rule, bona fide students will be able to focus entirely on their studies and programs, consistent with their nonimmigrant classifications. It will reduce the incentive of visa violators from coming to the United States merely to work and reside unlawfully.

B. Opposition to the Proposed Rule

1. General Concerns and Opposition

Comments: Many commenters expressed concern with the changes proposed in the rule. Numerous commenters expressed concern that the proposed rule would negatively impact individuals, including nonimmigrants and their families, as well as various sectors, including higher education,

medical centers, research institutions, and the U.S. economy. Commenters expressed that this proposal imposes broad burdens on individuals and institutions to address the issues of a relatively small subset of foreign nationals who may overstay or fail to comply with requirements. Some commenters expressed general opposition to the rule without providing any rationale.

Many commenters expressed mixed views on the proposed rule. One commenter expressed concern about the potential for regulatory instability, stating that if DHS implements an overreaching rule, a future liberal administration will reverse it. The commenter suggested it is in DHS's best interest to adopt the least intrusive option to ensure the rule can endure across administrations. Another commenter stated that the rule fails to reduce overall visa issuance or entry volume, as it does not address the high volume of F-1 visa issuances abroad. Relatedly, one commenter suggested that foreign student numbers would not be meaningfully reduced unless DHS and DoS apply stricter standards at the consular level.

Expressing concern, a commenter discussed terminology used in the proposed rule and differences between the roles of Principal Designated School Officials (PDSOs), DSOs, ROs, and Alternative Responsible Officers (AROs), suggesting the proposed rule reflected a concerning lack of familiarity with these positions and their responsibilities. Other commenters expressed concern that some changes and terms proposed in the rule remain undefined, posing unanswered questions that would force DSOs and ROs to interpret and solve problems independently. Several commenters suggested clearly articulating best practices for DSOs in policy guidance to ensure student compliance.

Another commenter stated that retroactive accrual of unlawful presence could create a chilling effect and lead to large penalties for unintentional violations due to the change in immigration requirements.

Response: As explained in this rule, DHS believes that this rule is necessary to mitigate risks posed by aliens who seek to exploit the F, J, and I nonimmigrant programs and live in the United States on a non-temporary basis in contradiction with the underlying statutory language that applies to their nonimmigrant status. The rule is designed to provide additional protections and oversight of these nonimmigrant classifications and allow DHS to better evaluate whether these

nonimmigrants are maintaining status while temporarily in the United States. DHS has considered the interests and concerns of all relevant stakeholders in this rule and has assessed the potential impact on the economy and various stakeholders. See Final Regulatory Impact and Flexibility Act Analysis, secs. IV.Q and R, and discussions below regarding opposition to the rule based on impacts to specific stakeholders. In balancing the interests of all parties, DHS has determined that the goals of this rule outweigh these concerns.

DHS disagrees that the rule is overarching and notes that the intent of the rule is not to reduce overall entry of foreign nationals. All foreign students must maintain compliance with U.S. immigration laws and providing them with a fixed period of admission and EOS requirements will help to ensure such compliance, while also protecting against fraud, abuse, and national security threats. This rule affords immigration officers enough predetermined opportunities to directly verify that aliens are engaging only in those activities their respective classifications authorize while they are in the United States, and, in turn, more effectively enforce compliance with the immigration laws, enhancing national security, as well as monitor fraud and abuse.

DHS understands that immigration law is complex and that changes require additional training. DHS is committed to providing clear guidance and training to all stakeholders and will issue detailed implementation guidance and conduct outreach to ensure a smooth transition and minimize disruption for students, exchange visitors, institutions, and government personnel.

DHS does not agree that the proposed rule shows lack of familiarity with the relevant positions discussed in the rule. DHS notes that this rulemaking was the product of several agencies and subject matter experts within the relevant fields of education who carefully drafted, reviewed, and assessed the provisions of this rule. Furthermore, DHS notes that even if there were any misuse in terminology in a few sentences, such errors will not misinform or create confusion to the public and will be merely clerical and immaterial to the substantive issues addressed in this rule.

DHS understands all the changes that will have to be made to comply with this proposed rule. To the extent that commenters indicated which specific terms or proposed changes are at issue, DHS has provided corresponding responses throughout this rule, under the applicable sections. In addition,

DHS intends to provide training and guidance to DSOs and schools as the rule is being implemented. DSOs and schools will also be able to communicate with SEVP representatives. In addition, DHS will coordinate with DoS to provide similar training/guidance to ROs and AROs and program sponsors.

The primary aim of this final rule is to institute policies that will encourage aliens to maintain lawful status and reduce instances in which F, J, and I nonimmigrants unlawfully remain in the United States after their program ends. Depending on the extent of unlawful presence accrual, an alien may become inadmissible to the United States and ineligible for adjustment of status to lawful permanent resident. Unlawful presence is much more difficult to ascertain for current D/S holders and is usually determined only upon contact with immigration officers and a review of compliance through SEVIS and other immigration recordkeeping systems. Therefore, those maintaining their status whether under the D/S system or the date certain system, are not accruing unlawful presence.

2. Negative Impacts on Nonimmigrants and Support Systems

a. Allegations of Discrimination, Xenophobia, and Unfairness

Comments: Commenters remarked that the proposed rule is xenophobic, racist, or discriminatory, or that it furthers attitudes of xenophobia or racism towards nonimmigrants. In looking to the proposed rule, one commenter pointed to *Korematsu v. United States*, 323 U.S. 214 (1944), to “remind us that discriminatory practices have long-term consequences.” Another commenter stated that the approach under the proposed rule would be unfair and discriminatory to foreign students as DHS had not provided statistical evidence that foreign students have abused the system. Commenters asserted that the proposed rule would affect nonimmigrants disproportionately to DHS’s concerns. Commenters stated that nonimmigrants are already among the most monitored groups in the United States. One commenter pointed to analysis from the Cato Institute¹¹² which found that the annual probability of being attacked by a terrorist who came into the United States on a student visa was only 1 in 72.8 million. A

commenter stated that the rule disproportionately harms students from China and India, who already face decades-long green card backlogs.

Response: DHS disagrees with the commenters’ assertions that the rule is xenophobic, racist, discriminatory, or that it furthers such attitudes towards nonimmigrants, or that it disproportionately harm students from specific countries. DHS welcomes F academic students, J exchange visitors, and I representatives of information media, and acknowledges that many have made valuable contributions to the United States. However, DHS also acknowledges that the sheer size of the population complicates oversight and vetting functions. The significant increase in the volume of F academic students, J exchange visitors, and I representatives of information media poses a challenge to DHS’s ability to monitor and oversee these nonimmigrants while they are in the United States, increasing the vulnerabilities for fraud, abuse, and national security threats.

Notably, replacing admissions for D/S with admissions for a fixed period of authorized stay and implementing EOS requirements are consistent with the regulations of most other nonimmigrant classifications. This rule does not discriminate against F, J, and I nonimmigrants but rather aligns the requirements of their status to other nonimmigrant categories. As indicated in the preamble of the proposed rule, a goal of this rule is to institute policies that will encourage aliens to maintain lawful status and reduce instances in which F, J, and I nonimmigrants unlawfully remain in the United States after their program, practical training, or activities or assignments consistent with their classification ends. The rule creates an effective mechanism for DHS to periodically and directly assess whether these nonimmigrants are complying with the conditions of their classifications and U.S. immigration laws, as well as allow DHS to obtain timely and accurate information about the activities they have engaged in and plan to engage in during their temporary stay in the United States. Furthermore, aliens seeking F–1 visas must demonstrate intent to return to their home country. Therefore, there should be no impact on the permanent resident process.

DHS also notes that the rule has provided sufficient data and reasoning to support the need for this rule.¹¹³ In

the preamble to the proposed rule, DHS provided specific cases and examples of fraud, national security, and nonimmigrant students remaining in the United States for lengthy periods of time under the D/S framework, and DHS’s intent and rationale. For further explanation, commenters should refer to the preamble of the proposed rule.¹¹⁴

b. Disproportionate Impacts on Vulnerable Groups

Comments: Commenters also noted how different groups and immigrant communities may be affected. Some commenters added that the overly broad and strict nature of the rule would disproportionately harm legitimate foreign students nationwide, particularly affecting first-generation and low and middle-income individuals from developing nations. One commenter noted that the proposed rule would have disparate impacts on students from countries with fewer visa options, creating a system of inequity. Similarly, a commenter noted that the rule’s impacts would be felt inequitably, with applicants from areas facing slow processing times, conflict, or disaster, facing higher denial risks. Another commenter claimed that international students are uniquely at risk of abuse from their academic advisors in the form of harassment and disproportionate workloads because of their current limited ability to find new advisors or otherwise resolve the situation.

A commenter suggested that DHS should not attribute system failures to foreign students, noting their strong work ethic and study habits compared to native-born students. One commenter stated that the shift to fixed admission

First, DHS corrects footnote 56 in the NPRM, which cited to the 1997 U.S. Statistical Yearbook of the Immigration and Naturalization Service. That citation should have referenced Tbl. 39 on pages 118–19 rather than only referencing pg. 118. Second, in footnote 111 of the NPRM DHS stated it identified 2,134 aliens who first entered as F–1 students between 2000 and 2010 and remain in active F–1 status today by reviewing SEVIS data as of Apr. 4, 2025. DHS corrects this statement to indicate that DHS identified 2,137 active F–1 students who began studying between 2000 and 2010 by reviewing SEVIS data as of Apr. 6, 2025. Third, DHS notes the following statement in the NPRM is supported by SEVIS Data on Initial Transfers and Change of Education Counts (Mar. 31, 2025): “Since 2020, there have been over 13,000 F–1 students who transferred before the start of classes or within their first term, including over 4,400 students transferring from a higher education to English language training program of study within their first term or session of a program of study. The number of F–1 students who changed their educational levels within the first 60 days of their program is close to 8,400.” Finally, DHS notes DHS analyzed the SEVIS data which was valid as of May 7, 2025.

¹¹⁴ 90 FR 42070 (Aug. 28, 2025).

¹¹² The commenter referenced Cato Institute, *Foreign Students Are Not a Serious National Security Threat*, <https://www.cato.org/blog/foreign-students-are-not-serious-national-security-threat>.

¹¹³ The need for the rulemaking in the NPRM cited extensive data. DHS makes a few minor corrections to that information in this final rule.

periods for F, J, and I visa holders could also harm neurodiverse individuals who may require flexibility in their academic studies, “late bloomers or career switchers” who need to pivot to a new field or level of education, and journalists whose work may be impacted by their unpredictable work cycles. Separately, a commenter remarked that the lack of opportunities for international entrepreneurs to take part in the United States due to this rule would negatively impact domestic minority and low-income groups who rely on the tech industry for jobs and social mobility.

Response: DHS disagrees with the comments regarding the disproportionate impact on foreign and domestic students of certain backgrounds or conditions and notes that the assertions in the comments are not supported by any specific data or research that relate to the provisions of this rule. DHS does acknowledge the unique needs of neurodiverse individuals, students who may need to change academic paths, and journalists with unpredictable work cycles. In developing this rule, DHS has sought to balance program integrity and national security with the need to maintain access and flexibility for legitimate students and exchange visitors. The rule allows F, J, and I visa holders to apply for an EOS, including allowing students to request an EOS in cases of compelling academic reasons, documented illness or medical conditions, and circumstances beyond the applicant’s control, which may include conflict, disaster, or other significant hardships. If an applicant is eligible, they will be able to continue to stay in the United States. This rule will provide DHS with additional protections and mechanisms to exercise the oversight necessary to enforce our nation’s immigration laws. Separately, DHS notes that notwithstanding this rule, students continue to have the option of applying for employment authorization for on-campus and off-campus employment (including due to severe economic hardship) and practical training, should they meet the requirements. With respect to the changes this rule purports to make for entrepreneurs, DHS is not changing any of its policies on the ability of, for example, F–1 students being able to start their own businesses as part of the OPT program.¹¹⁵

With respect to the potential for harassment, DHS condemns all forms of

harassment and abuse. While DHS does not directly regulate academic advising relationships, DHS encourages students who experience harassment, abuse, or unfair treatment to report these issues to their institution’s administration or other appropriate campus resources. DHS will continue to work with educational institutions to promote awareness of student rights and available resources, including the fact that this rule does not prevent a student from changing advisors.

c. Uncertainty and Complexity for Nonimmigrants

Comments: Commenters expressed concern that the proposed rule would introduce uncertainty and complexity for prospective or existing nonimmigrants in the affected visa categories. Commenters explained that the proposed rule would unnecessarily burden and stress nonimmigrants, especially students, potentially undermining their educational, employment, or research experiences in the United States.

One commenter noted that, if finalized, the rule would serve as a barrier to many nonimmigrant students who are hoping to study in the United States. Another commenter noted that former F–1 students who are now employed could experience uncertainty, delays, or complications regarding renewals or employer-sponsored visa transitions. One commenter expressed concern with how additional layers of bureaucracy, such as the need to request extensions, the collection of biometric data, and fixed admission periods, would create additional barriers for individuals. Commentators noted that the added requirement to apply for an extension or a slow adjudication process at the end of a term may also increase the risk for students to accrue unlawful presence. For higher education, one commenter noted that “the proposed rule would fundamentally alter a well-established understanding between students and schools” and would break down confidence due to colleges and universities being unable to guarantee completion.

Commenters who identified as foreign students also shared personal experiences and concerns and voiced that the proposed rule feels punitive to students and poses pressure and barriers to students. Commenters also expressed concern that administrative and technical errors could cause students to fall out of status through no fault of their own, and minor errors could trigger multi-year bars to reentry. Commenters were also concerned about reduced flexibility in the proposed rule,

suggesting it could violate principles of academic freedom and potentially be considered discriminatory. Relatedly, some commenters noted that MBA and LLM programs often attract mid-career professionals who already face significant financial and logistical challenges while highlighting how the imposition of additional USCIS filings every 2–4 years adds unnecessary bureaucracy and costs.

Commenters indicated they are currently seeing countless students lose OPT eligibility due to filing mistakes. They expressed concern that under this rule, similar errors would proliferate due to the volume of filings surging. The commenters further added that when a filing is rejected after the status has lapsed, students often cannot cure the gap, need to stop studying or working, and in some cases, never regain the ability to return to school or work. Given the sheer scale of new I–539 submissions contemplated by this rule, the commenters expressed concern about a dramatic increase of students losing their status.

Response: DHS appreciates these concerns associated with all the changes that will have to be made to comply with this rule and understands the uncertainties that may generally follow when regulations change and adjustments need to be made.

To alleviate concerns regarding these changes, DHS intends to make training available to DSOs so that they and the foreign students they advise will be ready for the transition. DHS included familiarization and adaptation time burdens for DSOs in the Final Rule Regulatory Impact Analysis and increased the time estimates based on public comments on these burdens. As explained in the NPRM, the D/S framework generally lacks predetermined points in time for USCIS or CBP immigration officers to directly evaluate whether F and J nonimmigrants are maintaining their status and poses a challenge to DHS’s ability to effectively monitor and oversee these categories of nonimmigrants. Furthermore, SEVIS allows DHS to identify certain status violations that have been detected and reported by a DSO or that result from the failure of a DSO or student to take certain actions in connection with the SEVIS record. Under the D/S framework, fraud or status violations that are undetected or unreported by a DSO may result in a student inaccurately being reported as maintaining status in SEVIS for many years past the status violation or fraud being committed. Furthermore, under the D/S framework an alien who no longer meets the statutory definition of

¹¹⁵ See SEVP’s web page, *Training Opportunities in the United States*, <https://studyinthestates.dhs.gov/students/training-opportunities-in-the-united-states> (last visited Feb. 4, 2026).

an F–1 student may improperly remain in F–1 status because DSOs do not make determinations regarding statutory eligibility for the F–1 classification.

DHS respectfully disagrees with the assertions that the rule unnecessarily burdens nonimmigrants or penalizes them. F, J, and I nonimmigrants will now have the same requirements as the vast majority of other nonimmigrants. DHS disagrees with the contention that administrative errors will lead to multi-year bars on entry. As discussed elsewhere in this rule, USCIS can excuse minor lapses for legitimate reasons. Also, multi-year bars begin only after 180 days of unlawful presence in the United States. Waiting in the United States for USCIS to complete adjudication of a timely filed EOS application after expiration of a nonimmigrant's current I–94 admit until date (AUD) is allowed with no unlawful presence accruing.

DHS does not believe that this final rule will serve as a barrier preventing nonimmigrant students from wanting to study in the United States based on the quality and diversity of educational opportunities available in this country. DHS emphasizes that the rule does not interfere with the ability of universities and students to engage in lawful academic activities. The rule is focused on immigration compliance and does not impose restrictions on the content, scope, or nature of academic programs or research. DHS believes that the proposed rule is consistent with its statutory obligations. As explained in the rule, the changes promulgated in this rule are necessary to strengthen the U.S. immigration system and fix the vulnerabilities associated with the D/S framework. While DHS recognizes that this rule may result in adjustments for nonimmigrants and institutions, these measures are intended to provide sufficient flexibility for nonimmigrant students to complete their programs and pursue additional opportunities while maintaining compliance with immigration laws. Accordingly, DHS believes that the benefits of establishing clear time limits and enhancing compliance monitoring outweigh any potential challenges or burdens associated with the rule.

With respect to commenters regarding F–1 students facing complications regarding renewals or employer-sponsored visa transitions, DHS believes that the transition period regulations will alleviate some of the concerns by existing students who are currently in practical training programs. Furthermore, the implementation period of the rule will provide sufficient time and notice for other F–1 students to

make changes as necessary to comply with the new regulations in the final rule. DHS notes that employment is not the primary purpose of the F–1 student classification.

DHS expects that the rule will not have a significant impact on participation of other J exchange visitors or I representatives of information media, as the number of J and I EOS requests is small compared to the overall J and I visa populations. See Final Regulatory Impact and Regulatory Flexibility Act Analysis, secs. IV.Q and R. DHS notes that equivalent U.S.-based exchange visitor programs (outside of academia) may be more difficult to find in other countries, providing less of an incentive for nonimmigrants to choose an alternative over U.S. programs.

d. Training and Job Prospects for Students

Comments: Commenters also expanded on issues related to current training and job prospects for foreign students who would be impacted by the proposed rule. Commenters expressed concern that the proposed rule would make it more difficult for foreign students to apply for practical training opportunities. One commenter expressed concern with how the proposed rule would impact CPT and extensions and provided an example of one individual who had maintained lawful status through Day-1 CPT, but whose status would be jeopardized if the proposed rule went into effect. Commenters also noted that F visa holders may have more limited employment opportunities due to additional costs to employers resulting from this rule, coupled with the H–1B cap limits. Relatedly, another spoke about how the proposed rule would create confusion with the H–1B “cap-gap” framework that was recently extended by USCIS and would lead to an increase in edge-case failures (lapses between EAD, EOS adjudication, travel, and I–94 dates) and undermine the cap-gap protections DHS created.

Response: This rule does not make any substantive changes to OPT and CPT other than in the context of admission and extensions and does not make any changes to the H–1B cap gap rule. DHS notes that CPT, which is part of a student's academic program, must be completed within the authorized period of admission. Similarly, OPT may be completed within the authorized period unless the student opts for post-completion OPT, in which case an EOS or readmission at a POE will probably be necessary. If students need additional time to complete their program beyond the authorized period, they must apply

directly to USCIS for EOS or, if they choose to travel, they can (with an unexpired visa) apply for admission at a POE through CBP and receive a new I–94 with a new AUD. As explained in the preamble, this practice comports with the regulations of many other nonimmigrant classifications. For current students engaging in CPT or OPT, DHS notes that the transition period regulations will provide continuity and mitigate any disruption on their programs, as explained at length in the preamble of the proposed rule.¹¹⁶ With respect to F–1 nonimmigrant employment perspectives, DHS notes that the F–1 student classification is not for the primary purpose of employment.

e. Families and Dependents

Comments: Commenters also spoke of the destabilizing effects of the new changes on students and their families. Commenters mentioned the impacts this rule could have on immigrant families that could lead to forced separation of married or engaged couples, stating that alien members of such couples can currently remain in student status while awaiting USCIS action. A commenter stated foreign students are currently able to remain in status while married or engaged and waiting USCIS action and they were concerned the rule would lead to forced separation of married or engaged couples in these instances.

Response: DHS acknowledges the concerns regarding the potential impacts of the proposed rule on students and their families, including the risk of separation for married and engaged couples if one of those individuals is a U.S. citizen or lawful permanent resident, but the other is an F, J, or I nonimmigrant. DHS notes the primary purpose of the F nonimmigrant classification is to allow foreign nationals to pursue a full course of study at a U.S. academic institution, and it is not meant to be a bridge to permanent resident status. Similarly, the J and I nonimmigrant categories hold specific purposes and are not meant to be a bridge to permanent residency. While DHS acknowledges that F, J, and I nonimmigrants and their families may experience uncertainty during the EOS process, the rule is designed to ensure that these nonimmigrants and their dependents maintain lawful status and comply with U.S. immigration laws. This rule does not change any of the regulations, policies, or procedures for those who have applied for an adjustment of status

¹¹⁶ See 90 FR at 42084 (Aug. 28, 2025).

based on marriage to a U.S. citizen or lawful permanent resident.

Further, the rule does not change the long-standing rules that allow dependents to accompany or follow to join principal aliens in F, J, and I nonimmigrant classifications. In addition, aliens in F, J, or I status, who properly file an EOS application with USCIS, may remain in the United States while the EOS is pending, and their dependents will also need to file EOS to remain with the principal applicant. The rule maintains existing requirements for dependents and does not introduce new barriers to family unity.

In order to minimize disruptions caused by delays in processing by USCIS, the rule allows F-1 nonimmigrants who timely file an EOS to continue to pursue a full course of study for the entire time their EOS is pending with USCIS after their authorized period of admission expires. Authorization for certain types of authorized employment for F-1s is also extended for a period of 240 days after the expiration of stay in these circumstances. These provisions help to prevent interruptions in the activities of these nonimmigrants.

J-1 nonimmigrants may continue authorized training while an EOS application is pending with USCIS. Specifically, J-1s who have properly filed an EOS may engage in the activities consistent with pursuing the terms and conditions of the exchange program objectives, including authorized training, for the entire time the EOS is pending. Those who are employed incident to their status may continue to work, beginning on the day after the admission period expires and as long as they applied for the EOS prior to the expiration of the admission period, for a period of up to 240 days as provided in 8 CFR 274a.12(b)(20).

It is the responsibility of the alien to maintain status while in the United States. DHS does not believe it is unreasonable to require aliens temporarily in the United States to file for an extension with USCIS for the alien to remain beyond their authorized period of stay, so that the U.S. government can confirm compliance with U.S. immigration laws. Additionally, this requirement is consistent with the extension filing requirements for other nonimmigrant categories, including B-1/B-2s, H-1Bs, H-2s, L-1s, and TNs, to name but a few.

3. Negative Impacts on the Immigration System and Policy Objectives

a. Purpose and Need for Rulemaking

Comments: Numerous commenters argued that DHS had failed to provide sufficient evidence that the current D/S framework leads to widespread noncompliance, fraud, or abuse. They stated that DHS relied on anecdotal examples and isolated cases rather than comprehensive data demonstrating systemic problems to justify the call for significant policy change. Commenters expressed that the rule did not draw a rational connection between alleged systemic fraud and abuse within the student visa program and the proposed changes, and that the proposed rule is a solution to a problem that does not exist. Others questioned how limiting the period of admission and requiring additional Form I-539 burden on students would address fraud or abuse. A commenter remarked that the NPRM lacks evidence demonstrating that eliminating D/S would have prevented any of the cited security incidents. The commenters continued stating that DHS overstated the justification of misuse and that the current system provides adequate oversight without imposing new burdens.

Commenters specifically highlighted the lack of evidence for abuse in the affected nonimmigrant categories. Commenters said that the increased burden on F-1 students is a stark contrast to the small amount of abuse. Multiple commenters stated that DHS provided no evidence of visa overstays specific to J-1 physicians, who they described as carefully vetted, monitored, and supervised. Commenters acknowledged the seriousness of examples cited by DHS, such as those from the NIH study, but questioned how requiring J-1 exchange visitors to file extension paperwork with USCIS would mitigate these issues. Similarly, many commenters noted that DHS provided no evidence of abuse or fraud in the I visa category for foreign journalists, with some suggesting that DHS justified including the I visa category using parity arguments rather than finding evidence of fraud and abuse. Commenters expressed concern that changes to the I visa might be politically motivated, as DHS did not identify compliance problems with this visa category.

Response: DHS disagrees with the general premise of these comments. While DHS provided specific examples of fraud, national security concerns, and nonimmigrant students remaining in the United States for lengthy periods of time under the D/S framework, DHS's intent

and rationale for this rulemaking was explained in detail in the proposed rule's preamble. Such concerns, as highlighted in the NPRM, demonstrate the fraud, national security, and other issues associated with the D/S framework. In the preamble to the proposed rule, DHS pointed out that admission for D/S does not afford immigration officers enough predetermined opportunities to directly verify that aliens granted such nonimmigrant statuses are engaging only in those activities their respective classifications authorize while they are in the United States. This has undermined DHS's ability to effectively enforce compliance with statutory inadmissibility grounds related to unlawful presence and has created national security vulnerabilities and incentives for fraud and abuse. DHS believes that this rule will provide DHS with the mechanisms to address some of the concerns surrounding the integrity of F, J, and I programs.

With respect to J classifications, DHS indicated that the national security risks posed by D/S admissions for individuals admitted under the J classification are similar to those posed by the F classification.¹¹⁷ DHS provided examples of several cases involving J-1 students involved in fraud and espionage, demonstrating the fraud, national security, and other issues associated with the D/S framework. As noted by several commenters, DHS cited a report prepared by a panel of experts commissioned by the NIH to study foreign influence on federally-funded scientific research, which stated that “[s]mall numbers of scientists have committed serious violations of NIH policies and systems by not disclosing foreign support (*i.e.*, grants), laboratories, or funded faculty positions in other countries.”¹¹⁸

As with F nonimmigrants, setting the length of the J nonimmigrant's specific program to not exceed a 4-year period will establish a mechanism for immigration officers to assess these nonimmigrants at defined periods (such as when applying for an EOS in the United States beyond a 4-year admission period) and determine whether the J-1 nonimmigrants are complying with the conditions of their classification. This will increase vetting of the J nonimmigrant population, which will help to prevent and deter nefarious actors. DHS believes that this rule will enhance DHS's ability to detect fraud, abuse, and national security

¹¹⁷ See 90 FR at 42079 (Aug. 28, 2025).

¹¹⁸ *Id.*

issues as well as take preventive action to secure the nation.

With respect to I nonimmigrant visas, DHS recognizes the lack of public data cited in the proposed rule regarding fraud and overstays specific to I nonimmigrants. However, DHS disagrees with the general premise of these comments. The vulnerabilities generally associated with the D/S admission are not unique to F and J nonimmigrant classifications, and the lack of public data for the I nonimmigrant classification does not mean that the vulnerabilities are absent for that classification. As explained in the preamble of the NPRM and in this final rule, one of the goals of this rule is to strengthen vetting and information collection and help immigration officers ensure that the I nonimmigrants are, and will be, engaged in activities that are permissible under INA 101(a)(15)(I), and do not pose national security issues (in addition to the F and J nonimmigrant classifications). As previously mentioned, DHS believes that admitting aliens temporarily in the United States for a fixed period will encourage aliens to maintain lawful status and prevent or reduce instances in which nonimmigrants unlawfully remain in the United States after their activities or assignments end.

b. National Security Justification

Comments: Commenters challenged the national security justification, stating the proposed rule failed to establish widespread security concerns under the current system. These commenters noted that DHS cited only a few isolated cases of espionage, or fraud, that had already been detected, and prosecuted, under existing laws and monitoring systems. Commenters expressed concern that DHS conflated suspected immigration abuse or fraud with national security concerns and suggested that legitimate concerns around espionage should be addressed through law enforcement and national security mechanisms.

Similarly, one commenter noted that the solution for national security concerns set forth by the government is overbroad, and there are already mechanisms which can meet the goals desired, such as revoking an individual's status. While acknowledging DHS has legitimate national security concerns to enforce immigration law, protect the integrity of F-1 and J-1 visa programs, and detect national security issues, a commenter did not agree that the current proposed solutions would meet these aims. Instead, the commenter stated that the proposed rule does not "account for the

vital national security interest of retaining this talent pipeline of international STEM experts" which even Congress asked the National Academies of Science, Engineering, and Medicine to study as part of the National Defense Authorization Act (for 2023).

Commenters warned that the proposed rule might undermine national security by potentially reducing American innovation and competitive edge, thus increasing security risks through greater turnover under the proposed fixed period, or inviting retaliation against U.S. journalists working abroad. Likewise, a commenter posited that pushing international doctoral students and researchers to competitor countries would be a greater national security risk than the benefits that DHS put forth in the proposed rule. Another commenter called for a more targeted approach to national security concerns in which DHS would follow up with students or scholars who are terminated by a DSO for violating their status or work with the FBI to remove Chinese scholars who are part of the Military-Civil Fusion strategy.

Lastly, a commenter expressed concern that the proposed rule would inadvertently result in less oversight in ensuring that foreign students, once admitted, actually participate or progress in their program by turning F or J visas into "4 years to do whatever you want" visas rather than ongoing monitoring under the current rule, thereby defeating the purpose of the rule.

Response: DHS disagrees with the general premise of these comments regarding the lack of national security justifications. In the preamble to the proposed rule, DHS pointed out that admission for D/S, in general, does not afford immigration officers enough predetermined opportunities to directly verify that aliens granted such nonimmigrant statuses are engaging only in those activities their respective classifications authorize while they are in the United States. This has undermined DHS's ability to effectively enforce compliance with the statutory inadmissibility grounds related to unlawful presence and has created national security vulnerabilities and incentives for fraud and abuse.

The vulnerabilities presented in the nonimmigrant student classification have been continuously highlighted by the FBI over the years. In a 2018 hearing before the Senate Intelligence Committee, the FBI Director testified about the threat from China, noting that the use of "nontraditional collectors,

especially in the academic setting, whether it's professors, scientists, students, we see in almost every field office that the FBI has around the country." The Director further stated as follows: "It's not just in major cities. It's in small ones as well. It's across basically every discipline. I think the level of naiveté on the part of the academic sector about this creates its own issues. They're exploiting the very open research and development environment that we have, which we all revere, but they're taking advantage of it. So, one of the things we're trying to do is view the China threat as not just a whole of government threat, but a whole of society threat on their end. I think it's going to take a whole of society response by us. So, it's not just the intelligence community, but it's raising awareness within our academic sector, within our private sector, as part of the defense." ¹¹⁹

Furthermore, in 2022, in response to a Congressional inquiry, GAO investigated and made recommendations that ICE modify the SEVIS system to include factors that potentially indicate which foreign students or scholars may pose more risk of transferring technology at U.S. universities due to the national security concerns.¹²⁰ Given the mounting reports and assessments flagging the issues of national security and vulnerabilities, it is hard to justify maintaining the D/S admission framework.

Separately, DHS is unable to determine whether the rule will result in a significant decline in foreign talent, nor anticipate a significant reduction in the economic benefits associated with foreign students within the U.S. economy at large. DHS asserts that U.S. educational institutions will continue to attract foreign students because U.S. institutions offer a high-quality education. Since any enrollment decline is uncertain, downstream economic activities such as employment and productivity are not feasible to quantify due to the various factors.

Additionally, DHS disagrees that the rule will hamper DHS goals and result in less oversight. Furthermore, the rule does not provide a four-year admission for all F and J nonimmigrants. Instead, the rule establishes an admission period *up to* the program length, *not to exceed* a 4-year period. If the program of study or exchange program is shorter than 4 years, the nonimmigrant will be

¹¹⁹ See Senate Select Committee on Intelligence Hearing, *Worldwide Threats* (Feb. 13, 2018), *supra* note 82. See also Statement of Louis A. Rodi III, *supra* note 82.

¹²⁰ See GAO 23-106114, *supra* note 83.

admitted for less than 4 years, *i.e.*, up to the program length. If the program is longer than 4 years, the rule requires nonimmigrants to apply for EOS, which is subject to USCIS adjudication. Those who wish to stay in the United States longer without leaving the country can apply to USCIS for EOS, which will provide DHS with additional mechanisms to exercise the oversight necessary to enforce our nation's immigration laws, protect the integrity of these nonimmigrant programs, and promptly detect national security concerns. This may include conducting background checks and collecting biometrics and other information from the nonimmigrants. As explained in the proposed rule, DHS believes that replacing admission for D/S for F-1 students with admission for a fixed time period will help mitigate fraud, overstay, and national security risks by ensuring an immigration official directly and periodically vets applicants for extensions of stay and, in so doing, confirms they are engaged only in activities consistent with their student status.

Notably, this rule does not change the SEVP certified schools' existing requirements that provide additional oversight of the foreign students. SEVP certified schools continue to have reporting requirements regarding the students' enrollment, attendance, transfer, completion of the program, etc., and must make such updates in SEVIS within 21 days of the change. *See* 8 CFR 214.3. If a student is admitted for 4 years to complete a program of study but fails to attend school, the SEVP certified school will be required to report this information in SEVIS. The student will be considered to have failed to maintain status and will be subject to grounds of removability.

However, DHS believes that the existing monitoring and vetting efforts are not exclusive mechanisms nor the only approach for strengthening the F, J, and I nonimmigrant classifications. In fact, the screening and vetting efforts undertaken by other agencies and departments, as well as agencies within DHS, should be a collaborative effort that further strengthens national security and the integrity of the U.S. immigration system. Moreover, for the reasons explained in the rule, DHS believes that a fixed admission period and EOS requirements will specifically enhance the integrity of the F, J, and I nonimmigrant classification.

c. DHS Overstay Data

Comments: Commenters also expressed concern with the data DHS provided and questioned whether it

accurately captured the issues that DHS wants to rectify with the proposed rule. Some commenters contended that the overstay data put forward by DHS was incomplete or inaccurate to support the changes in the rule. Multiple commenters said that given the low number of overstays, the proposed rule lacks evidentiary support or justification. Along those lines, commenters stated that the rule was a disproportionate overcorrection to a relatively small number of overstays, adding that this small number did not justify a wholesale change that would affect academic institutions, along with millions of compliant students. A commenter noted that foreign students, overall, are a highly compliant population, with DHS data showing the overstay rate for F, M, and J visa holders to be 3.67 percent for FY 2023.

Specifically, commenters noted that the 2,100 overstays referenced in the proposed rule are relatively small in comparison to the total population of foreign students in the United States, which they stated as over 3 million, citing various sources. Along those lines, another commenter noted that the issue of "the perpetual student" was smaller than what was stated by DHS, as only 2,100 individuals of the 1,582,808 active SEVIS records were listed as still being in an active F-1 status after entering as an F-1 student between 2000 and 2010.¹²¹ Another commenter stated the cited 2,100 cases of aliens remaining on F-1 visas for over 10 years is 0.1 percent of the 1.6 million F visa holders admitted in 2023, or 0.8 percent of the 260,000 admitted in 1980 but did not provide any sources or citations. Another commenter noted the statistics for the past decade reflect a 2–4 percent overstay rate, depending on the country and outside factors, and that 5 percent is not statistically material according to Generally Accepted Accounting Principles in the U.S. (GAAP).¹²² One commenter noted that current data shows F-1 visa holders have a low 1.5 percent overstay rate compared to a 6.6 percent overstay rate for B-1/B-2 visas. A commenter referenced Open Doors data, saying over 81 percent of foreign students in the U.S. come from the top 20 countries of origin for students, and most of these countries have very low overstay rates.¹²³ Some commenters referenced

CBP's Entry/Exit Overstay Report from fiscal year 2024, stating the 2.45 percent overstay rate for F, M, and J visa holders demonstrates the system's effectiveness and means 97.55 percent of international students maintain legal status and comply with visa requirements.¹²⁴

Many commenters pointed to various issues regarding DHS overstay data. A commenter pointed to a forensic analysis by the National Foundation for American Policy (NFAF) which had concluded that DHS methodology is flawed.¹²⁵ The commenter stated that the DHS 'overstay rate' is not a measure of illegal presence but an 'upper-bound estimate' that fails to account for timely departures that were not recorded and lawful changes of status. The commenter further stated that the NFAF analysis shows the 'suspected' overstay rate for students and exchange visitors dropping by as much as 42 percent over time as the government's own data is reconciled. The commenter concluded that a sweeping, punitive policy on such unreliable and inflated statistics is irresponsible.

Similarly, commenters added that DHS reports of overstay rates are inflated. Commenters also noted that overall overstay rates, in all student and exchange visitor visa categories, have fallen in recent years. Commenters stated DHS cites program integrity concerns but does not provide evidence that the existing D/S framework is broadly ineffective and without clear data showing systemic abuse, imposing such sweeping structural changes seems premature. Commenters remarked that DHS did not provide evidence that the overstay numbers reflected individuals who are unlawfully present in the United States. Commenters stated that DHS did not consider legitimate reasons why students might remain in F-1 status for extended periods, such as pursuing multiple academic degrees or certifications, participating in OPT, or a result of research-related delays. Other commenters noted that students whose academic career in the United States

2024, https://opendoorsdata.org/fact_sheets/fast-facts/. *See also* CBP, *Entry/Exit Overstay Report: Fiscal Year 2024 Report to Congress* (July 16, 2025), https://www.dhs.gov/sites/default/files/2025-08/25_0826_cbp_entry-exit-overstay-report-fiscal-year-2024.pdf.

¹²⁴ *Entry/Exit Overstay Report: Fiscal Year 2024*, *supra* note 123.

¹²⁵ The commenter referenced International Students Contribute Record-breaking Level. . . . NAFSA, reportedly accessed August 30, 2025, <https://www.nafsa.org/about/about-nafsa/international-students-contribute-record-breaking-level-spending-and-378000-jobs> and National Foundation for American Policy—NFAF, reportedly accessed August 30, 2025, <https://nafap.com/studies/an-analysis-of-the-dhs-overstay-reports/>.

¹²¹ The commenter referenced ICE's 2024 *SEVIS by the Numbers Report*, https://www.ice.gov/doclib/sevis/btn/25_0605_2024-sevis-btn.pdf.

¹²² The commenter referenced https://www.dhs.gov/sites/default/files/2024-10/24_1011_CBP-Entry-Exit-Overstay-Report-FY23-Data.pdf.

¹²³ The commenter referenced Institute of International Education, *Open Doors: Fast Facts*

had spanned from high school to a doctoral program would be included in the list of 2,100 and viewed as a potential abuse case, despite remaining compliant within the laws and intent of the policy. A commenter suggested that additional data analysis would be necessary to determine if nonimmigrants maintaining an F–1 visa status for an extended duration should be regarded as non-compliant or impermissible.

Commenters stated that DHS's Entry/Exit Overstay Reports contained significant methodological issues that inflated overstay numbers. Commenters further stated that these reports counted as individuals who had lawfully changed status, adjusted to permanent residency, or departed the United States but whose exits were not properly recorded as "overstays." Commenters cited DHS's FY 2023 Entry/Exit Overstay Report showing that the in-country overstay rate for F, M, and J visa holders was around 3 percent.¹²⁶ Meaning that over 97 percent of students and exchange visitors complied with immigration requirements. Similarly, a commenter cited a 2020 DHS report indicating that 1.21 percent of all F, M, and J nonimmigrants overstayed their visa duration; the commenter reasoned that the current system is therefore effective, and the proposed rule is unwarranted.¹²⁷ One commenter stated that F, J, and M visa holders represented only about 9.7 percent of all suspected in-country overstays for FY 2023, with over 90 percent of suspected overstays coming from other nonimmigrant categories, primarily short-term visitor visas.¹²⁸

Additionally, a commenter stated that DHS's data systems frequently lag in reconciling departures, resulting in overstay rates being overreported, until these systems update to show the accurate overstay rate. Commenters cited research, by demographer Robert Warren and the NFAP, stating that more than half of reported "overstays" had actually departed the country.¹²⁹

However, these departures were not recorded as such. Another commenter expressed concern with overstay data from DHS due to errors and gaps in the system. The commenter pointed out multiple instances where arrival or departure dates were not captured accurately by CBP in SEVIS, and the data did not have specific data categories for how many individuals departed the United States within a few days, a week, or a month.

A comment criticized that DHS did not provide data on J–1 Exchange Visitors and stated that the proposed rule should have excluded professor and research scholar categories, who are limited to program duration of five years maximum; short-term scholars limited to program duration of six months maximum; and specialists limited to program duration of one year maximum.

Response: DHS disagrees with the general premise of these comments. The purpose and need for the rule does not merely hinge on the number of overstays alone. DHS provided overstay statistics, coupled with cases of fraud, national security concerns, and nonimmigrant students remaining in the United States for lengthy periods of time, which viewed holistically, underscore the need for this rule. Such concerns, as highlighted in the NPRM, demonstrate the fraud, national security, and other issues associated with the D/S framework. The rule provides compelling cases of fraud, abuse, and national security concerns, and nonimmigrant students remaining in the United States for lengthy periods of time under the D/S framework, which pose serious threats to the interests of the United States.

In the preamble to the proposed rule, DHS pointed out that admission for D/S does not afford immigration officers enough predetermined opportunities to directly verify that aliens granted such nonimmigrant statuses are engaging only in those activities their respective classifications authorize while they are in the United States. This has undermined DHS's ability to effectively enforce compliance with statutory inadmissibility grounds related to unlawful presence and has created national security vulnerabilities and incentives for fraud and abuse.

DHS believes that this rule will provide the mechanisms to address some of the concerns surrounding the integrity of F, J, and I programs. The

rule is necessary to enhance oversight and accountability in the administration of F, J, and I nonimmigrant statuses. While cases of extended F–1 duration may seemingly appear to be insignificant or for legitimate purposes, the potential for misuse or fraud in such cases underscores the importance of implementing measures to ensure compliance with immigration laws. DHS recognizes that extended F–1 durations may occur for valid academic or professional reasons and does not intend to penalize students for lawful activities that comply with the terms of their status. The rule is designed to address vulnerabilities in the current system and ultimately to strengthen the integrity of the F, J, and I nonimmigrant programs while recognizing that students may be engaged in legitimate academic and professional pursuits. DHS has carefully considered the potential impacts of the rule and believes that its benefits, including improved oversight and the ability to detect and prevent fraud, justify its implementation. *See* secs. VI.A, B, and C for a full discussion of the rule's overall economic impact analysis.

With respect to inaccurate or incomplete data, DHS notes that while there may be human error involved in data entry into SEVIS and elsewhere by immigration officers, DHS does not believe that isolated instances greatly impact the reliability of DHS records nor the purpose of this rule.

Likewise, DHS disagrees that the overstay rate is not significant for J–1 nonimmigrants. According to SEVP's 2024 SEVIS by the Numbers Report, approximately 301,000 J–1 nonimmigrants entered the United States in 2024.¹³⁰ Therefore, the estimated overstay number from the 2024 J–1 nonimmigrant cohort would be approximately 10,000.¹³¹

As far as DHS overstay data using a flawed methodology, DHS has released overstay reports each fiscal year since 2015. For the purpose of the report, DHS counts a nonimmigrant as an overstay if, as of the data pull date, (1) a record exists of a departure that occurred after the end of the authorized period of

¹²⁶ Commenters referenced CBP, *Entry/Exit Overstay Report Fiscal Year 2024 Report to Congress* (July 16, 2025), https://www.dhs.gov/sites/default/files/2025-08/25_0826_cbp_entry-exit-overstay-report-fiscal-year-2024.pdf.

¹²⁷ The commenter referenced https://www.dhs.gov/sites/default/files/publications/20_0513_fy19-entry-and-exit-overstay-report.pdf.

¹²⁸ The commenter referenced https://www.dhs.gov/sites/default/files/2024-10/24_1011_CBP-Entry-Exit-Overstay-Report-FY23-Data.pdf.

¹²⁹ The commenters referenced Anserdson, S. *Forbes, USCIS Uses Questionable 'Overstay' Report To Justify Policies*, June 6, 2018, <https://www.forbes.com/sites/stuartanderson/2018/06/06/uscis-uses-questionable-overstay-report-to-justify-policies/#43b77c466e74>; Warren, R., *Journal on Migration and Human Security, DHS Overestimates Visa Overstays for 2016*; and *Overstay Population Growth Near Zero During the Year*, Nov. 4, 2017, <https://journals.sagepub.com/doi/pdf/10.1177/233150241700500403>.

¹³⁰ ICE, *2024 SEVIS By the Numbers Report*, https://www.ice.gov/doclib/sevis/btn/25_0605_2024-sevis-btn.pdf.

¹³¹ The commenters referenced an overstay rate of 2.45 percent, which is the suspected in-country overstay rate. *See Entry/Exit Overstay Report: Fiscal Year 2024*, *supra* note 123. The total overstay rate for students and exchange visitors (including F, M, and J visas) in 2024 was 3.23 percent. *Id.* Assuming J visa holders overstay at rates comparable to other Student and Exchange Visitors, then the total number of overstays from the 2024 J–1 nonimmigrant cohort would be $301,000 \times 0.0323 = 9,722$.

admission (*i.e.*, an “out of country overstay”), or (2) no record of a departure, extension, change of status, or adjustment of status before the end of the authorized period of admission (*i.e.*, a “suspected in-country overstay”). The overstay rate is the share of admissions covered by the report that meet these criteria.

DHS produces these figures using CBP’s Arrival and Departure Information System (ADIS), which consolidates carrier arrival and departure manifests, certain partner country land exit data, and immigration benefit and status information from U.S. Citizenship and Immigration Services (USCIS), including extensions, changes of status, and adjustments. DHS narrows the list of suspected overstays by cross-checking against these data sources.

The decline over time in counts of suspected in-country overstays, as noted by NFAP, reflects the expected and documented process of updating records as DHS receives additional departure and benefit information. This decline is an intended result of the system design, not a flaw in the methodology. The existence of these later adjustments is a known and transparent feature of the methodology and does not mean the initial statistics are unreliable or “inflated.”

Like all administrative datasets, the ADIS system is subject to a small number of data errors, incomplete reporting, imperfect record matching, and related data quality problems, but the Department has worked steadily to identify and eliminate these errors over more than a decade. While any given individual ADIS record may be subject to remaining data quality problems, reported aggregate overstay rates are generally reliable and suitable for making comparisons across countries and classes of admission and over time.

DHS also notes tracking overstay data under the D/S framework is difficult and prone to undercounting. Tracking overstay data will be easier to track and assess with admission for a fixed period. Furthermore, overstays coupled with the vulnerabilities of the D/S framework, including heightened risks to national security, pose serious concerns. As explained in the preamble, this rule provides a mechanism for DHS to periodically and directly assess whether these nonimmigrants are complying with the conditions of their classifications and U.S. immigration laws. Admission for a fixed period of time will reduce overstays, as violators will begin to accrue unlawful presence following the expiration of their authorized period of admission and may become inadmissible based on that

accrual of unlawful presence under INA section 212(a)(9)(B) and (C), 8 U.S.C. 1182(a)(9)(B) and (C), upon departing the United States.

4. Negative Impacts to the U.S. Government

a. Sufficiency of Current System and Administrative Burdens

Comments: Commenters stated the SEVIS reporting and tracking system, site visits, and current adjudications are sufficient and that the proposed rule would not provide any greater oversight. Specifically, commenters pointed out that the current SEVIS system already provides DHS with significant oversight and that imposing rigid federal restrictions on academic choices is an overreach that will cause more harm than good. Some commenters stated that the rule creates legal confusion and enforcement problems and that eliminating the D/S notation and introducing fixed end dates conflict with how SEVIS and university compliance offices currently function. Another commenter pointed out that the D/S policy has supported generations of foreign students and scholars while preserving program integrity, facilitating educational mobility, and maintaining national security through SEVIS oversight, and asserted that the proposed change would harm students, strain university resources, and weaken the global standing of U.S. higher education—with little evidence of the need for such reform.

Several commenters expressed concern that the proposed rule would only duplicate efforts currently undertaken by SEVIS and the State Department, and USCIS would be overwhelmed due to the substantial administrative burden from these new changes. Another commented that the current SEVIS process is timelier and more accurate as the current processing time for USCIS is around 3.5 months, but SEVIS requires reporting within 21 calendar days for a DSO or an ARO and 10 calendar days for a student or scholar. One commenter stated that it would be hard for USCIS adjudicators to replicate the understanding of individual systems at colleges and campuses that has already formed between DSOs, AROs, and SEVP field representatives under the current process. Some commenters wrote that the authority to determine a student’s academic path should remain with the academic institutions and that DSOs are trained professionals who are best positioned to verify a student’s academic standing and intentions.

Additionally, commenters stated that the proposed rule’s blanket approach wastes enforcement resources on low-risk populations rather than actual threats. Due to this population already being vetted under SEVIS, one commenter wrote that the changes under the proposed rule would divert DHS resources away from investigating high-priority threats, such as state-sponsored espionage, cyber warfare, and terrorism.

Response: DHS acknowledges that existing mechanisms, such as SEVIS, provide oversight of foreign students, foreign exchange visitors, and educational institutions in general. However, DHS believes that the existing monitoring and vetting efforts are not exclusive mechanisms nor the only approach for strengthening the F, J, and I nonimmigrant classifications. Moreover, DHS disagrees that leveraging data in SEVIS alone to identify possible student or exchange visitor status violations is sufficient to address the vulnerabilities of the D/S framework.

In part, SEVIS relies on information that is inputted by educational institutions and program sponsors. While DHS appreciates that DSOs and ROs generally interact frequently with nonimmigrant students and exchange visitors, DHS believes it is appropriate for DSOs to comply with SEVIS reporting requirements for their school or program sponsors and F and J nonimmigrant population, but for DHS to make immigration status determinations, such as extending an immigration status and assessing whether an alien remains eligible for the nonimmigrant classification. DSOs and ROs cannot perform the duties of immigration officers. For example, DSOs may be unaware of a student’s failure to maintain status, including by engaging in criminal activity. They may recommend program extensions, but only immigration officers can adjudicate EOS applications and make legal determinations about status and admissibility. DSOs and ROs should no longer serve as direct proxies for immigration officers, though they will continue to perform important duties to assist DHS and nonimmigrant students and exchange visitors.

Under the D/S framework, there are no background checks required while the alien is in the United States unless the F, J, or I nonimmigrant applies for a change of status to a different nonimmigrant status, or another benefit with USCIS. This has created situations where F, J, and I nonimmigrants can be present for long periods in the United States without undergoing U.S. government review in the form of an

EOS application, including accompanying background checks, or subsequent visa application or inspection at a POE. Admission for a fixed period of time will reduce overstays, as violators will begin to accrue unlawful presence following the expiration of their authorized period of admission and may become inadmissible based on that accrual of unlawful presence under INA section 212(a)(9)(B) and (C), 8 U.S.C. 1182(a)(9)(B) and (C), upon departing the United States. While some commenters call for a more targeted approach to vetting, DHS asserts that the fixed admission period and the EOS application requirements are not punitive or specific to the F, J, and I nonimmigrants. Notably, the new rule closely aligns the regulations and procedures for other nonimmigrant classifications.

b. National Security Programs and Self-Reporting

Comments: Commenters provided specific instances where already established programs could be used to achieve the goals set forth under the proposed rule. Commenters also noted that there are programs already in place to deal with national security threats. One commenter noted that the DoS already investigates funding sources, extended family, travel plans, previous travel to the United States, social media activity, employment and education, and planned work or education in the United States. The commenter stated that relying on individuals to self-report violations of status or crimes would not strengthen national security, and the questions posted in Part 4 of the I–539 extension of status application are similar to the abbreviation version found in the DS–160. A commenter noted that Project Campus Sentinel, led by Homeland Security Investigations (HSI), currently remains active under the Counter Threat Lead Development Unit (CTLDD) and already monitors students and campus compliance. Another commenter noted that there is already oversight by the DoS and DHS for I visa applicants as they must undergo vetting by U.S. consular officers before admission. Another commenter recommended DHS divert FBI agents and DEA agents who are currently being used for immigration enforcement back to national security threats.

Response: DHS acknowledges that there are other existing mechanisms that enhance oversight of students, educational institutions, and foreign nationals in general. However, DHS disagrees with commenters that the

existing mechanisms are sufficient. DHS believes that the existing monitoring and vetting efforts are not exclusive mechanisms nor the only approach for strengthening the F, J, and I nonimmigrant classifications. In fact, the screening, vetting, and investigating efforts undertaken by other agencies and departments, as well as agencies within DHS, should be a collaborative effort that further strengthens national security and the integrity of the U.S. immigration system.

Furthermore, DHS asserts that the comment on self-reporting is misguided. The rule does not largely rely on self-reporting by foreign nationals. The rule provides that as part of the EOS application process for F, J, and I nonimmigrants, USCIS may require the collection of biometrics (such as fingerprints, photographs, and signatures) as may be required by 8 CFR 103.16, and applicants may be required to appear for an interview. *See* 8 CFR 103.2(b)(9). The purpose of collecting biometrics is to confirm the individual's identity, conduct background and security checks, and screen for any national security or fraud concerns. The EOS application requirement is a way to enhance government oversight and monitoring, and to ensure that individuals do not pose a threat to national security, as biometrics and background checks will be conducted more frequently.

5. Impacts to Higher Education

a. Enrollment

Comments: Commenters expressed concern, without providing data, about the proposed rule's potential to decrease foreign student enrollment in U.S. institutions, with some estimating a decrease of 10–15 percent and 20–30 percent. Commenters stated that this could exacerbate already declining enrollment levels. Others remarked that the rule's unnecessary, duplicative and wasteful process would impact numbers of students willing to study at U.S. universities, which would directly harm the operations of foreign student and scholar services since 70 percent of salaries, systems and programming costs are student fee based. A commenter stated, without support, that U.S. institutions have lost nearly one-third of their foreign students in Fall 2025. Commenters stated this decrease is attributed to political instability, perceived hostility from administration policies, increased visa vetting, and limited visa appointment availability. One commenter included an analysis of preliminary data from *Inside Higher*

Ed,¹³² which showed a decline in foreign student enrollment in Fall 2025 for both public and small private colleges in the United States. One commenter described an approaching “demographic cliff” starting in 2025 due to declining U.S. birth rates after 2007, suggesting that foreign students serve as a critical buffer against enrollment instability at many institutions.

Many commenters point out how this rule could deter prospective students by making the United States educational institutions less attractive compared to countries like Germany, China, Singapore, Canada or Australia, which offer more flexible visa systems. Along the same lines, a commenter compared the cost of studying in the U.S. to other countries and discussed the following, without providing any citation for this data: Canada—Master's tuition is CAD 15,000–30,000 per year (~\$11,000–\$22,000 USD) and graduates can apply for permanent residence within 1–2 years, with straightforward work permits; Germany—Public universities charge €0–€3,000 per year (~\$0–\$3,300 USD) and graduates can obtain permanent residency in 2–3 years, with immediate full-time work authorization; Australia—Master's tuition ranges from AUD 30,000–45,000 per year (~\$18,000–\$27,000 USD) and graduates can work on a Temporary Graduate visa (subclass 485), and after 2–4 years of skilled employment, may become eligible for permanent residency. The commenter noted that in contrast, in the U.S. even after 2–3 years of study and work on OPT and STEM OPT, international graduates only had the option of H–1B visas, which are subject to the lottery system, with no guarantee to permanent residency. The commenter added that the additional burdens and uncertainty due to the rule would reduce the attractiveness of the U.S. education.

Relatedly, a commenter noted that this trend will have a multiplier effect as each negatively affected student influences dozens of prospective applicants. A commenter wrote that data from the Organization for Economic Cooperation and Development (OECD) Migration outlook (commenter did not provide a source) shows that countries offering pathway predictability capture 73 percent more STEM doctoral graduates than those with rigid renewal requirements, while another commenter stated that the UK's restoration of two-year post-study work

¹³² The commenter referenced Mowreader, A., *Inside Higher Ed*, *International Enrollment Down at Regional Publics, Small Private Colleges* (Sept. 23, 2025), <https://www.insidehighered.com/news/global/international-students/2025/09/23/international-enrollment-down-small-regional#>.

visas in 2021 resulted in a 24 percent increase in foreign student application within one year.

Several commenters noted that community colleges will also be impacted as they can be pipelines to universities, and the proposed rule may hinder the transfer process and thereby discourage applicants from enrolling in community colleges. Several commenters said the proposed rule would make it more difficult for community colleges to enroll students and would increase their workload. Commenters stated that foreign students do not displace domestic students, with some citing research from the NFAP which found that for every additional international undergraduate student enrolled, on average two more in-state first-year students enrolled at public universities.¹³³

Response: DHS acknowledges that enrollment of foreign students in U.S. educational institutions may decline because of this rule but is unable to quantify the extent of this decline because there is no precedent from which accurate conclusions can be drawn as to the rule's impact. However, DHS does not intend for the rule to result in a significant decline in foreign student enrollment. As noted, the level of foreign student enrollment does fluctuate, and it is speculative to assess any declination is a direct and sole result of the rule.¹³⁴ Any decline would likely include some prospective or current foreign students who do not intend to comply or have not been complying with the conditions of their nonimmigrant classification.

DHS recognizes foreign students play a role in stabilizing enrollment and supporting the financial health of many institutions, including community colleges that serve as pipelines to universities. DHS has considered commenters' citations regarding economic impacts regionally and at the state level and all the potential impacts when drafting this rule. DHS has ultimately concluded the benefits to the rule outweigh any potential decreases to enrollment and subsequent economic impacts.

b. Impact on Academic Programs and Research and STEM

Comments: Many commenters raised concerns regarding the impact on educational and research programs due to the rule's provisions on fixed admission period and EOS requirements. Specifically, multiple commenters raised concerns that programs lasting longer than the four years, including many doctorate degrees, are in jeopardy due to the 4-year fixed admission period provided in the rule. Commenters stated this rule is fundamentally misaligned with the actual academic landscape of U.S. higher education. A commenter noted the Integrated Postsecondary Education Data System measures successful completion of a bachelor's degree within 6 years, while Federal Financial Aid eligibility identifies satisfactory academic progress standards at 150 percent of the published program length. According to commenters, for undergraduate students, data shows that 56 percent take more than 4 years to complete the degree program, and double majors require 5 to 6 years due to overlapping and intensive core curricula. Commenters particularly stated that many STEM doctoral programs require more than five years of training to ensure mastery within the field and that four years is not sufficient. One commenter noted that based on NSF data, engineering Ph.D. completion is on average 6.7 years and science Ph.D.s average 6.1 years, and with the proposed limit at 4 years, researchers who are behind breakthrough technologies, such as quantum computing, AI, biotechnology, and advanced materials, will go elsewhere. Another commenter noted that according to the American Institute of Physics, the average time to complete a Ph.D. in physics is six years and that approximately 16 percent of students take eight years or more to complete their degrees.

Commenters pointed out that the rule would have a negative impact on U.S. universities, research, economy, and global competitiveness, as foreign students contribute billions to the U.S. economy through tuition, housing, and innovation (e.g., in STEM fields). Another commenter stated the rule would impose hundreds of millions of dollars in annual compliance costs, much of which would fall on U.S. universities and research institutions, which could otherwise fund classrooms, laboratories, or enforcement priorities. Given the timelines for requesting EOS and the potential for projects to be interrupted, commenters noted that the

proposed rule could slow down or disrupt research outcomes at U.S. universities and weaken U.S. leadership in the field of science. Some commenters noted that the introduction of uncertainty in the system for foreign born students would also harm research continuity and innovation in the long run.

Lastly, a commenter noted that the United States hosts many of the world's international doctoral students across Organization for Economic Co-operation and Development (OECD) countries, and making studying in the United States less predictable would undermine the United States national security and economic competitiveness.

Response: DHS recognizes that the rule will require implementing changes by the stakeholders, especially students, researchers, and educational institutions. However, DHS believes that such burdens are outweighed by the benefits of this rule, which creates a mechanism for DHS to increase vetting, reduce overstay, and determine whether nonimmigrants are complying with the conditions of their nonimmigrant classification. The requirements imposed by this final rule provides the U.S. government more opportunities to review a nonimmigrant's records, admissibility, and any possible indicators of fraud, abuse, or national security concerns. This rule seeks to address vulnerabilities posed by the D/S framework by providing DHS predetermined points in time for immigration officers to directly evaluate whether F, J, and I nonimmigrants are maintaining their status, as DHS does for other nonimmigrant classifications.

DHS recognizes students may take longer than four years to complete their undergraduate and graduate programs of study. DHS also recognizes commenters' statements about other federal standards related to postsecondary education completion which are greater than four years, such as the Integrated Postsecondary Education Data System and the Federal Financial Aid eligibility. However, this rulemaking does not require completion of a program within four years. Rather, the four-year period is intended as a law enforcement and screening tool to assess whether a student is maintaining normal academic progress and eligibility for F-1 status. Students who demonstrate continued academic progress and meet F-1 eligibility criteria may apply for an EOS to complete their programs, consistent with the realities of U.S. higher education. The student may also travel and reenter with a period of admission to complete the

¹³³ The commenters referenced Zavodny, M., Nat'l Found for Am. Pol'y, *The Importance of Immigrants and International Students to Higher Education in America*, (May 2025), <https://nfap.com/wp-content/uploads/2025/05/Importance-of-Immigrants-and-International-Students-to-Higher-Education.NFAP-Policy-Brief.2025.pdf>.

¹³⁴ See FY 2024, Quarter 4, tbl.4B, *supra* note 11, sum of F-1 1,816,480 and F-2 63,510. See also DHS FY 2023, Quarter 4, tbl.4B, *supra* note 11, sum of F-1 1,625,740 and F-2 61,910.

remaining program of study. This approach is designed to enhance screening and vetting, not to impose a rigid completion deadline.

DHS acknowledges the concern about potential negative impacts of the rule on academic research. However, DHS believes that legitimate foreign national researchers will continue to seek educational and research opportunities in the United States based on the excellence of United States institutions and programs. Nothing in this rule would prevent students from continuing their studies and research as long as individual students are complying with the terms of their nonimmigrant classification. Long-standing policy, which is not changing, allows F–1 and J–1 students to continue their studies for as long as their EOS application is pending. This rule does add a provision for on-campus employment, CPT, and off-campus work due to severe economic hardship which allows those who are employed to continue to work for the same employer up to 240 days after the expiration of their stay if they timely filed an EOS and it is still pending with USCIS. This final rule does not change the current regulations at 8 CFR 274a.12(b)(6)(iv) for nonimmigrant students transitioning from OPT to STEM OPT who have timely filed for an extension of their EAD, and it is pending with USCIS. They may continue to work for the same employer for up to 180 days after the expiration of their OPT EAD. This extension of the EAD may or may not coincide with a need to file for an EOS. If it does, they will be considered to be maintaining their status as long as they timely filed for the EOS and the 180 days will begin to toll only upon the expiration of their EAD.

DHS is not changing the fundamental requirements to qualify for these nonimmigrant statuses; it is only changing the length of time that an individual may lawfully remain in the United States in F or J status without filing an EOS. Further, as is the case for the fixed period of admission policy more generally, a fixed date of admission simply places these nonimmigrants in the same position as most other nonimmigrants who are temporarily in the United States. They will still be able to continue to pursue their full course of study or exchange program. However, if they need additional time in F or J status, the burden will now be on them to request authorization directly from DHS and establish eligibility to extend their period of stay in such status, whereas previously they obtained an extension of lawful status in conjunction with a

program extension through a DSO or RO. As such, DHS believes this rule will not cause undue burden to students or schools.

Comments: Many commenters discussed the rule's financial impact on various industries across the board. In the field of education, commenters remarked on the significant contributions of foreign students to the United States, particularly in addressing critical workforce shortages and as student leaders, teaching and research assistants, mentors, and tutors. Relatedly, a commenter, citing specific examples of international educational exchange, stated that this academic exchange contributes hundreds of millions of dollars annually to educational institutions and broader economies in both countries.

In the STEM fields, commenters remarked on the critical role of foreign students in STEM fields, stating that they comprise a significant percentage of graduate students in disciplines such as electrical engineering, computer science, and mathematics. Commenters indicated that the data from the Association of American Universities showed that 73 percent of international STEM graduates continue to live and work in the United States years after graduation, providing scientific, technological, and economic benefits. Relatedly, commenters added that foreign-born individuals comprise 43 percent of doctorate-level scientists and engineers in the United States, and one in three members of the nation's leading science, engineering, and medical academies are naturalized U.S. citizens. A commenter stated that foreign students account for 38 percent of graduate enrollments in statistics, computer science and health informatics programs. Commenters suggested that recruiting foreign students majoring in STEM should serve as the primary channel for talent acquisition, as the United States faces a significant shortage of tech professionals unlikely to be filled by American students in the near term.

Commenters expressed concern that the proposed rule would negatively impact the U.S. STEM workforce and leadership at a time when STEM jobs are projected to grow approximately 10 percent between 2023 and 2033—nearly three times faster than non-STEM jobs—creating a need for 870,000 STEM positions over the next decade. Relatedly, commenters pointed to existing labor shortages, including an annual deficit of 2,500 workers with advanced engineering degrees in the semiconductor industry, and a projected 14 percent increase in the need for

manufacturing engineers, a 31 percent growth in the need for healthcare data analyst roles, and a 50 percent growth in renewable energy roles over the next decade. Commenters warned that the proposed rule could undermine U.S. leadership in research, healthcare, including elder care, artificial intelligence (AI), and energy by driving top students and scholars to competitor nations. Additionally, commenters stated that the policy may weaken the cybersecurity industry which would also leave the United States vulnerable.

Commenters stated that the proposed rule would threaten other critical industries such as financial services, engineering, cloud computing, biotechnology, healthcare analytics, autonomous vehicles, accounting, and quantum computing. Many commenters stated similar concerns with the role of foreign students, worker deficit, and need for multidisciplinary education facing the industries for telecommunications; biotechnology and healthcare informatics; pharmaceutical development; fintech including blockchain, AI and digital payments; medical technology; insurance and risk management; legal services and professional consulting; aerospace and defense systems; industrial engineering; automotive technology; computer science; environmental remediation and sustainable development; semiconductors; talent acquisition; and marketing and supply chain management. A commenter suggested the implementation of strategic industries exemption for supply chain critical sectors identified by the Committee on Foreign Investment in the United States or alternatively create a “National Economic Security” designation allowing for extended D/S for individuals working in sectors deemed essential for domestic manufacturing. A commenter also addressed the role of foreign students in behavioral health and social work fields, stating that international doctoral psychology trainees provide supervised care to underserved communities, and international perspectives broaden expertise in social work research. Another commenter added that social work graduates often remain to serve high-need communities through OPT or advanced research positions, helping to meet the projected 6 percent growth in social work jobs from 2024–34, which is expected to create over 74,000 new positions.

Separately, a commenter specifically expressed concern that foreign students represent a significant portion of clients for New York immigration law firms, sponsorship and intermediary agencies,

and housing rental platforms. Similarly, another commenter expressed concern on the impact of the rule in Western New York, including Buffalo, and stated that F–1 students contribute \$249.1 million and support 2,114 jobs.¹³⁵

Response: DHS acknowledges commenters' assertions that foreign students and professionals can provide benefits to research, technology developments, and the economy. DHS also acknowledges that foreign students make up a high percentage of students in STEM and technology programs. However, DHS believes some commenters are conflating the admission period with the total amount of time a foreign student may be permitted to remain in the United States to complete a program. Students who require additional time beyond their initial period of admission to complete their program may be eligible to extend their status by filing an EOS application with USCIS or, if they choose to travel, they can (with an unexpired visa) apply for admission at a POE through CBP and receive a new I–94 with a new AUD. Given the options for extending status, DHS does not believe it is necessary to create exemptions based on certain industries. DHS expects that foreign students will continue to pursue educational opportunities in the STEM fields.

c. Financial Impact and Administrative Burden

Comments: Commenters expressed concern regarding the rule's financial impact and administrative burden on higher education institutions, university operations, diminished collaborative academic environments, and the potential to force schools to break promises made during student recruitment. Multiple commenters pointed out that universities rely on predictable visa policies for financial, staffing, and resource planning and that sudden, rigid changes in the proposed rule requiring fixed admission periods create unsustainable administrative burdens, legal risks, and complicate compliance reporting under SEVIS that could threaten the stability of the entire sector.

With respect to costs, commenters stated that the 67-hour estimate by DHS analysis underestimated the true impact, as the proposed rule would fundamentally alter the scope of DSO and RO work, requiring them to

overhaul routine processes, educate students on new requirements, and coordinate with campus stakeholders. A few commenters pointed out that DSOs would have to undergo additional training and adaptation to familiarize themselves with the new regulations, and that this compliance cost is estimated to reach \$93.3 million across the sector in year one.¹³⁶ Relatedly, a commenter who identified as an education administrator at a public university estimated needing over 1,000 hours and \$250,000 for training, software updates, and new staffing. Another commenter remarked that institutions would need to prepare for a "massive scaling of resources," including enhanced legal and mental health support for students navigating the new system, because of the proposed rule. A commenter specifically remarked that the rule would require Oklahoma State University to hire four additional full-time immigration compliance staff and implement new tracking systems costing approximately \$500,000 initially, based on their preliminary analysis.

Multiple commenters stated that the proposed rule will overload DSOs, delay processing, and increase accidental out-of-status violations, and noted that the American Council on Education has warned against the proposed rule (no source provided). Several commenters noted that the increased workload on the educational institutions would lead to staff burnout and higher turnover rates with DSO staff, increasing the risk of institutional non-compliance due to less experienced staff. Another commenter noted that the rule's administrative burden would be exacerbated by students filing at similar times based on academic calendars and I–20 end dates. Relatedly, a commenter stated that the proposed rule assumes that DSOs and AROs will provide students and exchange visitors with Form I–539 application support, but that many schools do not allow their officials to undertake this work, as it could constitute unauthorized practice of law. The commenter voiced concern about the uncertainty on whether the school should be hiring legal assistants to file EOS forms on behalf of students or if the students and exchange visitors would need to assume such costs.

A commenter noted that DHS estimates 67 hours of training per DSO, which costs \$3,342 per DSO, plus \$233 per EOS request. The same commenter

stated that even modest enrollment declines could cause major losses because foreign students contributed \$40.1 billion to the U.S. economy in 2022–23, supporting 368,333 U.S. jobs, according to the Institute of International Education (IIE) (no source provided).

Response: DHS acknowledges that there will be learning curve for both administrators and participants to get accustomed to the new rule. That is why there is a 60-day implementation period and a 4-year transition period. Those in D/S status when the rule takes effect will have up to 4 years to finish their programs without changing to a date certain while living in the United States. Only participants arriving after the effective date of the rule will be subject to all the provisions of the rule. Administrators will receive plenty of training during the 60-day implementation period to understand how to deal with and help incoming participants subject to the new rule. SEVIS will be updated to make the implementation of the rule easier. Therefore, DHS does not believe that the commenters' fears will come to fruition.

In response to comments providing alternative estimates for the DSO/RO labor burden, DHS has revised the rule familiarization and adaptation burden estimate from 67 hours to the median value the public comments provided of 135 hours. This increase is reflected in the updated cost numbers, and includes any additional training or materials created due to this rule. DHS anticipates that most schools authorized to sponsor F students and J exchange visitors will be able to accommodate the additional DSO/RO labor burden with existing staff, as much of the burden for filing EOS requests will fall to the nonimmigrants subject to this rule. The burden to the school has still been accounted for in the regulatory impact analysis as a quantified cost. DHS, however, recognizes that some schools may elect to hire more DSOs and ROs to meet the requirements of this rulemaking. DHS expects hiring costs to vary depending on the number of F students and J exchange visitors at each institution, the size of the institution, and the number of existing staff. That said, DHS anticipates that costs of hiring and paying additional staff will represent a small portion of annual revenue for the great majority of institutional sponsors. *See Regulatory Impact Analysis (RIA)*, available in the docket for this rulemaking.

Additionally, other costs associated with this rule, such as system upgrades for batch processing, are acknowledged but remain unquantified in the

¹³⁵ The commenter referenced NAFSA: National Association of International Educators, *NAFSA International Student Economic Value Tool*, <https://www.nafsa.org/policy-and-advocacy/policy-resources/nafsa-international-student-economic-value-tool-v2>.

¹³⁶ Some commenters referenced DHS or NAFSA. *See NAFSA, Duration of Status Explainer*, <https://www.nafsa.org/Duration-status-explainer> (last visited Feb. 6, 2026). *See also* 85 FR at 60569, 60575, and 60577.

Regulatory Impact Analysis. These costs will be variable to each entity responsible for F and J visas, as it is unclear how many groups use proprietary software that would incur larger expenses versus off-the-shelf software that may come with a low-cost upgrade to continue functionality. Therefore, due to the high variance and lack of specific data to provide a meaningful estimate, DHS has chosen to not quantify these software costs. These costs are still discussed in a qualitative fashion.

In response to comments expressing concern about the need for institutions to prepare for a “massive scaling of resources,” including enhanced legal and mental health support for students navigating the new system, DHS does not believe such massive scaling will be necessary. DHS recognizes some institutions may choose to provide additional services, such as legal and mental health support, but these additional services are not a requirement of this rule. DHS will provide resources and training to assist relevant stakeholders in complying with the rule. Because support and resources for students and exchange visitors vary widely by school and program sponsor, DHS cannot qualitatively estimate the impact.

DHS disagrees with the assertion that the rule will lead to accidental out-of-status violations. Resources and guidance will be available to assist DSOs, ROs, students, and exchange visitors in familiarizing themselves and complying with the rule’s requirements. Students or exchange visitors who accidentally violate their status after the rule takes effect will still have the ability to apply for reinstatement of their nonimmigrant status. Whether or not nonimmigrants feel they will need the help of a legal professional to fill out the forms will be a personal decision. The forms are written in clear language adhering to the guidelines of the Plain Language Act with instructions designed to be easy to understand.

Comments: Commenters voiced concerns regarding the financial impact on institutions resulting from the drop in nonimmigrant student and scholar enrollment. Many commenters wrote that foreign students’ full-price tuition helps maintain affordable college access for domestic students by subsidizing them.

Specifically, a lawyers association noted that private universities received \$4.3 billion in revenue from international master’s students in 2015, and public universities received \$3 billion, much of which can be attributed to the fact that foreign students pay full

or out-of-state tuition, which is usually two to three times more than in-state tuition.¹³⁷ A commenter stated that large public universities depend on the higher tuition paid by foreign students to offset declining state funding. Similarly, other commenters expressed concern that the financial risk of foreign student losses would disproportionately affect private, smaller, faith-based, or regional colleges that rely on a high proportion of foreign students and their tuition revenue. A commenter from a faith-based institution elaborated that foreign students are vital to their “Christ based” mission and that often, foreign students come from religiously restricted regions. Another commenter stated that non-elite universities do not have waiting lists of domestic students to make up for this lost tuition revenue.

One commenter cited an estimate from Moody’s¹³⁸ which found that a 20 percent drop in international enrollment would negatively affect operating margins at 130 institutions by half a percentage point, with 18 institutions losing between 2 to 8 percent. This commenter explained that such loss could trigger significant financial stress for colleges with already thin margins. Additionally, several commenters added that lost tuition income would result in cuts to institutional offerings and services for all students, passing costs on to domestic students by raising tuition rates or reducing financial aid offers, or impacting other aspects of a school’s operations, potentially compromising its continuity. Some commenters also expressed concern about the loss of tuition revenue for funding cutting-edge research initiatives and faculty or staff positions.

In explaining the financial loss, one commenter pointed to an analysis¹³⁹ that explained that the national negative economic impact would be on average \$130 per resident, but Washington, DC and states such as Massachusetts, New York, Rhode Island, and Connecticut would be even higher, with Washington, DC estimated at \$855 per resident.

¹³⁷ The commenter referenced *The Importance of Immigrants and International Students to Higher Education in America*, *supra* note 133.

¹³⁸ The commenter referenced Uglesbee, B., Higher Ed Dive, *Moody’s: Trump’s tough international student policies could hit some colleges hard* (July 11, 2025), <https://www.highereddive.com/news/trump-international-student-policiescolleges-finance-moodys/7527>.

¹³⁹ The commenter referenced Sharma, S., *The Times of India*, *Which US states face the biggest losses from fewer international students, according to Brookings* (Sept. 20, 2025), <https://timesofindia.indiatimes.com/education/news/which-us-states-face-thebiggest-losses-from-fewer-international-students-according-tobrookings/articleshow/124018687.cm>.

Response: DHS acknowledges commenters’ assertions that foreign students and professionals can provide economic benefits. DHS asserts that such economic contributions will continue to accrue after the final rule becomes effective because foreign students will continue to choose to study in the United States. While DHS acknowledges that the rule may decrease nonimmigrant student enrollments, particularly among foreign nationals seeking to violate statutory and regulatory intent, DHS believes that, nonimmigrant students will still come to the United States because the United States remains the world leader in scientific research, innovation, and technology, providing students with access to cutting-edge facilities and projects. DHS does not believe that this final rule will have an impact on faith-based institutions nor students coming from religiously restricted regions. While the rule creates some restrictions on transfers and program changes, the rule creates exceptions for extenuating circumstances based on SEVP authorization. See new 8 CFR 214.2(f)(5)(ii)(A).

It is speculative and difficult to predict the extent to which nonimmigrant students may be deterred from coming to the United States based on this rule when a variety of factors play a role in a student determining when and where to enroll.¹⁴⁰ See a detailed discussion on uncertainty related to enrollment impacts in Appendix A of the RIA. The United States invests heavily in research and development, has world-renowned universities and research institutions, and is home to many leading technology companies. The United States consistently produces significant advancements in fields such as medicine, engineering, space exploration, information technology, and artificial intelligence that are attractive for all students.¹⁴¹

Finally, in response to commenters who said that declining international enrollment in U.S. institutions will increase tuition costs for domestic students, for the reasons stated above, DHS maintains that it is speculative and difficult to predict how this final rule will affect enrollment numbers for nonimmigrant students and the financial operations of U.S.

¹⁴⁰ See Final Regulatory Impact and Flexibility Act Analysis, Appendix A.

¹⁴¹ See The National Science Board, *Biennial Science and Engineering Indicators (Indicators)* (March 2024), <https://nces.nsf.gov/pubs/nsb20243/preface>.

institutions.¹⁴² How a U.S. institution assesses tuition and obtains income from students both domestic and foreign, along with other sources of income such as endowments or donations, is a business decision that each institution has the autonomy to make.¹⁴³ Endowments can be substantial and may amount to millions, billions, or even tens of billions of dollars per year.¹⁴⁴ These funding sources are independent of the revenue derived from nonimmigrant students.

DHS is unable to accurately forecast which actions institutions may take to address the possibility that nonimmigrant enrollment may decline and impact their financial health. U.S. institutions autonomously make business decisions every year about enrollment such as the class size and composition.¹⁴⁵ These business decisions can impact the number of foreign students enrolled at a particular U.S. institution and those business decisions may be made in response to decreasing or increasing enrollment of both foreign and U.S. students.

d. Quality of Education and Cross-Cultural Benefits

Comments: Commenters stated that the proposed rule would make it harder for companies to recruit talent who are especially familiar with growth markets in places such as Asia, Latin America, and Europe. One commenter noted a Duke University study¹⁴⁶ which found that U.S. students “reported greater self-confidence, leadership skills, quantitative abilities, and cross-cultural understanding” when they interacted with foreign students on a regular basis. Many commenters stated that foreign student presence fosters mutual respect, collaboration, cultural goodwill, and

soft diplomacy. Another commenter stated that dual language exchange programs benefit the economy by preparing students for multilingual environments.

Commenters emphasized that foreign students support and increase class options for domestic students, sustaining enrollments in disciplines with insufficient domestic interest, particularly STEM fields, and thereby creating and maintaining academic opportunities for all students, including opportunities in critical disciplines.

Many commenters stated that foreign students serve as unofficial ambassadors, creating an organic cultural exchange that benefits both American and foreign students and strengthening international relationships. Multiple commenters stated that foreign students often become political or business leaders in their home countries, with 34 percent of current foreign ministers, trade officials, or senior diplomats in G20 countries having studied in the United States on F or J visas. As of 2022, 41 world leaders had been educated in the United States. A commenter explained that when foreign students become future global leaders, the relationships they developed during their education in the United States could contribute to their investment in and alignment with American interests. Another commenter noted that the presence of foreign students advances the goals envisioned by the Fulbright-Hays Act of 1961, strengthening diplomacy by fostering mutual understanding and building people-to-people connections around the world. A commenter stated that the proposed rule would undermine the mission and philosophy of the DoS’s BridgeUSA Program,¹⁴⁷ the purpose of which is “to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges,” which in turn would lead to fewer individuals choosing to study in the United States and contribute to the U.S. economy,

therefore, it should be exempt from this rule.

Response: DHS acknowledges the benefits of fostering relationships with foreign students and exchange visitors. DHS does not intend for this rulemaking to result in significant declines to international enrollment and, thus, DHS does not expect this rule to harm U.S. partnerships across the globe; significantly affect the ability of U.S. companies to recruit talent familiar with global growth markets; or change class options, particularly in STEM. DHS asserts that U.S. educational institutions will continue to attract talented foreign students, researchers, and scholars in STEM and other high-demand fields because such institutions offer a high-quality education. U.S. institutions remain reputable to foreign students who value a degree from a U.S. institution and there are many factors that have made the United States attractive to nonimmigrant students and exchange visitors beyond being admitted for D/S. DHS remains committed to supporting broader goals of educational and cultural exchange envisioned by the Fulbright-Hays Act.

6. Negative Impacts on the U.S. Economy, Citizens, Industries, Workforce, or Communities

a. U.S. Competitiveness and National Policy Goals

Comments: Commenters expressed concern that restrictions on foreign students and exchange visitors would compromise the United States’ prominence and competitiveness in scientific and technical fields, potentially shifting international research hubs and jobs abroad. A commenter stated U.S. research leadership and clinical infrastructure would be weakened by the erosion of talent and momentum and this could undercut national and economic security while also causing loss of U.S.-trained international expertise to global competitors.¹⁴⁸ Other commenters expressed that these restrictions would contradict national policy goals set forth under the CHIPS and Science Act.¹⁴⁹ A commenter wrote that uncertainty and stringent scrutiny could discourage foreign students from pursuing high-

¹⁴² See Final Regulatory Impact and Flexibility Act Analysis, Appendix A.

¹⁴³ Bound, J. et al., *The Globalization of Postsecondary Education: The Role of International Students in the US Higher Education System*, 35 J. Econ. Perspectives 163, 178 (2021), <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.35.1.163>.

¹⁴⁴ See U.S. News & World Report, *20 Colleges with the Biggest Endowments* (Mar. 12, 2025), <https://www.usnews.com/education/best-colleges/the-short-list-college/articles/universities-with-the-biggest-endowments>. See also American Council on Education, *Understanding College and University Endowments* (2024), <https://www.acenet.edu/Documents/Understanding-College-and-University-Endowments.pdf>.

¹⁴⁵ See Bellows, K.H., *The Chronicle of Higher Education, The University that Chose to Shrink* (May 18, 2026), <https://www.chronicle.com/article/the-university-that-chose-to-shrink>.

¹⁴⁶ The commenter referenced Boundless, *International Students Studying in the United States: Trends and Impacts 2025*, <https://www.boundless.com/research-reports/international-students-studying-in-the-united-states-trends-and-impacts>.

¹⁴⁷ Congress passed the Mutual Educational and Cultural Exchange Act of 1961, also known as the Fulbright-Hays Act, to increase mutual understanding between Americans and people of other countries. In the years since the legislation was passed the program became known as the Exchange Visitor Program and in 2020 it was renamed as the BridgeUSA Program. It is run by DoS in collaboration with the private sector sponsors and features 13 distinct programs from au pairs and camp counselors to physician and professor exchanges. See U.S. Dep’t of State, *BridgeUSA*, <https://j1visa.state.gov/> (last visited Feb. 4, 2026).

¹⁴⁸ The commenter referenced SSTi, *Global competition intensifies for US research talent amid funding uncertainty* (Mar. 27, 2025), <https://ssti.org/blog/global-competition-intensifies-us-research-talent-amid-funding-uncertainty#:~:text=As%20U.S.%20research%20institutions%20face%20funding%20uncertainty%2C%20countries,an%20immigration%20framework%20in%20the%20next%20EU%20budget>.

¹⁴⁹ See CHIPS and Science Act of 2022, Public Law 117–167, 136 Stat. 1372 (2022).

risk, high-reward long-term basic research or sensitive yet critical areas and instead opt for “safer” short-term studies. Furthermore, another noted that foreign students in these types of fields help support the defense industry, research labs, and the technology sector in the United States, and if these skilled students leave, the United States’ competitive edge over technology may erode. Another commenter wrote that they recognize broader concerns with immigration and noted that while status through marriage or asylum may not necessarily align with U.S. economic or technological goals, F–1 students add value to America’s future.

Some commenters stated the strength of U.S. agriculture depends on a steady pipeline of skilled international students and professionals, who conduct agricultural research and develop innovative technologies for farming. The commenters stated that farmers could face delayed veterinary and technical support for livestock and crop health, resulting in increased costs for farming and weakening America’s food security, especially in rural areas. Communities dependent on food production would be exposed to greater risks from disease outbreaks, supply chain disruptions, and labor shortages.

Response: DHS acknowledges favorable visa policies as a contributing factor in where foreign students choose to enroll but also understands that there are a wide range of benefits from pursuing an academic program in the United States. DHS acknowledges that these competitive policies may affect a potential foreign student or exchange visitor’s decision to select a U.S. institution; however, DHS does not anticipate the rule to impact the quality of educational experience offered in the United States and that the United States will remain a desirable destination for many foreign students and exchange visitors. DHS has decided to discuss this impact qualitatively due to the speculative nature of the magnitude of the decrease in enrollment.

DHS also notes the specific concerns raised by commenters regarding the potential for shifting international research hubs and jobs abroad, and the possible impact on key sectors such as the defense industry, research, clinical and research infrastructure, and the technology sector. DHS is aware of the national policy goals set forth under the CHIPS and Science Act and appreciates the importance of aligning immigration policy with broader national objectives. DHS further acknowledges concerns that increased uncertainty or scrutiny could discourage foreign students from engaging in high-risk, long-term, or

sensitive research. However, DHS is taking this action to enhance immigration system integrity, prevent violations to mitigate future national security risks, and detect existing violations which also risk national security.

Furthermore, DHS recognizes any delays or disruptions in the arrival of foreign students may impact livestock and crop health, food supply chains, and the well-being of agricultural communities. DHS is committed to ensuring that immigration processes are efficient, transparent, and responsive to the needs of key industries, including agriculture.

b. Global Competitiveness and Innovation

Comments: Many commenters stated the importance of foreign students and workers to the U.S. economy, research, and innovation, expressing concern that the proposed policy would undermine global competitiveness. Commenters noted that the strength of the United States is rooted in openness and confidence, and excessive restrictions could harm this value, along with harm to trade, technology, and job creation, citing data that foreign student alumni have founded major startups and contributed significantly to patents and Fortune 500 companies. Commenters stated that the rule could shift the United States from being a talent destination to merely a training ground and the proposal may force businesses into excessive compliance or even push them out of markets. Commenters said that the D/S system has helped integrate global talent into the U.S. innovation ecosystem.

Commenters highlighted that foreign students often fill critical roles in major companies and startups, driving innovation, with many international students staying 5, 10, or even 20 years after graduation. Commenters said that the proposed changes would disproportionately impact smaller businesses and startups, favoring larger firms with more resources. Commenters also expressed concern over the impact on nonprofits. A commenter reported nonprofit organizations generally cannot match private sector salaries and instead rely on mission-driven work and access to diverse, global talent. The commenter expressed concern that if international students and researchers perceive the U.S. as unstable or high-risk, they may choose other countries with more predictable study and employment pathways, and this would harm not only higher education institutions but also the nonprofit sector that depends on these individuals’ skills. Commenters

were also concerned about reduced efficiency of R&D companies as a result of the proposal. A commenter noted that fulfilling the goal of the CHIPS Act requires talent to staff new factories and design centers. Commenters expressed concern that the proposed rule would make it more difficult for foreign students to apply for OPT, which they stated contributes to U.S. companies and the economy through post-graduation employment, taxes paid, and consumption. Commenters expressed concern about disruptions to the workforce and talent pipeline due to status uncertainties, particularly in the overlap between OPT and H–1B cycles and noted that losing foreign student employees would reduce service reliability.

Some commenters stated that the rule could undermine the quality and continuity of federally supported research datasets, as it would make it harder to distinguish genuine dropouts from visa-related exits. Commenters further stated the rule could lead to a “brain drain,” with international talent choosing other countries with more streamlined and supportive systems. A commenter cited data showing that since 2000, the United States has lost 20 percent of its share of foreign students to countries like Australia, Canada, and the United Kingdom, and stated this will only worsen if international enrollment drops further.¹⁵⁰ Commenters remarked the proposed rule could erode U.S. soft power and diplomatic efforts, potentially creating a feedback loop by which future leaders in other nations would not advocate for studying or working in the United States and shaking the confidence of allies and global investors. Comparisons with competitor countries suggested the proposed rule would make the U.S. system more rigid, risky, and bureaucratic, especially as China surpasses the United States in research positions and doctoral degrees. For example, a commenter stated that the United States is currently producing far fewer STEM graduates than its competitors, namely China and India, and provided the following data: China produces approx. 3 million STEM undergraduates annually—nearly 7 times the U.S. total; India produces approx. 2.3 million STEM undergraduates per year—more than 5 times the U.S. total; the United States,

¹⁵⁰ The commenter provided the following reference: “HoloniQ. (2023, April 12). US international education in 2030: 6 charts, top 20 source countries and preliminary forecast [Research note]. HoloniQ. <https://www.holoniq.com/notes/us-international-education-in-2030-6-charts-top-20-source-countries-and-preliminary-forecast>.”

by comparison, produces approx. 430,000 STEM undergraduates annually, with approx. 330,000 of those being U.S. citizens. Additionally, the commenter added that at the graduate level, the United States awards approx. 140,000 master's and approx. 32,000 Ph.D.s. in STEM per year, in comparison to approx. 500,000 master's and approx. 77,000 Ph.D.s. in China; and approx. 200,000 master's and approx. 17,000 Ph.D.s. in India.¹⁵¹ Commenters stated that pushing technical talent away from the United States harms our innovation base, defense industrial capacity, and long-term national security.

Commenters also noted the importance of international talent for national security and defense research, with a significant proportion of Defense Advanced Research Projects Agency (DARPA) researchers holding nonimmigrant visas. They cautioned that restricting this talent could force defense contractors to seek alternatives abroad and that knowledge gained in the United States could be used in countries such as China, Russia, or Iran. One commenter estimated an increased risk of taxpayer funded research failing due to lack of talent.

Some commenters argued that concerns about displacement or wage suppression could be better addressed through fair-wage enforcement, oversight of work authorization programs, and investments in domestic training rather than restricting international talent. Commenters referenced research and policy analysis from organizations such as the New American Economy and Georgetown's CSET, noting that other countries are actively competing for foreign students by expanding English-language coursework, increasing subsidies, and offering more flexible pathways for study and work. A commenter also cited research showing that high-skilled immigration generates positive externalities, including peer effects, entrepreneurship, and the formation of innovation clusters that benefit the broader U.S. economy.

A few commenters also noted the impact on specific sectors, such as summer camps, which rely on international counselors, and expressed concern that the proposed rule would create financial consequences for these organizations. Another commenter indicated that while J-1 and I nonimmigrants typically engage in short-term, narrowly defined programs, F-1 students rely on longer-term

academic programs with predictable timelines to plan coursework, research, and employment opportunities. The commenter stated that applying the same restrictive rule across all these categories of nonimmigrants fails to account for these differences and undermines the flexibility that makes U.S. higher education globally attractive.

Response: DHS acknowledges the contributions that foreign students and workers can make to the United States' scientific, technological, and economic leadership, and the concerns that changes to the period of admission and related requirements could affect the ability of the United States to attract foreign students and exchange visitors. DHS also acknowledges the role foreign students and exchange visitors can play in innovation, entrepreneurship, and the broader research ecosystem and further acknowledges their contributions to nonprofits.

The rule is designed to provide clear, predictable periods of stay as is required for most other nonimmigrant visas, and a transparent process for extensions, enabling students, exchange visitors, institutions, and other affected parties to plan accordingly. DHS is balancing the important role foreign students and exchange visitors play in the U.S. research enterprise with the need for program integrity, prevention of fraud and abuse, and enhanced national security. DHS also notes that there are other avenues available for employers to hire foreign workers, including employment-based visa categories, which remain unchanged by this rule. DHS notes that foreign student visas are not primarily for the purpose of employment, but rather for intellectual pursuits, and if desired, to receive some practical experience to take back to their home countries.

DHS also recognizes commenters' concerns that increased administrative requirements could disrupt the labor pipeline and innovation ecosystem, especially as other countries actively compete for foreign students and researchers. DHS acknowledges research showing that high-skilled immigration can generate positive externalities—such as entrepreneurship, peer effects, and innovation clusters—that benefit the broader U.S. economy and society; however, employers should utilize the appropriate employment-based and investment-based visas to fulfill their employment needs. DHS disagrees with the comments that F nonimmigrants, unlike J and I nonimmigrants, have longer, more structured programs. Exchange visitors (J nonimmigrants) come here for various programs that can

be as short as one month and as long as seven years and are highly structured by the sponsors. The majority of I visa holders, as stated elsewhere in this rule, stay for less than 240 days. However, there are some I visa holders that come for long-term assignments and will need to request EOS or travel abroad to extend their stay. DHS remains committed to minimizing unnecessary administrative burdens while also upholding national security and the integrity of the United States visa system.

c. Contributions of Foreign Students and Workers

Comments: Commenters explained foreign students contribute significantly to the U.S. economy, including through tuition, fees, living expenses, and spending in sectors such as housing, food, transportation, healthcare, and retail, supporting local jobs and bringing billions of dollars annually to the economy. A commenter wrote that foreign students create jobs by creating companies and invest in American communities. Commenters said over 1 million foreign students contribute more than \$40 billion to the U.S. economy annually and support hundreds of thousands of jobs. Commenters also said higher education is the seventh-largest service export for the United States and that foreign students and their families drive demand in travel, accommodation, and related industries while also contributing to volunteer work, support of local charities, and membership in religious congregations. Commenters were concerned about even modest decreases in enrollment have ripple effects.

Several commenters highlighted that foreign students often remain in the United States after graduation, becoming taxpayers, homeowners, employers, and a key part of the STEM workforce and U.S. Ph.D. holders. They described the positive impact of high-skill immigration on productivity and economic growth, with studies estimating substantial increases in GDP from the influx of highly skilled graduates. Commenters stated foreign students contribute significantly to U.S. research output, STEM innovation, and entrepreneurship even after graduation.

Another commenter stated that the proposed rule would deter global talent, disrupt federally funded research, and harm universities already facing enrollment decline. Commenters expressed concern that the proposed rule could lead to declines in foreign student enrollment, resulting in significant economic losses, job reductions, and higher compliance and

¹⁵¹ The commenter did not provide citations or references to the data.

administrative costs for businesses and institutions. Other commenters reported much higher projected annual losses. Commenters warned that these costs could ultimately be passed on to consumers and taxpayers. Citing various analyses, commenters projected billions in lost revenue annually and tens of thousands of lost jobs if enrollment drops. They also noted that previous restrictive immigration policies have already driven students to competitor countries such as Canada.

Response: DHS acknowledges the contributions of foreign students and scholars to the U.S. economy, research, and technology sectors. DHS agrees that foreign students can bring valuable global talent and recognizes their role in supporting local economies, creating jobs, and driving innovation across a range of industries.

DHS does not intend for the rule to lead to a significant decline in foreign student enrollment because the high-quality education, research opportunities, and innovation ecosystem offered at U.S. institutions will continue to attract foreign students and researchers. Therefore, DHS does not expect a significant reduction in research capabilities, technological advancement, or the economic benefits associated with foreign students.

DHS acknowledges that there may be costs for stakeholders related to compliance, recruiting, and training as they familiarize themselves with the new rule. However, DHS believes that the benefits of this rule outweigh these costs. This rule will strengthen the integrity of the U.S. immigration system, improve consistency across nonimmigrant categories, and enable stronger oversight by government officers reviewing EOS requests and compliance with visa terms. It will also enhance the government's ability to enforce statutory inadmissibility grounds related to unlawful presence and deter fraud and abuse with these nonimmigrant programs. Accordingly, DHS believes these changes will provide additional protection and mechanisms for effective oversight, enforcement of immigration laws, detection of national security concerns, and the continued integrity of these nonimmigrant categories.

d. State and Institutional Economic Impact

Comments: Several commenters provided extensive data on the economic contributions of foreign students to specific states and regions across the country. These contributions ranged from tens of millions to billions of dollars, with corresponding job

creation in the thousands. For example, several commenters stated that foreign students contributed \$2.4 billion and supported over 23,000 jobs in Illinois, \$1.5 billion with approximately 12,000 jobs in Michigan, and \$2.5 billion with 22,112 jobs in Texas during the 2023–24 academic year (no source provided). Many commenters offered similar economic impact data for numerous other states and territories.

Commenters also remarked on the economic contributions of foreign students to specific educational institutions. Commenters provided examples such as the University of St. Thomas (\$25.3 million and 244 jobs), Bradley University (\$15.3 million and 151 jobs), Emory University (\$187.2 million and 2,136 jobs), Rochester Institute of Technology (\$124 million and 1,279 jobs), Cornell University (\$393.2 million and over 3,500 jobs), and several others. One commenter referenced a Federal Reserve Bank of Philadelphia report indicating that colleges and universities function as “anchor institutions” that create American jobs and support sustainable regional economies, with a national multiplier effect of 1.82 jobs for every direct position.¹⁵²

Some commenters acknowledged that DHS has considered the impact of the proposed rule on small school entities, but specifically expressed concerns that DHS did not consider the significant harm on small businesses resulting from reduction in foreign student enrollment due to the proposed rule. A commenter noted that small businesses cannot afford disruptions caused by sudden visa expirations or bureaucratic delays in status extension processing.

Response: DHS acknowledges commenters' data and examples illustrating the economic contributions of foreign students to states, regions, and local communities. DHS acknowledges that foreign students and professionals can provide important economic benefits across the country. DHS understands that any potential reduction in enrollment could reduce the economic benefits that foreign students and exchange visitors offer. However, DHS does not believe that admitting certain nonimmigrant students and exchange visitors for a fixed admission period and requiring them to take action to extend their stay in the United States will deter significant numbers of bona fide students and exchange visitors. DHS

expects foreign students and exchange visitors to consider the cost of extending their status in the context of the overall cost of their program, which may include expenses such as tuition, room and board, textbooks, and discretionary expenses. Because the cost of status extension is relatively small to the overall cost of attendance, DHS does not intend for this rule to have a significant impact on enrollment. DHS has decided to discuss this impact qualitatively due to the speculative nature of the magnitude of the decrease in enrollment and any associated reduction in revenue. This discussion can be found in the final regulatory impact analysis, completed as part of this rulemaking.

e. Impact of Consular Policy Changes

Comments: Commenters expressed concern that the proposed rule could lead to a decrease in investment in the United States by other countries, increased misunderstanding, and less support for American interests and values among people in other countries. Other commenters expressed concern that the proposal represents a unilateral breach of many bilateral exchange agreements and would invite retaliatory treatment.

Another commenter expressed concern about the proposed elimination of D/S provisions, particularly when combined with recent consular policy changes. The commenter identified three changes within DoS that would create significant barriers for foreign students and scholars: requiring visa applicants to interview in their country of nationality or residence, narrowing interview-waiver eligibility, and reducing visa validity periods. The commenter warned of potentially driving prospective applicants to choose other countries for their education and research opportunities, and suggested either reconsidering the D/S proposal, or coordinating with DoS to restore more flexible visa policies.

Response: DHS acknowledges commenters' concerns that the rule could affect international perceptions of the United States, decrease investment, and reduce support for American interests and values abroad. DHS also notes the concern about the potential impact on bilateral exchange agreements and the risk of retaliatory treatment by other countries. While DHS does not believe the rule constitutes a breach of such agreements, DHS remains committed to honoring U.S. international commitments and values ongoing international educational exchange.

With respect to recent changes in DoS consular policies, DHS notes that such

¹⁵² The commenter referenced <https://www.philadelphiafed.org/-/media/frbp/assets/community-development/reports/anchor-economy-report-92022.pdf>.

matters are within the discretion of DoS. DHS coordinates with DoS, as appropriate, on issues affecting foreign students and scholars.

DHS believes it is important to adequately screen and vet nonimmigrants for any national security concerns and to verify at more frequent intervals that nonimmigrants comply with their visa requirements and intended purpose of their stay. Admitting F-1 nonimmigrants for a fixed period under this rule will provide trained immigration officers with the opportunity to adequately vet foreign nationals to prevent and deter nefarious actors and visa violators from entering or remaining in the United States.

DHS acknowledges that prospective applicants may choose other countries for their education and research opportunities and that enrollment of foreign students in U.S. educational institutions may decline because of this rule. However, DHS does not intend for the rule to result in a significant decline of enrollment and is unable to quantify the extent of this decline due to lack of precedent from which accurate conclusions can be drawn as to the rule's impact. DHS believes that U.S. educational institutions will continue to attract talented foreign students because such institutions offer a high-quality education.

C. Foreign Comment Submissions

Comment: Commenters expressed differing views on the participation of foreign nationals in the comment submission process; however, most of these comments recommended preventing foreign nationals from submitting comments. Many commenters highlighted concerns about organized efforts on Chinese social media platforms encouraging submissions to *regulations.gov*. Conversely, another commenter wrote that foreign students studying in the United States would be directly affected by the proposed rule and could provide valuable perspectives for DHS to consider.

Response: DHS appreciates the differing views expressed by commenters regarding foreign nationals' participation in the comment submission process. DHS acknowledges concerns about organized efforts on foreign social media platforms, and it also recognizes that foreign nationals, including foreign students, provide valuable perspectives. DHS notes that the rule does not address or restrict who may submit comments. In fact, foreign entities, NGOs, and nonimmigrants have indeed submitted comments to this rule. DHS welcomes feedback from all

stakeholders and remains committed to reviewing all submissions to ensure the final rule reflects a considered approach.

D. Alternative Approaches, Requests, and Recommendations

1. Recommendations To Withdraw, Reduce the Scope, or Postpone the Proposed Rule

Comments: Commenters urged DHS to withdraw the proposed rule entirely and maintain the current D/S framework or take a different approach. Commenters suggested maintaining D/S for institutions with a history of SEVIS compliance, applying the proposed changes to only a subset of visa categories.

Response: DHS understands the concerns presented by the commenters but is not withdrawing the rule. DHS believes that changing the admission period of aliens in F, J, and I nonimmigrant status to a fixed time period will not harm students or others but will instead provide additional and necessary protections and mechanisms that DHS needs to exercise appropriate oversight and safeguard the integrity of these nonimmigrant programs. In addition, DHS determined that a "do nothing/no action" alternative would not adequately provide immigration officers and agents with an opportunity to evaluate an alien's maintenance of status at pre-determined points, nor would it enable immigration officers or agents an opportunity to assess whether an alien is accruing unlawful presence. It would not address the fraud and abuse currently present in these categories. DHS disagrees with the notion of having different standards for institutions based on their history of SEVIS compliance. DHS believes such an approach would undermine the ability of institutions and aliens to understand their requirements and responsibilities and would create an arbitrary system.

2. Alternative Approaches To Address DHS Concerns

Comments: Many commenters advocated for enhanced oversight mechanisms that would avoid burdening students and USCIS with increased EOS filings. Commenter suggestions included strengthening DSO and ARO liaison practices, improving data reconciliation, and conducting targeted investigations rather than implementing a fixed admission period. They described the existing vetting processes and the role of institutional staff and argued that DHS failed to identify concrete problems with D/S

oversight not already addressed by SEVIS. Commenters referenced a 2022 GAO report¹⁵³ recommending SEVIS enhancements and suggested DHS should have explored improving SEVIS before abandoning D/S. Other commenters stated that ending D/S is the wrong tool for eliminating abuse of CPT and OPT. The majority of those commenters stated that targeting schools that profit by prioritizing CPT over education would be a more effective approach than those offered.

Others stated that the government should instead enhance auditing, strengthen school certification audits and fraud detection, expand data analytics in SEVIS to identify risk and anomalies, increase penalties for those who abuse the system, enhance DoS vetting, improve data sharing, apply data-driven triggers, and expand use of biometric exit tracking at ports of entry.

Response: DHS considered a variety of alternatives to the proposed rule, as explained in the published NPRM, but concluded that eliminating the D/S framework and switching to fixed time periods for F, J, and I nonimmigrants was ultimately the most effective method of addressing intertwined national security, fraud, and overstay concerns. DHS believes that the provisions in the rule will provide the government with additional protections and mechanisms to exercise the oversight necessary to vigorously enforce the nation's immigration laws, protect the integrity of these categories, and promptly detect national security concerns.

DHS agrees with commenters that there will be an increase in volume of EOS applications received by USCIS following the effective date of the final rule as those nonimmigrants who are required to file EOS begin to do so. However, DHS notes that the peak volume of EOS applications will not materialize until 4 years after the effective date of this rule. This will allow time for DHS to shift resources as needed and as appropriate to ensure that the larger increased volumes are integrated into existing workflows. USCIS will continue to monitor its resource allocations and make adjustments as appropriate.

Several commenters have noted and DHS has acknowledged backlogs in the processing of EOS applications. While the rule may cause an increase in USCIS processing times, DHS believes that the benefits of increased contact with these nonimmigrants outweigh processing time considerations. Such is the burden

¹⁵³ Commenters referenced GAO 23–106114, *supra* note 83.

of robust enforcement of the law. Requiring F, J, and I nonimmigrants to request an EOS will improve consistency of terms of admissions between nonimmigrant categories, enable stronger oversight by government officers who will review the nonimmigrant's request and assess whether the nonimmigrant had been complying with the terms and conditions of his or her status, enhance the government's ability to effectively enforce the statutory inadmissibility grounds related to unlawful presence, and deter aliens and entities from engaging in fraud and abuse within these nonimmigrant programs.

SEVIS currently serves as a system to house school, program sponsor, student, exchange visitor, employment, and academic program information. DHS has found that the current framework for program extensions presents vulnerabilities and risks to national security, with inconsistencies in collected information. DHS is well aware of the 2022 GAO report and has made changes based on the recommendations in the GAO report; however, DHS has found that these changes have not been enough to prevent the fraud, abuse, and national security issues outlined in the NPRM. The fixed time period of admission and subsequent EOS process, formally adjudicated by USCIS, will ensure students continue to engage in and complete their programs for legitimate reasons. DHS views the new framework as supplementary to existing SEVIS reporting and will continue to utilize SEVP Field Representatives and investigative authorities to address fraud and national security threats.

Comments: Commenters suggested enhanced training for DSOs and AROs as an alternative solution, proposing certification programs with regular continuing education updates, national compliance standards, best practices sharing platforms, and mentorship programs. Another commenter proposed an institutional accountability and partnership model featuring enhanced DSO/ARO certification with mandatory training requirements, tiered DSO authority levels, and performance accountability measures as an alternative to the rule. Some commenters recommended refining existing SEVP training to focus on practical subject matter and fraud prevention, with specialized tracks for different educational contexts.

Response: While DHS appreciates that DSOs and AROs generally interact frequently with nonimmigrant students and exchange visitors, DHS believes it is appropriate for DHS, not DSOs and

AROs, to determine periodically whether an alien meets the statutory requirements for their nonimmigrant status—i.e., an alien who continues to have a residence in a foreign country he or she has no intention of abandoning, is a bona fide student qualified to pursue a full course of study, training, or program, and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study, training, or program. By implementing a fixed period of admission and requiring EOS thereafter, DHS will be in a position to assess whether a nonimmigrant continues to meet the requirements for F–1 or J–1 nonimmigrant status. Extending an alien's nonimmigrant status involves an adjudication of whether an alien is legally eligible to extend his or her stay in the United States in a given immigration status and has been complying with the terms and conditions of his or her admission. As discussed in the NPRM, DHS officers are uniquely positioned to determine whether an alien is complying with the conditions of their classification¹⁵⁴ and that these functions should not be delegated to DSOs and AROs.

Comments: Commenters also proposed institutional accountability measures, including financial penalties for institutions enabling program abuse and certification suspension for repeated violations. Furthermore, some commenters suggested implementing a tiered fee structure or waivers to prevent disproportionate harm to smaller schools.

Response: DHS appreciates the suggestion to consider accountability measures and improvements to SEVP's school certification requirements. However, DHS disagrees that the fraud and abuse discussed in the rule relates solely to fraudulent institutions and does not relate to fraud or violations by students. DHS believes that amending school certification requirements would not be sufficient to address the challenges the D/S framework poses to DHS's ability to effectively oversee F–1 students and to hold students accountable for fraud or status violations that may go undetected or unreported by a DSO. DHS believes that by fixing a date certain period of admission for F–1 students, DHS will be in a position to provide greater oversight and accountability for students who have engaged in pay-to-stay and other fraud. This will ensure that nonimmigrant students receive timely and appropriate consequences for engaging in fraud as do other

nonimmigrant classifications when fraud or status violations are uncovered by DHS. A system of waivers or a tiered fee structure would add complication to the rule, making enforcement more difficult and creating more chances for fraud and abuse. A system that is equal across the population will ensure consistent enforcement in line with the rule's goals.

Comments: Commenters suggested streamlined extension procedures with presumptive approval categories for students in good standing, featuring reduced processing times, lower fees, and an automated online application system. The commenters proposed special provisions for academic progression extensions and emergency or compassionate extensions for medical circumstances, program closures, or natural disasters. A commenter reasoned that risk-based checks using data-driven vetting would reduce administrative burden for over 90 percent of individuals. If the rule's fixed terms remain, the same commenter proposed a “simple, fast renewal process,” suggesting a fully digitized system with guaranteed turnaround (e.g., 60 days) and minimal in-person interviews to streamline compliance.

Response: DHS appreciates the suggestions proposed by the commenters. However, DHS believes that the changes implemented through this final rule will accommodate the legitimate academic activities of bona fide students, such as a desire to pursue a different field of study or more specialized studies in their current field. These changes will also provide SEVP with flexibility to grant exceptions for extenuating circumstances. For example, an exception may be appropriate when a school closes or when a school has a prolonged inability to hold in-person classes due to a natural disaster or other causes. DHS will only extend the stay beyond the program end date of an otherwise eligible F–1 student requesting additional time to complete their program if the additional time needed is due to a compelling academic reason, documented medical illness or medical condition, or circumstance that was beyond the nonimmigrant student's control as discussed in the new sec. 214.2(f)(7)(i)(C)(2). An alien seeking an EOS generally must have continually maintained status. If an F–1 student dropped below a full course of study, that drop must have been properly authorized by the DSO. F–1 students seeking an EOS must primarily be seeking to temporarily stay in the United States solely to pursue a full course of study, INA section

¹⁵⁴ See 90 FR at 42078 (Aug. 28, 2025).

101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i), and not for other reasons separate from, or in addition to, pursuing a full course of study. If an F-1 student were to violate the terms of his or her F-1 status, the F-1 student will need to apply to USCIS for reinstatement, consistent with current 8 CFR 214.2(f)(16). In response to the commenter's suggestions regarding the use of data-driven vetting, DHS agrees that data-driven vetting is a necessary part of effectively vetting a nonimmigrant. However, DHS believes that data-driven vetting is only part of the whole process, which, necessarily, must include immigration officers as they are uniquely equipped to vet nonimmigrants seeking to enter the United States.

3. Alternative Approaches Related to the Fixed Admission Period

Comments: Commenters suggested that D/S should be tied to certain programs or that the length of admission should depend on the duration of different programs. Specifically, a commenter suggested implementing program duration standards with flexibility, by establishing baseline program periods for different degree types while also allowing extensions based on documented academic progress, legitimate academic reasons, and financial standing. The commenter reasoned this approach would require SEVP approval for extensions beyond 150 percent of normal program duration through a streamlined online application process with a 30-day processing standard. Another commenter suggested tying D/S to program length, with a 60-day grace period to prevent disruptions. Another commenter urged DHS to amend 8 CFR 214.2(f)(5)(i) to say, “[d]octoral admission period shall be up to seven years, with renewal based on academic progress,” and “EOS eliminated for students maintaining valid enrollment” under 8 CFR 214.2(f)(5)(iii).

Multiple commenters wrote that the proposed rule takes a system that works with how universities are currently governed and cuts across it; noting that the proposed rule does not consider governance and scientific realities which necessitate multi-year protocols. Some commenters continued to state that a fixed duration status creates a bureaucratic chokepoint that limits research and teaching.

Response: DHS appreciates the commenters' recommendations but will not be implementing a percentage-based approach in requiring applications for extensions of stay at this time. DHS believes that a fixed period of

authorized stay based on program length, with a maximum of four years and a 30-day grace period, provides a uniform standard to ensure compliance with the immigration laws and provide the national security protections this rule is implementing with greater oversight of student compliance, regardless of program type. Students will still be able to apply for an EOS based on a program length of longer than their initial admission or compelling academic reasons, documented illness or medical condition, or circumstances outside the alien's control.¹⁵⁵ And, as long as they timely file their EOS application, their stay is automatically extended.

Comments: Commenters proposed different time frames for fixed period admissions based on different degrees and different fields, including extending the default admission period to 5 years for undergraduate, 3 years for master's programs, and 5 to 8 years doctoral students, and longer periods for STEM in comparison to non-STEM fields. Commenters suggested doctoral programs, particularly those at R1 research universities, and professional programs like medicine, dentistry, and architecture should be exempt from fixed duration periods.

If the proposed rule is finalized, commenters suggested expanding domestic visa renewal programs to mitigate consular processing bottlenecks, granting foreign students D/S that includes additional semesters beyond standard program length, and increasing D/S to 10 or 12 years to accommodate multiple degrees and OPT.

Response: DHS declines to adopt commenters proposed alternative periods of admission. DHS wishes to establish predetermined points in time, not to exceed 4 years, for immigration officers to directly evaluate whether F-1 students are maintaining their nonimmigrant status and remain eligible for that status. For those who require additional time to complete their programs, they may apply to extend their stay. DHS acknowledges the commenters' concerns that applying for EOS to participate in post-completion OPT will represent an increased burden for some students but has concluded the change is appropriate to advance the goals of this rulemaking.

DHS disagrees with the premise of recommendations regarding exemptions and believes that the commenters misunderstand how this would work for these nonimmigrants. An exemption is not necessary for Ph.D. students who

need additional time to complete their research and dissertation, because DSOs will still be able to extend the program end date in situations such as this. This is also true for other students who must extend their programs due to situations beyond their control. They will, however, have to file an EOS with USCIS or, if they choose to travel, they can (with an unexpired visa) apply for admission at a POE through CBP and receive a new I-94 with a new AUD.

Comments: Multiple commenters provided alternative suggestions or recommendations to a fixed admission period that would eliminate or impose additional restrictions and oversight on admission of foreign students, while citing national security and economic concerns. A commenter suggested implementing a 10 percent limit on foreign student enrollment. Another recommended that foreign students should constitute less than 1 percent of the total student population in the United States. One commenter remarked that immigration entry rates must be reduced, reasoning that U.S. citizens already face hurdles with respect to higher education and obtaining a job. A few commenters suggested eliminating foreign student visas and admissions altogether due to the abuse of the foreign student program, foreign students taking the place of American students, and foreign students coming to the U.S. to spy, steal intellectual property or cause harm.

Relatedly, a different individual proposed establishing an annual limit that would reduce by half the number of individuals permitted to enter the United States from “unfriendly countries.” One commenter stated that students from hostile countries should not be allowed in the United States, while another commenter remarked that all foreign students should be restricted and tracked while in the United States. One commenter suggested limiting admission of nonimmigrants from countries on the State Sponsors of Terrorism list to a maximum of 2 years. A commenter recommended that certain foreign nationals, those involved in theft of technology and sabotage, should be intensely scrutinized and possibly not allowed to enter the United States.

Some commenters sought to have visas severely curtailed or limited, reasoning that qualified Americans are displaced in education programs and the workplace. Along these lines, one commenter recommended more restrictions on foreign access to universities, jobs, and housing markets. A commenter recommended limiting foreign student visas in number and duration, reasoning that foreign

¹⁵⁵ See new 8 CFR 214.2(f)(7)(i)(C)(2).

individuals do not have a “right” to access and use American universities. Relatedly, one commenter recommended a limit on allowing legal foreign-born immigrants into undergraduate and graduate programs nationally because this limit would allow acceptance of more U.S. citizens into programs instead. One commenter urged DHS to strengthen protections for American workers by implementing more rigorous credential verification processes, requiring genuine labor market testing to demonstrate actual need, and establishing wage floors that prevent the undercutting of American workers.

Commenters stated that foreign students or visitors should return to their country after their studies and apply for any extensions of stay outside of the United States, instead of serving as a pathway to work visas, residency or citizenship. Another commenter remarked that extensions must be thoroughly reviewed and visa end terms strictly enforced by USCIS and DHS, otherwise visa holders will stay forever. One individual suggested a fixed time period with no extensions or waivers for nonimmigrant students, exchange visitors, and foreign media members. Commenters who supported the rule offered various implementation recommendations, including limiting periods of stay to 360 days with the possibility of renewal, withdrawing visas if students fail to complete their first academic year, requiring students to return to their home countries to apply for extensions, and increasing resources for enforcement. A commenter remarked that visas need to be tightly controlled, and there need to be consequences for abusing them. Separately, one commenter suggested sending professors to other countries per semester/year instead of allowing students to study in the United States.

Response: This rule DHS is focusing specifically on the fixed admission periods rather than imposing caps or banning admissions. As explained in the rule, DHS believes that the changes in this rule will strengthen the integrity of the U.S. immigration system, specifically relating to F, J, and I nonimmigrants, and curtail fraud, abuse (including overstays), and national security issues. DHS declines to eliminate the admission of F, J, and I nonimmigrants across the board, declines to eliminate extensions, and declines to require the nonimmigrants to return to their home country to apply for an EOS. DHS acknowledges the contributions of foreign students and scholars in the United States and believes that this rule strikes a balance

for all stakeholders. DHS further underscores that the fixed admission period and extension provisions in this rule will enhance the vetting and oversight of these nonimmigrant classifications. DHS will continue to evaluate the resources it requires to enforce these classifications and will adjust resources as needed for this enforcement.

Furthermore, DHS notes this Administration is separately implementing additional measures to impose travel restrictions and limitations for nationals from certain countries posing national security threats at a broader level, beyond the F, J, and I nonimmigrant classifications. For example, pursuant to the Presidential Proclamation 10949, Restricting the Entry of Foreign Nationals To Protect the United States From Foreign Terrorists and Other National Security and Public Safety Threats, 90 FR 24497 (June 10, 2025), nationals from 19 high-risk countries listed in Proclamation 10949 are already subject to enhanced vetting and heightened travel restrictions, including limiting and suspending entry to the United States. Pursuant to Proclamation 10949, DHS has further issued a Policy Memorandum which places a hold on all pending benefit requests for aliens from High-Risk Countries listed in Proclamation 10949.¹⁵⁶ Given that there are broader efforts being undertaken to limit and restrict the entry of aliens from high-risk countries, DHS is not including any specific provisions regarding F, J, and I nonimmigrant classifications from countries on the State Sponsors of Terrorism list at this time in this rule.

With respect to extension requirements, DHS considered many options when promulgating this rule, including some of those suggested by these commenters. Requiring yearly extensions was in place decades ago and proved unworkable from an operational standpoint; therefore, this policy was not proposed in the NPRM. Creating a different time frame, specifically two years, for certain categories of people was also rejected. DHS considered this option but concluded 4 years was more appropriate given the greater administrative burdens which would be imposed on USCIS and CBP.¹⁵⁷ DHS

¹⁵⁶ See USCIS, *USCIS Policy Memorandum: Hold and Review of all Pending Asylum Applications and all USCIS Benefit Applications Filed by Aliens from High-Risk Countries*, PM-602-0192 (Dec. 2, 2025), <https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf>.

¹⁵⁷ 90 FR at 42083 (Aug. 28, 2025).

finds that limiting the period of stay to anything below the program end date or 4 years, whichever is shorter, would be too burdensome to nonimmigrants and the government, because the suggested 1 year and 2 year limits would increase the number of EOS requests by a significant number and would be unmanageable just as it was in the 1970s and 80's.¹⁵⁸ Additionally, if nonimmigrants return home upon the end of their stay and still have a valid F, J or I visa, they may reenter the country and receive a new I-94. The purpose of the EOS request is to allow them to remain in the country while extending their nonimmigrant status, ensuring continuity in program or employment. Students who fail to maintain their student status will no longer be in compliance with their nonimmigrant status and begin accruing unlawful status. This would make them subject to removal proceedings if they do not leave the country upon falling out of status. While DHS considered all proposals and recommendations, DHS determined that the provisions of this rule were sufficient to address the concerns raised in this rule.

DHS notes that the scope of this rule focuses on admission period and EOS procedures for F, J, and I nonimmigrant classifications, and does not include changes to employment visas. Furthermore, DHS notes that the issue on whether foreign nationals are displacing U.S. students and workers is beyond the scope of this rule and as such, DHS is unable to comment further on that issue. Likewise, issues regarding restrictions on access to housing market by foreign nationals are also outside of the scope of this rule.

4. Alternative Approaches for Long-Term Students

Comments: Another commenter requested that DHS establish a pathway to lawful permanent residency for foreign students who have maintained legal status and are raising U.S. citizen children. Commenters suggested longer alternatives to the 4-year admission period, such as requiring an EOS if an individual remains in F-1 status for 10 years. A commenter recommended a rule that allows DHS to review the F-1 status of any student whose stay has exceeded 8 years and requires those students to submit information confirming continued academic progress. However, the commenter suggested this 8-year rule should not be triggered for students who have completed their degree and began OPT.

¹⁵⁸ See more detailed discussion in Section II.A above.

Similarly, a commenter recommended establishing frameworks for investigating students who meet specific criteria, such as those spending over 15 years in F–1 or J–1 status. Relatedly, other proposals included setting realistic limits on program extensions and requiring EOS applications only for students wishing to stay longer than 11 years.

Response: DHS acknowledges these commenters' concerns. The request to establish a pathway to lawful permanent residency for certain F–1 students is outside the scope of this rulemaking. Further, DHS believes that the other recommendations are not sufficient to address the issues addressed in the rule. A proposal targeting students who stay more than four years and requiring an EOS at a longer interval would diminish the effectiveness of the rule in its enhancement of national security and its deterrence from overstays and fraud.

5. Requests for Exemptions

Comments: Commenters recommended exemptions for certain groups of F–1 visa holders. For example, a commenter requested that DHS include exemptions or waivers for long-term F–1 nonimmigrants who are parents of U.S. citizen children or another suggested a path to permanent residency for parents of U.S. citizen children. A commenter urged DHS to exempt F visa holders from the June 4, 2025, Presidential Proclamation “Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and other National Security and Public Safety Threats” and to also exempt any future travel bans offered by the administration.

Response: DHS declines to adopt the suggestion that certain populations of students or exchange visitors, such as F–1 nonimmigrants who are parents of U.S. citizen children, be exempt from the fixed period of admission or receive any special pathways to permanent residency outside those in other well-established regulatory provisions. The goals of the rule extend to all F–1 or J–1 nonimmigrants. As explained in the NPRM, DHS has identified troubling instances of aliens using the F classification to reside in the United States for decades, continuously enrolling in or transferring to schools.¹⁵⁹ While these instances of extended stay may not always result in technical violations of the law, DHS is concerned that such stays may violate the statutory intent, given that student status is meant to be temporary and for the primary

purpose of studying, not remaining in the United States indefinitely.¹⁶⁰ Because these instances occur in a variety of programs and educational levels, DHS does not believe that it would be appropriate to only apply a fixed period of admission for limited populations.

DHS acknowledges the request to exempt F visa holders from Presidential Proclamation “Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and other National Security and Public Safety Threats” as well as from any future travel bans. However, this request is outside the scope of this rulemaking and unrelated to the publication of this rule.

Comments: A different commenter suggested an alternative approach and exceptions for English Language Training (ELT) students, reasoning that ELT varies by initial proficiency, and academic, professional, or personal goals. The commenter also suggested separating ELT by visa type, specifically, separating nonimmigrants students who intend to continue to a U.S. degree program under the F nonimmigrant visa category from short-term ELT nonimmigrant students who do not intend to pursue a degree. The commenter shared several advantages to this approach, including additional clarity, alignment with academic intent, natural limits on enrollment, and support for U.S. competitiveness. The commenter also recommended that DHS include safeguards to protect U.S. born children of F–1 students before implementing the final rule, warning that the forced departure of parents of U.S.-born children could disrupt these children's education, stability, and community ties. The commenter expressed concern that absent protection, USCIS might adjudicate mixed-status family cases individually, creating administrative burdens and inefficiencies.

Another commenter agreed with a fixed term but suggested that general intensive English programs be given a maximum of three years, with the possibility of extensions for students pursuing English for specific purposes, provided these align with their declared academic goals. The individual also stated that the current proposal does not clearly address how these students would be accommodated who transition from English as a second language (ESL) programs to a master's program or doctoral program. The individual stated that the concern is whether foreign students would be allowed to continue

their academic journey in the United States after the two-year cap.

Response: DHS appreciates the alternative approaches and exemptions suggested by the commenters regarding ELT. However, DHS believes that the mechanisms proposed in the NPRM are the most effective mechanisms to address issues related to ELT. Furthermore, as mentioned previously, DHS does not believe that applying exemptions or alternatives to certain populations of nonimmigrants would be an effective way to reduce fraud and abuse. U.S. citizen children have different rights than their nonimmigrant parents. They may stay in the United States as long as they wish. They may stay with relatives or travel with their parents to their parents' home country. They may also return when they are older and even sponsor their parents for permanent residency once they turn 21. They do not need to be included on any EOS applications. USCIS will adjudicate separate EOS applications for the parents only if the parents choose to file separate applications. The Form I–539 allows dependents (non-U.S. citizens) to be included for one fee and concurrent adjudication.

As explained in the rule, DHS believes that a 24-month maximum stay for F–1 students in ELT programs (including breaks and vacation), is appropriate to accomplish the intended purpose of stay, which is studying the English language. Given that most English language programs are shorter than 2 years, as cited in the rule, DHS declines to extend the period to a maximum of three years. Notably, the rule aims to prevent F–1 nonimmigrants from abusing the immigration laws by staying indefinitely in the United States through continuous language programs with no limits. As noted in the rule, DHS found that some students have enrolled in lengthy periods of language training, sometimes for more than two decades, including after completing undergraduate or graduate programs that require English proficiency. The lack of standardized completion requirements for language programs has enabled some to remain in the United States for extended periods without progressing academically. The restrictions in this rule are designed to ensure that only bona fide students who intend to temporarily study English are admitted, and to mitigate concerns about program integrity. With respect to transitioning from ESL programs to a master's program or doctoral program, DHS notes that every case is different and that determinations for EOS for the purpose of pursuing a master's or doctoral program will be reviewed on a

¹⁵⁹ See 90 FR at 42071 (Aug. 28, 2025).

¹⁶⁰ See 90 FR at 42079 (Aug. 28, 2025).

case-by-case basis to determine whether the F–1 nonimmigrant is a bona fide student. DHS also notes that most colleges and universities have English language programs to help their foreign students to improve their English skills for college level studies. Nothing in this rule prohibits them from taking these classes.

6. Alternative Approaches to Oversight of Foreign Students and Institutions

Comments: Commenters urged DHS to consider less disruptive alternatives and recommended that DHS apply a more targeted approach for enhanced oversight, such as school recertification risk-tiering and fixed admission periods to high-risk institutions or students showing signs of non-compliance, fraud, or other issues. Commenters recommended enhanced enforcement and fraud prevention through pattern recognition systems to detect suspicious enrollment, risk-based institutional auditing, consequences for violations at both individual and institutional levels, and international cooperation through information sharing and diplomatic engagement. One commenter proposed a risk-based tiered monitoring system that would establish a graduated framework based on objective risk factors and student progression. Another commenter proposed categorizing institutions as low-risk, standard-risk, or high-risk based on compliance history, student success rates, and financial stability indicators.

Some commenters wrote that a tier-based approach would maintain D/S for most students while implementing progressively stricter oversight for longer stays. Another commenter recommended distinguishing between certain demographic groups in immigration policies and recommended that DHS provide quotas and lenient immigration policies for foreign students in STEM fields, while intensifying efforts to combat immigration fraud.

Similarly, commenters called for various institutional monitoring approaches, such as implementing registration frameworks, conducting risk-based audits, site visits, campus visits, and scheduled visits, establishing clear triggers for USCIS review, and focusing enforcement efforts on actual violators. They suggested conducting spot checks at the institutional level, including reviewing data for problematic patterns, surveying DSOs/ AROs to assess their understanding of regulations, and requiring financial documentation for a randomized percentage of I–20s/DS–2019s. Some commenters advocated for stronger

oversight of DSOs, expanding DSO reporting for outlier cases, enhanced reporting in SEVIS, and periodic compliance reviews. Other commenters called for targeted reviews of OPT cases in conjunction with DSOs, stricter limits on CPT, improvements in OPT employer data to stop espionage and technology transfer risks as well as “pay-to-stay” schemes.

On the other hand, some commenters put forward targeted approaches such as a safe harbor for those who file a timely application for an extension. One commenter suggested developing clearer guidelines for what constitutes “integral” training for a student’s curriculum, implementing a system for increased oversight of CPT placements, and establishing stronger penalties for non-compliant educational institutions. This focused approach would successfully address specific vulnerabilities without penalizing the vast majority of legitimate students and damaging the U.S. higher education system as a whole.

Response: DHS acknowledges the commenters’ various recommendations regarding a more targeted, risk-based or tier-based approach, but declines to adopt these alternatives to the rule. Many of these proposals are measures that take place after the fact, *i.e.*, after violations or risks have been detected, whereas this rule takes both a proactive approach to prevent violations as well as to detect existing violations. DHS already incorporates various risk factors into the maintenance, analysis, and administration of the nonimmigrant student and school certification lifecycles.

DHS disagrees that leveraging data in SEVIS to identify possible student status fraud is sufficient to address fraud once it has been identified. In addition, as stated elsewhere in the preamble to this final rule, there is a difference between conducting oversight of schools to ensure they are complying with reporting requirements, and conducting oversight of students to ensure they have complied with the terms and conditions of their admission and are eligible for an EOS. A school may be complying with SEVIS reporting requirements, but a particular student may still be in violation of his or her status, may have obtained his or her status by fraud, or may otherwise be ineligible for an EOS thereby making a tiered approach significantly flawed as it may serve as a way for institutions or students to sidestep the regulatory requirements. Fraud, status violations, and other ineligibilities relating to an individual student may not involve violations committed by a school. As a

result, the school certification, recertification, and out-of-cycle review processes may not always identify individual student status violations, fraud, or other ineligibilities.

In cases where a school is complicit in a student’s fraud or status violations, a school may be held accountable through criminal prosecution or adverse action in connection with the school’s SEVP certification. However, holding schools accountable for fraud is not a substitute for holding individual students accountable for fraud they may have participated in or status violations they may have committed. Additionally, as noted in the preamble of the proposed rule,¹⁶¹ DHS has concerns regarding students at all types of academic institutions and not only those engaged in fraud. DHS noted in the preamble to the proposed rule that some aliens have used the F classification to reside in the United States for lengthy periods by continuously enrolling in or transferring between schools, a practice facilitated by the D/S framework.

DHS is concerned about the integrity of CPT programs and any potential for increased fraud or risk to national security. To address these issues, DHS is amending its regulations by changing the admission period of aliens in F, J, and I nonimmigrant status from D/S to an admission for a fixed time period so as to provide DHS with additional protections and mechanisms to exercise the oversight necessary to enforce our nation’s immigration laws. If DHS makes periodic assessments to verify that F–1 students are maintaining their student status, DHS can better detect and mitigate the risks that have been identified in the D/S framework.

In addition, DHS also notes that there are other regulations currently in place that allow DHS to conduct site visits of educational institutions and employers that hire foreign nationals, which in combination with this rule will strengthen the oversight processes and address some concerns discussed in this comment. *See, e.g.*, 8 CFR 214.2(f)(10)(ii)(C)(11) (site visits for OPT employers); 8 CFR 214.3(h)(1)(ii) (site visits of educational institutions for SEVP certification).

Regarding expanding DSOs and ROs roles, as explained in the NPRM and elsewhere in this rule, DHS believes that DSOs and ROs should not be making determinations with respect to students’ immigration status and that such role should be placed with immigration officers.

¹⁶¹ See 90 FR 42077 (Aug. 28, 2025).

Comments: For J–1 visas, commenters suggested aligning fixed periods with existing category limitations, such as 5 years for Research Scholars and 7 years for Alien Physicians. Commenters recommended exempting certain professional programs like medicine, dentistry, and architecture from arbitrary time limits due to their specialized nature and length.

Response: DHS acknowledges that certain groups under the affected J Visa populations have longer program lengths than the 4-year length of stay, but to the extent these visa holders wish to stay longer, they may timely file an EOS. DHS chooses to utilize the 4-year limit in order to have consistent and regular reviews of all nonimmigrants who are in the country for a lengthy period of time. Allowing for longer lengths of stay or allowing certain groups to remain on D/S would promote arbitrary implementation rather than consistent application across the board and it would prevent DHS from conducting regular reviews of nonimmigrants and prevent consistent enforcement of the rule.

Comments: Commenters also offered alternatives to address potential national security threats, including focused changes to F– and J–certifications of private, for-profit institutions and increased support and training for CBP and Consular Affairs, specifically consular officers and visa adjudicators. The commenters further stated that enhanced surveillance of specific individuals, particularly students in specific fields or from certain countries; regular interviews with campus personnel; and development of a new interagency task force could also address potential national security threats. This task force would also include the FBI for gathering counterintelligence information.

Response: DHS appreciates the recommendations from commenters and generally notes that there are inter-departmental efforts and joint task forces with other agencies and departments that are focused on combating national security threats. However, to the extent that the recommendations involve other non-DHS federal agencies, DHS is unable to comment further, as those comments are outside of DHS's jurisdiction. In order to help mitigate national security threats, DHS believes that this rule will best allow immigration officials to directly and periodically vet applicants for extensions of stay and, in so doing, confirm that they are engaged only in activities consistent with their student status.

7. Other Alternatives

Comments: Another commenter recommended a list of implementation safeguards that should be considered in the final rule, including: Providing service standards and metrics, including target processing times, request for evidence (RFE) checklists, approval/denial rates, and backlog dashboards; making the process digital by default to streamline integration and minimize duplication; providing reasonable fees, fee reductions, and fee waivers; and offering time-sensitive lanes for situations where missed windows cause irreparable harm.

Response: DHS understands that applications are time sensitive. However, DHS does not believe that additional safeguards are needed in this rule. DHS is continuing to explore operational alternatives to address USCIS backlogs. DHS continually monitors workload distribution and adjusts workloads as necessary for quality and efficiency. This rule, while expected to increase the volume of EOS cases, is not the first time that DHS, and USCIS in particular, has prepared for an increase in application volume. For example, in 2012 USCIS began accepting applications for Deferred Action for Childhood Arrivals (DACA) on the new Form I–821D, Consideration of Deferred Action for Childhood Arrivals, created specifically for the DACA program. In fiscal year 2013, USCIS received 427,601 Form I–821Ds, and adjudicated 482,407 applications.¹⁶² DACA was a new process, representing a new workload for the agency and the number of Form I–821Ds received in 2013 outnumber the highest estimated number of EOS estimated to be filed annually for F–1, F–2, J–1, J–2, and I nonimmigrants each year from 2020–2029. Therefore, USCIS has recently demonstrated the capacity to handle increased volumes of applications resulting from new or changed programs and expects to continue to do so. DHS also notes that some nonimmigrants may depart and reenter the United States to extend their stay, as opposed to filing an EOS with USCIS. Further, DHS is working on improvements to the relevant technical systems connected to this rulemaking.

Comments: While expressing concern over the proposed rule's potential impact on international and domestic students, a commenter suggested that

USCIS could instead raise fees for all visa programs by a small amount, such as \$50. The commenter reasoned that the revenue could be used to support travel opportunities for U.S. students.

Response: DHS appreciates the recommendations made by these commenters for raising USCIS fees in replacement of the current rule. However, this would not accomplish the intent of the rule. The rule is intended to establish a regular cadence of review with DHS for all F, J, and I nonimmigrants who are in the country for longer periods of time. This will protect the integrity of these programs and improve national security. The revenue raised by USCIS through the Form I–539, Application to Extend/Change Nonimmigrant Status, filing fee is intended to cover the cost of processing and adjudicating EOS and change of status requests. DHS seeks to address vulnerabilities in the D/S framework, and it is for this reason that DHS is making these specific changes in this rule that will result in greater oversight of student compliance.

E. Calculation of Admission Periods, Grace Periods, and Dependents

1. Early Program Completion Grace Periods

Comments: A commenter requested clarification on the final deciding factor on the program end date and start date of the F–1 nonimmigrant grace period under the proposed rule, particularly if an F–1 student completes their program earlier than the I–20 program end date and Form I–94 admission end date. Commenters stated the 30-day period does not provide enough time for students to book flights where availability is limited nor is it enough time to attain employment. Specifically the commenter outlined two scenarios: (1) a student's Form I–20 lists a program end date of May 31, 2027, but the student actually completes coursework on May 15, 2027; and (2) a student is admitted with a Form I–20 end date of May 31, 2027, and a matching AUD on the Form I–94; however, due to advanced credits and summer coursework, the student completes the program a full year earlier on May 15, 2026.

Response: DHS agrees on the importance of maximizing the period of admission to apply toward the F–1 nonimmigrants' program of study. DHS appreciates the commenter's request for clarification on the grace period and how to resolve instances when a student completes their program of study before the expiration date listed on the Form I–94.

¹⁶² See USCIS, *Number of I–821D, Consideration of Deferred Action for Childhood Arrivals by Fiscal Year, Quarter, Intake, Biometrics and Case Status: 2012–2015*, https://www.uscis.gov/sites/default/files/document/data/I821d_performancedata_fy2015_qtr1.pdf (last visited Feb. 4, 2026).

The rule provides that the 30-day period before the indicated report date or program start date and the 30 additional days (grace period) following the program end date, or the 4-year maximum period of admission, do not count toward the maximum length of stay. *See* new 8 CFR 214.2(f)(5)(i). Specifically, the calculation of the 4-year maximum periods of admission would not begin from the date of admission during the initial 30-day window, but from the program start date. Similarly, the 30-day departure period would not count towards the 4-year maximum period of admission. This will mitigate scenarios where an F-1 student is in need of an EOS because their admission period is 30 days short from the 4-year program completion date.

With respect to programs ending earlier than the date on the I-94, a nonimmigrant student's period of admission is granted to the program of study on Form I-20, for a maximum of four years, plus an additional 30-days period for departure. *See* new 8 CFR 214.2(f)(5)(i), (v). When a student completes their program prior to the program end date as listed on the Form I-20, the DSO should shorten the date in SEVIS, and the student will have 30 days to depart the country after their program completion, regardless of the initial admission date provided on Form I-94. The final rule adds a provision to clarify this point, by stating that "if the F-1 student ends his or her study or training prior to expiration of his or her period of admission, the F-1 student, and any eligible dependents, must, within 30 days from the end date of the study or training, depart the United States or otherwise seek to maintain lawful status." *See* new 8 CFR 214.2(f)(5)(v).

2. Fixed Admission Period Start and End Dates

Comments: A commenter requested clarification on the date from which the fixed period of admission will be calculated for F-1 students, if the proposed rule is finalized. Specifically, the commenters stated that the preamble text and proposed regulatory text do not distinguish between the Program Start Date (or "report date"), and the Initial Session Start Date, which the commenters noted are recorded separately in SEVIS and displayed separately on the I-20. The commenters also expressed appreciation for the ability to set a Program Start Date earlier than the actual start of classes but requested that DHS consider calculating the period of fixed admission from the Initial Session Start Date, which the

commenters stated is the actual start of classes for the program of study. The commenters reasoned that this would ensure that F-1 students who are admitted for a fixed period of admission can maximally use that period of admission toward their program of study.

Response: DHS appreciates this opportunity to clarify how this process works and to point out that even though there appear to be different terminology in use, the final outcome is exactly what the commenters desire. Specifically, the 4-year maximum will be calculated from the date the program begins a.k.a "program start date"—whether first day of classes or first day of research, etc. F or J nonimmigrants are allowed to arrive up to 30 days prior to the program start date, but those days will not be taken into account when calculating the maximum allowed period of stay. Upon admission into the United States, a fixed period of stay is granted up to the program end date, not to exceed 4 years, plus an additional 30-days for F and J nonimmigrants to depart. DHS appreciates the suggested alternatives provided by the commenters, but DHS believes the regulatory text is clear and that no additional clarification is needed as the final rule will achieve the same desired result as what the commenters were suggesting.

3. Dependent Admission Periods

Comments: A commenter requested clarification on what would happen under the proposed changes if a nonimmigrant student traveled separately from their F-2 dependent, the nonimmigrant student's status is shortened upon re-entry, and the F-2's Form I-94 reflects a longer end date.

Response: The current regulation requiring the spouse and minor children of an F-1 student to individually present a Form I-20 or successor form, whether accompanying or following-to-join the F-1 student has not been impacted by this rule. DHS notes that under new 8 CFR 214.2(f)(5)(i)(E), the authorized period of stay for F-2 dependents may not exceed the authorized period of stay of the principal F-1 student. Dependents must file for an EOS when the principal does, cannot stay longer than the principal, and must depart if the EOS is denied. If the principal's stay is shortened, then the dependents must depart at the same time as the principal even if their I-94 has a longer period of stay.

F. Transition Period

1. Transition Period Structure and Alternatives

Comments: Commenters requested a meaningful, phased transition period, such as longer transition periods, additional time before implementation of a final rule, phased implementation, and detailed guidance before the effective date, to avoid immediate status disruptions and allow institutions and employers to adapt. Many commenters stated that the proposed 60-day transition period is too short and would create a heavy burden for universities and students. Suggestions included transition periods ranging from 6 months to 2 years, automatic extensions during pending applications, and safe harbor provisions for students affected by processing delays. Another commenter requested a 6-month to 1 year grace period before the final rule would be enforced to allow for current students to adjust to the new regulations. Many commenters advocated for a grandfathering provision, allowing current and admitted students to complete their programs and practical training under existing rules. They argued this would reduce mid-program disruption, honor reliance interests, prevent disruption to ongoing projects, and avoid overwhelming USCIS and universities with extension requests. Commenters also requested that the rule's effective date should be delayed to align with academic cycles, H-1B cycles, or for at least 1 year from the date of publication, and that post-completion grace periods be preserved or extended.

Specifically, a number of commenters recommended various phased implementation processes. One of these commenters recommended that the proposed rule should be phased in over a minimum 24-month period. Another commenter requested that the proposed rule be implemented with a phased transition that includes empirical checkpoints, including fraud detection, overstay rates, and processing performance. Similarly, another commenter recommended maintaining D/S for all student cohorts graduating in the 24 months following the effective date of the final rule. One commenter recommended maintaining D/S for at least 10 years to allow students to complete undergraduate and medical education on an F-1 visa without bureaucratic interruptions.

Response: DHS believes commenters are confusing the transition period with the implementation period. The transition period, which is described in detail in the new 8 CFR 214.1(m), can

last up to 4 years for aliens who were admitted for D/S prior to the rule's effective date and are properly maintaining F and J status on September 15, 2026 and up to 90 or 240 days for I nonimmigrants who were admitted D/S and are properly maintaining status on September 15, 2026. This will allow for a gradual transition of those admitted under D/S and is more generous than what was proposed by some commenters.

During the 4-year transition period, F or J nonimmigrants in D/S on the day the rule takes effect do not need to have their Form I-94 corrected to a date certain, provided they continue their studies or programs listed on their DS-2019s or I-20s. *See* new 8 CFR 214.1(m)(1). They will be allowed to stay in D/S until the program end date on those DS-2019s and I-20s or 4 years after the effective date of the rule, whichever comes first. *Id.* However, should these F and J nonimmigrants decide to travel abroad during this transition period, they will be issued a new I-94 with a date certain upon their return, as will all other F and J nonimmigrants. *See* new 8 CFR 214.1(m)(1)(ii).

In addition, for aliens in F-1 status, admitted in the United States for D/S, who have timely filed Form I-765 (or successor form) for post-completion OPT or a STEM OPT extension on or before March 18, 2027, there will not be a requirement to file an EOS application. *See* new 8 CFR 214.1(m)(1)(i). However, if this F-1 student departs the United States before filing the Form I-765 (or successor form) for post-completion OPT or STEM OPT, and is subsequently admitted to the United States with a fixed period of admission, the F-1 student will be required to file both Form I-765 (or successor form) and an EOS application, Form I-539 (or successor form) pursuant to 8 CFR 214.2(f)(11)(i)(B)(2) or (C). *See* new 8 CFR 214.1(m)(1)(ii). Likewise, for J-1 exchange visitors who are already present in the United States under the D/S framework at the time that the rule takes effect, *i.e.*, 60 days after the date the final rule is published, they will be able to stay until their program end date on the Form DS-2019 (but no more than 4 years from the effective date), plus 30 days to depart or seek new status. *Id.* *See* new 8 CFR 214.1(m)(1).

In contrast, the implementation period is the 60-day period in between the publication of the rule and the day the rule takes effect. DHS recognizes the need for adjustment and is providing 60 days after publication for affected parties to become acquainted with the new law. After this implementation

period, F, J, and I nonimmigrants will need to be admitted under a fixed period of time, consistent with the new rules. To assist with the transition and implementation, DHS will provide training and guidance to DSOs and schools. DHS appreciates this concern and all the changes that will have to be made to comply with this rule.

DHS disagrees that it will take more than two months to prepare stakeholders for the implementation of this rule. Again, the only adjustment that will be necessary for stakeholders regarding the F and J nonimmigrants already in the United States on D/S is to notate the date 4 years out, when those who have not completed their programs under the D/S system will need to apply for EOS. For those entering after the effective date, they will receive I-94s with a date certain, which reflects the I-20 date already in SEVIS (up to four years) plus 30 days for departure. *See* new 214.1(a)(4). The H-1B cap-gap provisions are not changing due to this rulemaking; therefore, the H-1B cycle should not be affected by this rule.

DHS recognizes that students, their families, and educational institutions may have structured their academic, professional, and personal plans based on the longstanding D/S policy. The Department carefully considered these reliance interests during the rulemaking process. In developing the final rule, DHS sought to minimize disruption by including a transition period, mechanisms for extensions of stay, and clear guidance for students and school officials. These measures are intended to provide affected individuals and institutions with sufficient time and flexibility to adjust to the new requirements.

I nonimmigrants will also have sufficient preparation time with the 60-day effective date in this rule and the transition provisions in new 8 CFR 214.1(m)(3). Any I nonimmigrants who are properly maintaining their status on the date this rule takes effect and who were admitted for D/S are authorized to remain in the United States in I nonimmigrant status for a period necessary to complete their activity, not to exceed either 90 or 240 days (with the shorter period for those I nonimmigrants with a passport from the PRC (except for Hong Kong SAR and Macau SAR passport holders)). *See* new 8 CFR 214.1(m)(3). The 90- or 240-days period is not calculated until the rule takes effect. *Id.* If an alien needs additional time, they may be able to stay in the United States longer in I nonimmigrant status by filing an EOS with USCIS in

accordance with new 8 CFR 214.1(c)(2) and new 8 CFR 214.2(i)(5).

2. Clarity and Guidance for Transition Cases

Comments: Commenters sought clarification for cases where a student's Form I-20 is no longer valid on the effective date of the rule, or where SEVIS records are terminated or pending updates. They requested assurance that students are not deemed unlawfully present due to technical or timing issues beyond their control. A commenter requested clarification about how unlawful presence will be accrued for aliens transitioning from D/S to a fixed period of stay.

Response: An F-1 student whose program or OPT has ended on the effective date of the rule will have the remainder of their allowed departure period to leave the United States, *i.e.*, 60 days from the program end date on their I-20. *See* new 8 CFR 214.1(m). Students needing additional time will not be subject to the transition provision but rather be subject to the new rule and must apply for an EOS. SEVP will continue to process SEVIS corrections as needed. Students should not remain in the United States with a terminated or completed SEVIS record beyond their allowed departure period. Under this final rule, aliens who remain in the United States beyond a fixed time period generally will begin accruing unlawful presence. Calculation of accrual of unlawful presence resulting from the elimination of D/S under this rule will not be applied retroactively but for those with completed programs and therefore expired I-20, unlawful presence will be begin to accrue on the effective date of the rule unless they have applied for reinstatement, a change or status, or an EAD for OPT or STEM OPT before the effective date of the rule. In addition, this rule will not take effect until September 15, 2026, it includes a transition period for nonimmigrants who are currently on D/S, and it allows nonimmigrants to remain lawfully in the United States while an EOS is pending. These provisions will mitigate any issues which may arise related to technical or timing issues beyond their control. Unlawful presence will start to accrue for those on D/S when the nonimmigrant fails to comply with the terms of their F, J, or I nonimmigrant category, or when they fail to transition to admission under a fixed period of time within the time allotted for in new 8 CFR 214.1(m).

3. Lack of Clarity and System Modifications

Comments: Commenters expressed confusion about the transition period's impact on various student scenarios, status end dates, and the interplay between SEVIS, I-94s, and USCIS systems. They requested clear instructions, updated documents, and system improvements to track status and avoid errors.

Response: DHS believes the transition provision is clear: students in D/S status on the rule's effective date continue their programs, only needing to apply for EOS if their program exceeds the program end date on their DS-2019 or I-20, or 4 years after the effective date of the rule, whichever comes first. This addresses various student scenarios. For the EOS adjudication, SEVIS information is used by USCIS officers as part of their adjudication process to determine eligibility. Travel abroad during the transition period triggers conversion to the fixed-date regime. Upon admission following their travel, students will receive an I-94 with a fixed date. DHS is in the process of completing updates to SEVIS to incorporate this new rule and updates will include information about the end date from the Form I-94. USCIS, CBP, DoS, and ICE have always had and will continue to have access to necessary information from each other. DHS and DoS will provide any necessary updated instructions, guidance, and training to stakeholders, including DSOs and ROs, and will ensure technical updates are completed prior to the effective date. DHS and DoS websites will be updated as needed to inform F-1 and J-1 participants about how to maneuver the new system.

4. Modifications to Transition Period

Comments: Commenters proposed additional support during the transition, such as streamlined extensions, clear guidance, training, funding for DSOs, and phased implementation. Suggestions included robust grace periods, service standards, digital filings, reasonable fees, and expedited lanes for academic deadlines. Some commenters warned that too many exceptions increase confusion. Commenters also recommended detailed implementation guidance, technical assistance, and public education efforts. Similarly, a commenter wrote that the proposed rule should include specific procedures for the transition from D/S to fixed time period admission of authorized stay for F and J nonimmigrants.

Response: DHS appreciates the suggestions but declines to make further modifications to the rule based on these suggestions. Many are already part of the transition period, such as current D/S holders remaining in D/S until their program or OPT ends. This transition period results in a phased implementation, since F, J, and I nonimmigrants can transition to admission for a fixed period of time over the course of the next four or so years. Additional grace periods are also not being adopted due to this transition period and the implementation period between the final rule's publication date and the rule's effective date, which is 60 days. DHS maintains that the transition provisions provide an appropriate mechanism for transitioning D/S nonimmigrants to a fixed period of time. DHS and DoS will provide guidance and training as needed, including training for DSOs and ROs to ensure a smooth transition. DHS will continue to evaluate its process for extensions and available technological improvements and appreciates commenters' desires for continued streamlining and digital filings. DHS also appreciates commenters' desire for additional funding of DSOs, but this is outside the scope of this rulemaking.

5. Transition Period for Specific Categories

a. F and J Nonimmigrants

Comments: Commenters stated that replacing D/S with fixed-date rules, coupled with transition rules and new limits, creates traps for diligent students and dependents, increases costs, and disrupts academic and professional progress. They expressed concern about the impact on family members and the risk of losing work authorization or facing school disruptions.

Response: DHS recognizes the importance of minimizing disruption and unintended consequences for diligent students and dependents but disagrees with commenters that this new framework creates a "trap" for students and dependents. DHS also believes the final rule is not unreasonably burdensome. Further, DHS has appropriately considered costs. Most students will complete their programs per the terms of their initial admission. For those in longer programs, mechanisms exist for extension. While there are costs associated with this extension and impacts to affected nonimmigrants, DHS believes the need to protect program integrity and national security outweigh such costs and impacts. The regulations allow EOS if additional time is needed

to complete a program of study, begin a new program of study, or following the completion of studies to engage in post-completion OPT and STEM OPT. Further, the regulations also allow for an EOS if the student has a currently issued Form I-20, or successor form, indicating additional time is left to complete the program of study, or if there is documentation demonstrating the request for an extension is for compelling academic reasons, documented illness or medical condition, or circumstances beyond the student's control. See new 8 CFR 214.2(f)(7)(i). This framework mitigates disruptions to students and families.

DHS acknowledges that this new process will require F, J, and I nonimmigrants to be much more mindful of their status and to keep track of when they need to file for EOS and EADs in order to avoid any disruptions and inadvertent violations. However, most other nonimmigrants must currently do the same; therefore, DHS does not believe that this is an unreasonable requirement. As stated, numerous times throughout this preamble, DSOs and ROs will be provided training to help F and J nonimmigrants not miss any deadlines; SEVIS is being updated to prompt DSOs and ROs when needed; therefore, DHS believes that it is taking sufficient steps to mitigate any possible issues that transitioning to a fixed time period might cause.

b. I Nonimmigrants

Comments: Commenters stated that current I nonimmigrants should not be subject to a fixed period of stay and recommended longer initial admission periods, multiple extensions, and premium processing. They also requested that dependents receive the same terms as principals.

Response: DHS recognizes the operational realities of foreign media assignments and the need for flexibility. However, the D/S framework allows I visa to be abused by bad actors to stay in the country for extended periods of time. Therefore, a fixed admission period is being implemented so that immigration officers can periodically check the veracity of the I visa holder's need to stay in the United States. The transition period and EOS mechanisms are designed to balance oversight with minimizing administrative burdens. DHS acknowledges a desire by some commenters for longer initial admission periods but declines to extend the admission period since the vast majority of I nonimmigrants stay for less than 240 days, and EOS's are available for

those who require additional time.¹⁶³ DHS recognizes commenters' request for multiple extensions for I nonimmigrants, and the rule does allow for multiple extension requests to be filed. Further, DHS recognizes commenters' request for dependents of I nonimmigrants to receive the same term as principles. Under this rule, dependents will generally receive the same terms of admission as the principal I nonimmigrant, subject to applicable statutory and regulatory requirements, such as age-out provisions for minor dependents. DHS remains committed to supporting I nonimmigrants and their dependents while maintaining program integrity. DHS points the reader to sec. IV.G.2.a below for a discussion about premium processing.

c. Not Applicable to Aliens Outside the United States or Present in Violation of Status

Comments: Commenters questioned how the rule applies to those who fell out of status before the effective date and whether retroactive application would create disproportionate penalties.

Response: Nonimmigrants who fell out of status before the effective date are not eligible for the transition provisions and must seek reinstatement or depart the United States. Those maintaining status on the effective date are subject to the transition provisions and will accrue unlawful presence if they overstay the new fixed period. The rules for accrual of unlawful presence are consistent with existing DoS guidance. Importantly, this rule is not retroactive and does not impose new or additional penalties for violations that occurred prior to the effective date. Only those maintaining status on the effective date are subject to the transition provisions and will begin to accrue unlawful presence if they overstay the new fixed period.

6. Implementation and Transition

Comments: Several commenters requested additional details on the transition process, stakeholder training, and system updates necessary for successful implementation of the new rule. A commenter stated that more time is needed to address operational challenges and questions from agencies and institutions. The commenter remarked that a delay would allow for meaningful stakeholder engagement, policy refinement, and a smoother

transition for impacted parties. Another commenter stated that large-scale communication efforts are required among students to receive guidance and information about changes to their original entry agreements; DSOs, AROs, and institutional staff to support compliance; and community members, including immigration attorneys, educational consultants, employers, and community members. A commenter requested the final rule be accompanied by detailed implementation guidance and thorough technical assistance for sponsors, host institutions, and exchange visitors. Another commenter requested that any changes in U.S. policy be clearly communicated in advance to partner governments and impacted nonimmigrants. The commenter further stated that this change would allow for timely compliance with new regulations. Furthermore, one commenter stated that Form I-539 and instructions for extensions and status change would need to be developed, tested, and implemented.

Response: DHS is committed to providing clear guidance and training to all stakeholders, including DSOs, ROs, CBP officers, and affected nonimmigrants. System updates to SEVIS, CBP, and USCIS platforms are underway to support the transition from D/S to fixed admission periods. DHS will issue detailed implementation guidance and conduct outreach to ensure a smooth transition and minimize disruption for students, exchange visitors, institutions, and government personnel. DHS will also make training available to DSOs so that they and the foreign students they advise will be ready for the transition.

DHS maintains that the transition provisions in the new 8 CFR 214.1(m) provide sufficient time for the rule's changes and that delaying the rule is not necessary. DHS believes that the rule appropriately affords due process protections to nonimmigrants, including those already present in the United States on F, J, or I nonimmigrant visas. Complying individuals will be allowed to remain in the United States for the immediate future and will have the opportunity during the transition period to obtain permission to extend their current status under a fixed period of stay. Doing so ensures uniformity in the conditions placed on nonimmigrants while still protecting their legitimate interests in their reasons for coming to the United States.

Regarding Form I-539, DHS notes that this form is currently used by USCIS to determine if a nonimmigrant alien of the appropriate status who seeks to extend

his or her stay beyond the currently authorized period of admission meets the criteria necessary for USCIS to grant an EOS or change to another nonimmigrant status. This final rule does not create a new form for requesting an EOS or change of nonimmigrant status. Instead, DHS is updating existing Form I-539, to allow F, J, and I nonimmigrants to apply for an EOS or change of status (COS) with USCIS.

Comments: A commenter recommended that DHS and USCIS clarify how they plan to answer questions from DSOs and ROs about implementation and practice of the proposed rule, since the USCIS Ombudsman Office has been suspended by DHS.

Response: DHS is committed to providing training and guidance to DSOs and ROs as the rule is being implemented. Resources and updates will be available on SEVP's website at <https://studyinthestates.dhs.gov/> for DSOs, F nonimmigrants and schools, and on DoS website (<https://j1visa.state.gov/programs>) for ROs, J nonimmigrants, and program sponsors.

For general questions about the implementation and practice of the proposed rule:

- DSOs may contact their local field representative, or the SEVP Response Center via email at sevp@ice.dhs.gov.
- ROs may contact the DoS at jvisas@state.gov.

For questions related to F and J benefit applications, including the Form I-765 or the Form I-539, DSOs and ROs should visit USCIS Contact Center (<https://www.uscis.gov/contactcenter>) or email psc.studentead@uscis.dhs.gov for Form I-765 inquiries.

For questions regarding admission to the United States or Form I-94 issuance, please visit <https://www.cbp.gov/>.

DHS will continue to update these resources and provide additional guidance as needed to ensure DSOs and ROs have the support necessary during the implementation process.

G. EOS

1. EOS Regulations, Process, and Requirements

a. Concerns About Potential Drafting Error or Unjustified Change to Form I-129 Deference Policy

Comments: Commenters noted that the proposed technical amendment to section.214.1(c)(5) was not merely technical, as described in the preamble, but would represent a substantive shift that would increase burdens, reduce adjudicatory efficiency, and introduce inconsistency. Commenters stated that

¹⁶³ DHS data shows that 94.6 percent of I nonimmigrants with confirmed exit data stay less than 240 days. Based on DHS's analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

striking all references to Form I-129, Petition for a Nonimmigrant Worker, and Form I-539, Application to Change/Extend Nonimmigrant Status from 8 CFR 214.1(c)(5) would result in the repeal of the current regulatory mandate for USCIS adjudicators to give deference to prior agency determinations involving the same employer and employee when there are no material factual changes. They reasoned this would increase financial and administrative burdens, narrow flexibility, create risks of inconsistent adjudications, and result in unnecessary re-adjudication of petitions. Some commenters also argued this change was outside the scope of the rule and not relevant to F, J, or I regulations.

Commenters further stated that the proposed change could be arbitrary and capricious under the Administrative Procedure Act (APA), lacking reasoned explanation or adequate opportunity for public comment. Some believed the change was likely a drafting error, as the deference issue was not discussed in the preamble and the NPRM may have referenced an outdated version of the regulation.

Response: DHS appreciates the commenters' concerns and notes that the NPRM mistakenly cited 8 CFR 214.1(c)(5) instead of 8 CFR 241.1(c)(7). DHS now recognizes that a 2024 rulemaking had in fact renumbered the provision on decisions for EOS applications as 8 CFR 214.1(c)(7) and had further made technical revisions to the provision, including removal of the specific form numbers.¹⁶⁴ Accordingly, the revisions proposed in the NPRM related to 8 CFR 214.1(c)(5) are no longer needed and will not be finalized in this rule. As such, DHS will not address substantive comments about the impact of the elimination of deference as those are outside of the scope of what DHS intended.

b. General Feedback on the Requirement To File an EOS

Comments: Commenters stated that the proposed rule would increase administrative burden, uncertainty, and inefficiency. The shift to a fixed-term admission would require hundreds of thousands of nonimmigrants, particularly those in longer programs or pursuing OPT, to apply for EOS. Commenters noted that this could disrupt research, dissertations, teaching assistantships, and funding cycles; waste resources; and create duplicative

review processes, especially since schools and SEVIS already monitor compliance. Concerns were raised about the risk of denials due to technical errors or AI-based adjudication. Some commenters said that each additional filing increases the risk of record mismatches or clerical errors, and that incomplete or misfiled forms would become more difficult to address in a system involving multiple agencies and forms. Commenters also cited significant economic contributions of foreign students and warned that the rule could reduce U.S. competitiveness and university revenues.

Response: DHS does not believe that establishing a fixed time period of authorized stay places undue burdens on F, J, and I nonimmigrants. F-1 students may apply for an EOS if they require additional time under their F-1 status, and the rulemaking includes a transition period for students currently on D/S, allowing for an orderly transition. Providing a fixed time period of authorized stay that requires application for extension, change of status, or other authorization is consistent with most other nonimmigrant classifications and with practices prior to 1979. While DHS acknowledges that this rule will impose additional burdens on some populations, the benefit to program integrity and national security outweighs the burdens.

Requiring F, J, and I nonimmigrants to request additional periods of admission directly with DHS will improve consistency, enable stronger oversight, and deter fraud and abuse. DHS acknowledges the economic contribution of foreign students and expects the United States to remain a competitive destination. The rule's potential impact on enrollment is discussed qualitatively in the economic analysis portion of this rule due to the speculative nature of the magnitude of any decrease.

DHS also appreciates commenters' concerns regarding the potential for technical errors and the use of automated or AI-based adjudication in the processing of immigration benefits under this rule. Requests for admission, extensions of stay, changes of status, and employment authorizations will continue to be adjudicated by trained DHS officers who apply statutory and regulatory requirements to the facts of each case. DHS is also conducting updates to SEVIS and updates to training to ensure a smooth transition and to minimize the risk of any technical errors. Further, USCIS, which is fee-funded, will continue to monitor its resource allocations and make

adjustments as appropriate. DHS is committed to ensuring the integrity and fairness of the adjudication process and will continue to ensure appropriate safeguards are in place.

c. Impacts to the Immigration System or DHS

(1) Efficiency Concerns, Duplicative Processes, Backlogs, Delays, and USCIS Staffing

Comments: Commenters stated that the proposed rule would create duplicative processes within the immigration system, noting that nonimmigrants are already highly tracked and regulated. They argued the rule would create inefficiencies, confusion, costs, or risks, without demonstrating that D/S has failed or that the proposed rule would have beneficial outcomes. Some commenters said the rule would overwhelm USCIS with additional applications, exacerbating existing processing delays, and create a fragmented system with multiple agencies controlling separate parts of the process (DoS, CBP, DHS, USCIS). Many challenged DHS's estimate of 414,000 additional EOS applications annually, suggesting it was too low, and projected even higher numbers. Commenters also noted that DSOs would vet EOS applications before recommending an extension to DHS, resulting in duplicative review, and that the rule would force foreign students to navigate dual bureaucracies.

Commenters expressed concern that delays in processing EOS applications could have serious consequences for students and academic programs, including disruptions to research projects, teaching assignments, and clinical training. Doctoral programs and certain undergraduate programs that exceed four years would require at least one EOS application, creating uncertainty for students and institutions. Medical education and training pathways, which extend beyond four years, could also be negatively affected. Commenters expressed concerns that backlogs and delays in EOS applications would leave students and exchange visitors uncertain about their ability to remain in the country and continue their education, potentially disrupting enrollment, employment, stipends, and health insurance. They noted that such uncertainty could prompt status inquiries that would further exacerbate backlogs and could also impact hospitals and patient care. Commenters warned that delays would disrupt operations for students, institutions, businesses, embassies, and ports of

¹⁶⁴ See *Modernizing H-1B Requirements, Providing Flexibility in the F-1 Program, and Program Improvements Affecting Other Nonimmigrant Workers*, 89 FR 103054 (Dec. 18, 2024).

entry. Commenters noted spillover effects on other immigration benefits due to increased workload and cited research showing that processing delays could lead to job losses and reduced hiring. Commenters suggested setting a maximum adjudication timeline (e.g., 90 days) and reducing filing fees to minimize harm.

Response: The need for this rulemaking was discussed at length in the NPRM and is reiterated within this final rule. Fixed admission periods and periodic review will enhance compliance, reduce overstays, and improve national security and these benefits outweigh the effects. While the rule may cause an increase in USCIS processing times, DHS believes that the benefits of increased contact with these nonimmigrants outweigh processing time considerations. Requiring F, J, and I nonimmigrants to request an EOS will improve consistency of terms of admissions between nonimmigrant categories, enable stronger oversight by government officers who will review the nonimmigrant's request and assess compliance, and enhance the government's ability to enforce inadmissibility grounds related to unlawful presence.

DHS appreciates feedback on the estimated volume of additional EOS applications. DHS's estimates are modelled from historical data obtained from the SEVIS and ADIS systems, and the model has been updated with the most recent data sets. DHS will continue to evaluate actual application volumes and adjust resources and processes as necessary. USCIS, as a fee-funded agency, may set fees to support the additional workload and conduct comprehensive fee studies on a biennial basis, mitigating concerns about a spillover effect. USCIS will continue to monitor its resource allocations and make adjustments as appropriate. DHS also concludes that DSOs and ROs should no longer serve as direct proxies for immigration officers, though they will continue to perform important duties to assist DHS and nonimmigrant students. For example, commenters incorrectly assess that the work of the DSOs and ROs will be duplicative of that of USCIS or CBP. Quite on the contrary, it will be the DSOs and ROs who will decide if the program should be extended on academic or programmatic grounds. USCIS will determine if the nonimmigrant properly maintained status, has not abused the system, and is, therefore, eligible for an EOS. DHS understands that some programs of study may require additional time. The rule permits F, J, and I nonimmigrants who wish to

remain in the United States beyond their specific authorized admission period to apply for authorization to extend their stay. Timely filed EOS applications allow students to remain in a period of authorized stay while pending, and automatic extension provisions help mitigate potential disruptions.

DHS appreciates the input regarding academic programs and employment opportunities that may be impacted and does not believe it is unreasonable to require aliens temporarily in the United States to file for an extension with USCIS to confirm compliance with U.S. immigration laws. Provisions in the rule allow F-1 and J-1 nonimmigrants to continue their activities while EOS applications are pending, helping to prevent interruptions.

DHS recognizes concerns about potential duplicative review and the need for students to interact with multiple agencies. While DSOs and ROs continue to play a critical role in advising and supporting students, the rule is designed to ensure that final immigration status determinations are made by DHS officers, consistent with statutory requirements. DHS will work to provide clear guidance to minimize confusion and administrative burden.

DHS understands the importance of timely processing and strives to adjudicate applications as efficiently as possible. However, processing times can be affected by a variety of factors, including security vetting requirements, and the need for thorough review to ensure program integrity. That is why nonimmigrants are always encouraged and will continue to be encouraged to apply well in advance of the expiration of their stay so that their EOS can be timely adjudicated and not cause any disruption to their programs.

(2) Program Sponsor Access and SEVIS Updates

Comments: A commenter expressed concern that program sponsors do not have access to EOS application status, and that this information is not entered evenly or immediately into SEVIS by DHS officials. The commenter warned that the proposed rule would create situations in which program sponsors could not effectively monitor and advise exchange visitors since they would be unaware of the timeline for EOS processing.

Response: DHS appreciates the concern. SEVIS is being modernized to show sponsors the status of EOS applications, thereby alleviating these concerns.

d. Impacts to Nonimmigrants, Students, or Their Support Systems

(1) Logistical Burdens of Application Process

Comments: Commenters expressed significant concerns about the administrative and logistical burdens and processing delays associated with the proposed EOS application process for F, J, and I nonimmigrants. Commenters emphasized that requiring Form I-539 filed with USCIS would create substantial administrative burdens for students, given USCIS's significant backlogs and lengthy processing times. The process would transform what is currently a routine administrative update handled by university DSOs into a formal, costly, and time-consuming adjudication process. Commenters also noted concerns about timing challenges, especially with peak filing periods, and the burden of traveling to USCIS field offices or consulates for required steps.

Response: DHS does not believe that establishing a fixed time period of authorized stay places an undue burden on F, J, and I nonimmigrants. While the rule will impose additional burden on some populations, the benefit to program integrity outweighs the burden. The rule provides that F-1 and J-1 nonimmigrants can continue their studies or program activities while properly filed EOS applications are pending, subject to certain conditions and time limits. These allowances help to minimize disruptions. Further, as noted above, USCIS (which is a fee-funded agency) will continue to monitor its resource allocations and make adjustments as appropriate.

(2) Risk of Status Violations Due to Processing Delays

Comments: Many commenters noted concern that processing delays or a denied extension could lead to students falling out of status through no fault of their own, potentially accruing unlawful presence and triggering reentry bars.

Response: DHS disagrees that this rule will increase students falling out of status through no fault of their own, potentially accruing unlawful presence and triggering reentry bars. For timely filed EOS applications, the F, J, or I nonimmigrant is considered to be in a period of authorized stay and does not accrue unlawful presence during adjudication of their EOS. If an EOS application is denied after the period of admission has expired, the nonimmigrant student and any dependents must depart immediately. See new 8 CFR 214.2(f)(7)(vii). DHS also notes that reentry bars are not triggered

until an alien departs the United States. One primary aim of this final rule is to institute policies that encourage aliens to maintain lawful status and reduce instances of unlawful presence. USCIS will assess allocation of resources as appropriate to address processing needs.

(3) Negative Impacts on Academic Flexibility and Educational Pathways

Comments: Commenters noted concerns that the proposed rule would limit students' academic flexibility, making routine academic adjustments immigration adjudication events. They provided examples of combined degree programs, transitions from master's to doctoral studies, and other pathways that would be complicated by the rule. Commenters criticized the rule for shifting supervision of academic decisions from institutions to USCIS and warned it could decrease the incentive for foreign students to study in the United States.

Response: DHS recognizes the concerns about reduced academic flexibility. Students may be admitted for up to four years and may apply for an extension if their program requires additional time. The regulation outlines the parameters for study, but students may make academic decisions within those parameters and continue to seek guidance from educational institutions, helping to protect the integrity of the F nonimmigrant classification while also preventing fraud and abuse. Furthermore, only DHS has authority to determine whether a nonimmigrant student remains in status. DHS believes, as discussed elsewhere in this rule, that nonimmigrant students will continue to come to the United States to study because of the quality of education offered and the ability to gain work experience in specialized fields.

(4) Financial Burdens

Comments: Commenters expressed significant concern about the financial burdens the proposed rule would impose on F, J, and I nonimmigrants, including increased fees for EOS applications and potential legal fees. Commenters noted that these costs would be particularly burdensome for students with limited financial resources and could accumulate over multiple extensions. Additional expenses could include travel costs for biometrics or interviews and indirect costs such as loss of income or health insurance due to pending EOS applications.

Response: DHS is authorized to charge fees for adjudication and naturalization services at a level to ensure recovery of the full costs of

providing such services. DHS acknowledges that EOS applications will incur costs for nonimmigrants, but these costs are necessary for program integrity and national security. The Regulatory Impact Analysis accounts for these costs, and DHS believes the benefits outweigh the financial burden.

(5) Driver's Licenses

Comments: Commenters expressed concern about obtaining a driver's license and warned that the proposed rule would create additional complexities with respect to driver's licenses, as many states issue licenses only for the period of stay specified on a nonimmigrant's Form I-94. Affected nonimmigrants and their dependents would need to seek license renewal each time they file an EOS, adding further cost and inconvenience.

Response: DHS recognizes various state laws related to driver's licenses for aliens but does not have authority to adjust these state laws. DHS believes that timely filing of extension requests will minimize potential delays in license renewals.

(6) Emotional Burden

Comments: Many commenters described the stress, psychological impacts, and uncertainty F, J, and I nonimmigrants would face from dealing with the complexity of the extension process under the proposed rule. Commenters noted, for F nonimmigrants, this was especially true after investing significant resources in their education.

Response: DHS acknowledges that regulatory changes require adjustment and can be difficult. However, DHS believes the benefits of the rule outweigh these effects and that F, J, and I nonimmigrants will adapt to these changes. DHS declines to adjust the regulations for this reason.

(7) Economic Hardship and Special Student Relief (SSR)

Comments: A commenter supported codifying automatic extension of employment authorization for SSR beneficiaries with timely EOS applications, noting it aligns with longstanding policy and reduces lapses in employment. Others requested clarification on how automatic extension applies to severe economic hardship and raised concerns about increased administrative burdens.

Response: DHS appreciates the support and clarifies that individuals with a timely filed, pending EOS may receive automatic extensions of employment authorization under certain circumstances for up to 240 days or

until the end date stated in a **Federal Register** notice. *See* new 8 CFR 214.2(f)(5)(viii). The 240-day period is consistent with other nonimmigrant classifications and balances the need for oversight with minimizing disruptions. DHS acknowledges additional costs but believes the benefits outweigh the burdens.

(8) Interaction With H-1B Status (Cap-Gap Protection)

Comments: Commenters expressed concern that the rule could undermine cap-gap protection for F-1 students transitioning to H-1B status, potentially causing legal consequences for brief lapses in status. They requested clarification on whether cap-gap protections would remain and how the rule interacts with existing provisions for H-1B portability and status bridging.

Response: DHS confirms that the rule does not modify or remove automatic EOS and employment authorization for F-1 students who are beneficiaries of timely filed H-1B cap-subject petitions. Eligible F-1 students will continue to be granted automatic EOS and employment authorization through April 1 of the relevant fiscal year or until the H-1B petition's validity start date, whichever is earlier.

(9) Impact on OPT and Employment

Comments: Many commenters expressed concern that delays in processing EOS applications could disrupt work authorization for students and employers, resulting in lost income, interruptions to employer operations, and jeopardized research projects or clinical care. Commenters stated that the OPT/STEM OPT pipelines supply critical U.S. industries and that the proposed rule would introduce uncertainty and additional complexity, particularly for unpaid or volunteer OPT work. Some commenters provided data on the number of OPT authorizations and warned that the rule could deter participation in OPT and reduce the U.S. technical workforce.

Response: DHS understands concerns regarding potential disruptions to employment and research due to EOS processing. To minimize disruptions, the final rule includes provisions for automatic extensions of the authorized period of stay and employment authorizations for F-1, J, and I nonimmigrants who timely file EOS applications.¹⁶⁵ These provisions help minimize interruptions in activities and employment while applications are pending. DHS recognizes commenters'

¹⁶⁵ *See* new 8 CFR 214.2(f)(5)(viii), (j)(1)(vii), (i)(5)(i)(B), (iii), and 8 CFR 274a.12(b)(20).

concerns about the effects of this rule on OPT and STEM OPT. DHS has sought to balance program integrity, national security, and compliance with the need to minimize disruptions to students and the U.S. workforce. OPT and STEM OPT participants are included in the transition period outlined in this rule, reducing immediate burdens and allowing time for adjustment to the new process.

2. Feedback, Recommendations, and Requests for Clarification

a. Premium Processing

Comments: Commenters suggested offering premium processing for Form I-539.

Response: USCIS will continue to explore expanding premium processing for Form I-539 for affected populations requesting an EOS. USCIS will alert the public through the USCIS website that governs premium offerings.¹⁶⁶ In the absence of premium processing, an applicant may request that USCIS expedite the adjudication of an application, including for an EOS, that is under USCIS jurisdiction.¹⁶⁷ USCIS considers all expedite requests on a case-by-case basis and generally requires documentation to support such requests.¹⁶⁸ The decision to expedite is within the sole discretion of USCIS.¹⁶⁹ Expediting a case generally means that USCIS would adjudicate a benefit ahead of others, including those who may have filed earlier, so USCIS carefully weighs the urgency and merit of each expedite request.¹⁷⁰ DHS has built in protections for students with timely filed EOS applications, including periods of authorized stay and automatic extension of employment authorization.

b. EOS Process Recommendations and Clarifications

Comments: Commenters recommended modifications to the EOS process, such as limiting the number and length of extensions per degree level, allowing program-based extensions for healthcare workers, eliminating EOS for students maintaining valid enrollment or for students making institutional transfers or program changes at the same level, and allowing visa stamp delivery with EOS approval. Commenters also

requested clarification on the roles of DSOs/AROs, and the documentation required for EOS.

Response: DHS thanks the commenters for their suggestions; however, DHS is concerned that perhaps there is a misunderstanding of when there is a need to file for an EOS. Many degrees, except for some Ph.D. programs, can be completed within the 4-year maximum period of stay. Therefore, most F-1 students, who are in Masters and Bachelor's programs, are not expected to need an EOS unless they wish to progress to higher levels of education. Their period of admission will be limited in length based upon their program duration, not to exceed the 4-year maximum period of stay. Healthcare workers are also able to file for extensions should their J nonimmigrant activities extend beyond their admission period, which can initially be up to 4 years. However, that said, this rule does not require students or exchange visitors to complete their intended program within four years. Rather, the four-year period serves as a law enforcement and screening tool to assess whether a student or exchange visitor is maintaining their nonimmigrant status. Therefore, DHS appreciates commenters' recommendations to limit the number of extensions, but declines to adopt this limitation, as DHS will review the eligibility of each EOS application and the rule changes being adopted via this final rule will help to prevent fraud and abuse. DHS will not be eliminating EOS for select groups, as this would undermine the goals of this rulemaking.

DHS appreciates the suggestion to allow visa stamp delivery with EOS approval. However, under current law, DHS does not have this authority since visa stamps can only be issued by DoS.

Finally, DHS appreciates the requests for clarification about the roles of DSOs and AROs and the documentation required for EOS. These roles and the necessary documentation have been described in this rulemaking and DHS will continue to provide guidance and training as deemed necessary.

c. Safe Harbor Provisions and Appeals

Comments: Commenters recommended that DHS establish "safe harbor" protections for students whose extension applications are pending when their status expires due to processing delays. For example, a commenter stated if the denial notice is mailed via United States Postal Service and the student is not notified of the denial in any other way, it would take approximately ten (10) to fifteen (15) days for the denial notice to reach them

(given current mailing times of other USCIS notices). The commenter was concerned the student could be accruing days of overstay and not even know it and advised providing a grace period for departure would alleviate this concern.

Suggestions included specific timeframes for these protections, ranging from 180 days to 12–18 months of lawful status while awaiting USCIS decisions. Commenters emphasized that these protections would prevent workforce and academic disruptions. Additionally, commenters requested clarification regarding the appeals process for EOS denials, specifically asking what activities students would be permitted to engage in, such as class enrollment, while appeals or motions are pending.

Response: DHS has built in protections for students who have a timely filed EOS application because the nonimmigrant is considered to be in a period of authorized stay and does not accrue unlawful presence during this time. As has been discussed in this final rule, activities consistent with the classification, as well as certain work authorizations, may also continue after the filing of an EOS, with some restrictions which have been discussed within this final rule. Notably, F-1 students who timely file an EOS application before their period of admission expires are considered to be in a period of authorized stay while the application is pending and they may continue their studies during this time. See new 8 CFR 214.2(f)(7)(iii)(B). Given the current protections in place, DHS declines to adopt further "safe harbor" protections.

This rule does not alter the unavailability of appeals for denials of Form I-539, as these applications currently cannot be appealed; however, a motion to reopen or reconsider may be filed if the application is denied. USCIS issues denial notices with specific reasons for the denial, as required under 8 CFR 103.3(a)(1)(i), with the exception of classified information. As with all other nonimmigrant statuses that are denied an EOS, filing a motion does not stay the execution of any decision or extend a previously set departure date. DHS recognizes commenters' concerns about accrual of unlawful status while awaiting receipt of their denial and the inability to work during this time. This is something that can happen in many visa categories and aliens can consult with immigration professionals to understand the requirements of their visa category and the risks of not following those requirements. Because this concept is already embedded in the

¹⁶⁶ See USCIS, *How Do I Request Premium Processing?* (last updated June 18, 2024), <https://www.uscis.gov/forms/all-forms/how-do-i-request-premium-processing>.

¹⁶⁷ See USCIS, *Expedite Requests* (last updated Oct. 30, 2025), <https://www.uscis.gov/forms/filing-guidance/expedite-requests>.

¹⁶⁸ See *Id.*

¹⁶⁹ See *Id.*

¹⁷⁰ See *Id.*

current regulations, this rule does not affect this provision in the CFR.

d. Suggestions for Streamlining and Modifying the EOS Process

Comments: Several commenters advocated for automatic extension mechanisms that would allow students to continue their programs as long as they maintain status, emphasizing the need to avoid mid-program disruptions. Commenters also recommended streamlining extensions for low-risk students, exempting certain categories from EOS requirements, and prioritizing applications involving research or clinical care.

Response: DHS recently updated its regulations to expressly require that evidence of maintenance of status must be included with petitions or applications seeking an extension or amendment of stay. See 8 CFR 214.1(c)(6). This requirement streamlines and clarifies the process for EOS requests and helps ensure compliance. DHS believes that USCIS review of extensions is necessary for program integrity and national security, and that the benefits of this oversight outweigh the administrative burden. DHS declines to lower the review threshold for certain categories of F, J, and I nonimmigrants since this would undercut the goals of this rulemaking.

e. Requests for Clarification and Predictability

Comments: Commenters requested clarification on numerous aspects of the proposed rule, including when EOS filings would be necessary versus simple SEVIS system updates, especially for early program changes. Commenters also asked for clear, fair, and predictable extension criteria, logistics, processing timelines, costs, and expectations. They recommended that DHS publish service-level targets for EOS processing and automatically approve interim extensions for pending applications when these targets are not met. Commenters also sought clarification on the number of EOS applications allowed in a lifetime, allowable delays, hardship exceptions, and how OPT/STEM OPT extensions would be managed under the new process.

Response: Under this rule, an EOS application is required when a nonimmigrant's authorized period of admission will not be sufficient to complete their program, training, or activity, or when additional time in the United States is needed beyond the nonimmigrant's current fixed admission period. An EOS may also be required for nonimmigrants transitioning from D/S

to a fixed admission period, as described within the transition provisions in new 8 CFR 214.1(m). A system update in SEVIS is required for certain routine changes but does not substitute for an EOS when more time in status is needed.

DHS did not propose changes to 8 CFR 214.1(c)(4), the regulation governing timely filing and maintenance of status. An alien seeking an EOS must have continually maintained status, and late filings may be excused at USCIS discretion if certain factors are met. DHS will continue to provide guidance and training to clarify EOS requirements, allowable delays, and the process for OPT/STEM OPT extensions. DHS notes that if the F, J, and I nonimmigrant submits an EOS prior to the expiration of the I-94, which includes the 30-day grace period, the extension request will be considered timely filed. There are currently no lifetime limits on the number of EOS applications that can be filed for F, J, and I nonimmigrants.

f. Concerns About OPT Participation and EOS Requirements

Comments: Commenters recommended that DHS ensure OPT participation is not disrupted by EOS requirements, with some stating that EOS should not be required for OPT at all. They requested clarification on whether students could apply for OPT after completing a degree without first obtaining an EOS, and whether OPT would continue while an EOS application is pending. One commenter wrote that CBP already admits students to the date of EAD expiration or a DSO-endorsed OPT end date, arguing that this renders a second EOS adjudication unnecessary.

Response: DHS appreciates commenters' concerns about potential complications with filing for EOS along with work authorization. Students have always been encouraged, and will continue to be encouraged, to apply for their EAD for OPT as soon as possible and not wait until they complete all their studies. Under the new rule, for those students not under the transition provisions of 8 CFR 214.1(m), they will also need to extend their stay. They can do so by filing both an EOS and EAD concurrently. But, even if they file them separately, when USCIS receives an EOS or work authorization application, an immigration officer searches DHS systems to locate related files. This process will not change once this final rule goes into effect. If USCIS receives an extension request, USCIS will conduct searches to determine if a related application, such as an application for employment

authorization, has been filed. If a related file is found, both cases will be adjudicated together to avoid gaps in authorization. Currently, students cannot begin employment until they receive an EAD from USCIS. This will not change under this rule.

DHS has ensured efficient processing for EOS applications to avoid any impact on the processing of the EAD petition related to OPT. Students who complete their OPT during their program of study will not need an EOS. Those opting for post-completion OPT or STEM OPT will most likely need to file for an EOS with USCIS unless they travel abroad and apply for readmission with a Form I-20 containing the DSO OPT recommendation. Nonimmigrants can choose how to extend their stay by either traveling abroad and re-entering through a POE or applying for EOS with USCIS. It is not necessary to do both.

For those finishing a program of study and wanting to start OPT or STEM OPT and their authorized stay expires when their program of study concludes, they can file both an EOS (I-539) and EAD (I-765) application concurrently. They will be considered to be in a period of authorized stay while the EOS application is pending but may not start new employment until both EAD and EOS are approved. DHS has also provided transition provisions to minimize disruption for students in OPT/STEM OPT status at the time the rule takes effect.

With respect to whether OPT continues while an EOS application is pending, the rule does not provide for automatic extension of post-completion OPT employment authorization during the pendency of an EOS application. However, for those participating in STEM OPT, the current regulations at 8 CFR 274a.12(b)(6)(iv) are not changing and provide that those with pending STEM OPT EAD applications can continue to work up to 180 days after the expiration of their current EAD. Students may begin or continue OPT employment only after both the EOS and employment authorization applications are approved, unless they qualify for transition relief or unless the F-1 students began their OPT as pre-completion OPT and still have time left after completion of their program.

g. Travel, Reentry, and EOS Applications

Comments: Commenters sought clarification on travel implications, asking whether F and J nonimmigrants could exit the United States and reenter under the same status as an alternative to the EOS process. They also asked whether students would be required to

remain in the country while their EOS applications were pending and urged DHS to allow extensions from within the United States rather than requiring visa holders to exit.

Response: DHS has opted to provide flexibility by allowing F and J nonimmigrants to either file for an EOS or depart and reenter the United States to extend their stay. Each option has advantages and disadvantages, and the decision is up to the individual. If the nonimmigrant unexpectedly travels after filing an EOS application, DHS recommends that nonimmigrants carry their EOS receipt notice when traveling and notes that departing and reentering may result in abandonment of a pending EOS application if admitted on a new Form I-20 or DS-2019 after the previous admission has expired. *See* new 8 CFR 214.1(c)(8).

h. 240-Day Grace Period and Family Unit Extensions

Comments: Commenters expressed concern with the proposed 240-day grace period while an EOS remains pending, asking DHS to clarify how this timeframe was determined. They also remarked on the provision that “the shortest period granted to any member of the family will be granted to all members,” expressing concern that this could be unfair if dependents age out before the normal end of stay.

Response: DHS based the 240-day period on the established timeframe in 8 CFR 274a.12(b)(20), which provides an automatic extension of employment authorization for several nonimmigrant classifications. The finalized regulation requires that extensions granted to family members be for the same period, which promotes efficiency and oversight. DHS often aligns the extension period for dependents (family members) with that of the principal nonimmigrant. This is intended to promote administrative efficiency and oversight.

Generally, USCIS will grant the maximum period of stay authorized for the principal nonimmigrant and all dependents; however, there may be situations (*i.e.*, a child will age out) where one family member’s time limitation is less than the principal’s. However, the reverse is not true. DHS notes that under new 8 CFR 214.2(f)(5)(i)(E), the authorized period of stay for F-2 dependents may not exceed the authorized period of stay of the principal F-1 student.

i. Opposition to Extensions and Successive EOS Applications

Comments: Some commenters opposed extensions altogether,

suggesting that DHS pause all student and visitor visas or not allow nonimmigrants to pursue EOS after graduating. Others expressed concern that students might request successive EOSs, potentially allowing them to remain in the United States much longer than the initial admission period.

Response: DHS requires that evidence of maintenance of status be included with EOS applications and will review each request to ensure compliance. *See* new 8 CFR 214.2(f)(7). Successive EOS applications are subject to eligibility requirements, and USCIS may deny requests if the applicant does not meet the criteria. The process is designed to prevent indefinite stays and ensure that nonimmigrants remain bona fide students or exchange visitors.

3. EOS Process and Requirements for F-1 Students

a. General Concerns About EOS Requirements for F-1 Students

Comments: Many commenters expressed concerns that the proposed EOS requirements for F-1 students would increase burdens on nonimmigrants, government agencies, employers, educational institutions, and DSOs. They argued that the procedures are duplicative and unnecessary, could disrupt or delay academic progress, employment or training opportunities (including OPT and H-1B), research, housing, and family unity, and do not align with standard academic timelines. Commenters cited studies showing that bachelor’s and doctoral programs often require more than four years. Commenters also indicated that associate degree programs could take longer than 2 years due to prerequisites, class offerings and modality, and full-time enrollment requisites, and requiring extensions would be burdensome for such students. Concerns were raised about USCIS’s capacity to process EOS applications in a timely manner, risking delays or administrative errors that could result in students unintentionally falling out of status.

Commenters urged DHS to consider the practical challenges and time constraints associated with the EOS process, noting that existing oversight through SEVIS, DSO reports, and DHS monitoring is already robust. They also highlighted that the proposed requirements do not account for the variety of academic scenarios, such as the needs of English language students, those in short-term programs, or students in disciplines with non-standard timelines.

Response: DHS recognizes this rule will require changes for stakeholders,

but maintains the burdens are outweighed by the benefits of this rule. As explained within the NPRM, the F-1 program has been subject to fraud, exploitation, and abuse and this rule will help combat these issues.¹⁷¹ While DHS cannot guarantee processing times for applications filed at USCIS due to numerous governing factors, DHS will continue to explore system improvements to promote efficiency, prompt adjudications, and paperwork reduction.

F nonimmigrants who properly file an EOS may remain in the United States and are considered to be in a period of authorized stay during that period, consistent with USCIS policy for most nonimmigrants admitted for a fixed period of admission.¹⁷² F students may continue to pursue a full course of study while the EOS is pending, and certain types of authorized employment are also extended for up to 240 days. *See* new 8 CFR 214.2(f)(7)(iii)(B). Additionally, DHS believes that the process of requesting an EOS should not hinder timely completion of research projects, just as traveling abroad and re-entering the United States and going through inspection under current rules do not hinder such research.

DHS disagrees that the extension procedures create uncertainty or are unduly disruptive. It is the responsibility of the alien to maintain status, and requiring an extension is consistent with requirements for other nonimmigrant categories. The 24-month cap for English language programs is designed to prevent abuse of the F-1 program. DHS acknowledges increased responsibilities for DSOs and believes these changes are necessary to maintain program integrity and to obtain compliance with immigration laws. DHS has found that the existing oversight through SEVIS, DSO reports, and DHS monitoring is not robust enough and that actual review by immigration officers of aliens who want to stay beyond their program end date or 4 years is necessary for program integrity and national security.

b. Financial Documentation

Comments: Commenters opposed requiring students to provide evidence of sufficient funds for each EOS. One commenter argued that institutions already verify financial capacity during enrollment and the requirement is overly burdensome.

Response: DHS requires evidence of sufficient funds for each EOS filings to ensure students can study without

¹⁷¹ *See* 90 FR at 42077.

¹⁷² USCIS Memorandum, *supra* note 72.

unauthorized employment. This is consistent with statutory and regulatory requirements and is within DHS's authority. Specifically, the sufficient fund requirement is designed to ensure that applicants for an EOS under new 8 CFR 214.2(f)(7)(i) meet the statutory and regulatory eligibility criteria for the nonimmigrant classification sought. Demonstrating sufficient funds to cover expenses is a critical component of this eligibility determination, as it directly relates to the applicant's ability to maintain their status and fulfill the requirements of their nonimmigrant classification. DHS acknowledges that the evidence required to demonstrate sufficient funds may involve detailed financial documentation, such as account statements, receipts, letters from school accounts offices, or other financial records. However, these requirements are necessary to ensure the integrity of the process and to verify that applicants have the financial means to support their education and related expenses without becoming a public charge or violating the terms of their status.

4. Acceptable Reasons for Requesting an EOS and Evidence

a. General Comments on Standards for EOS Filing and Approval

Comments: Some commenters supported stricter approval standards, while others advocated for more lenient standards that account for research delays, funding gaps, program type, institutional delays, and emergencies. Commenters urged DHS to clarify what constitutes "compelling academic reason," "compelling medical reason," and "circumstances beyond a student's control," and to recognize program length and design as qualifying exceptions.

Response: DHS appreciates the diverse perspectives about approval standards for EOS requests. While the final rule establishes the regulatory framework and eligibility criteria for EOS, the specific adjudication standards and consideration of individual circumstances are matters of agency policy and operational guidance. These operational details are outside the scope of this rulemaking. DHS will continue to review and update its internal policies and training to ensure fair and consistent application of the regulatory criteria.

DHS provides examples of compelling academic, medical reasons, and circumstances beyond a student's control in new 8 CFR 214.2(f)(7)(i)(C)(2)(i)–(ii), and the list is non-exclusive to allow for discretion.

DHS is not restricting DSOs from inputting program lengths that align with institutional curricula. If additional time is needed beyond the initial program length, students must submit evidence for an extension. Each scenario is evaluated case-by-case.

b. Elimination of the Normal Progress Standard

Comments: Commenters opposed the elimination of the "normal progress" standard, arguing that it is not undefined or difficult to apply, and it reflects the flexible, individualized nature of academic programs. Commenters argued institutions already have robust procedures for evaluating progress. Commenters suggested DHS retain the standard with a clearer definition, align it with Satisfactory Academic Progress (SAP) standards, or require documentation from academic advisers or deans for EOS determinations.

Response: The prior regulations relied on a standard of "normal progress" when addressing program extensions, leaving interpretations up to DSOs and resulting in inconsistencies in evaluating a student as each school has different standards and procedures for program extensions. By eliminating "normal progress" for program extensions and emphasizing that extensions must be granted only in cases where there is a compelling academic reason, a documented illness or medical condition, or circumstances beyond a student's control, DHS expects more consistency throughout all schools when considering an EOS. *See* new 8 CFR 214.2(f)(7)(i).

DHS appreciates commenters' suggestions to instead modify the definition or clarify "normal progress" and to ensure alignment with SAP standards. However, SEVP-certified schools include a diverse range of institutions, many of which are private and not required to follow U.S. Department of Education (ED) standards. DHS believes it is more practical to allow immigration officers to rely on individual schools' standards and policies to determine normal progress and to review evidence on a case-by-case basis. The extension process allows students to submit documentation in support of a program extension, including letters from advisers or deans.

c. Compelling Academic Reasons and Evidence

Comments: Several commenters stated that the "compelling academic reasons" standard is too narrow, vague, and does not reflect the realities of

academic progression. They argued that higher education is rarely linear and that the examples provided do not cover all scenarios. Commenters also opposed codifying terms like "probation," "dismissal," and "suspension," as these vary across institutions.

Response: The compelling academic reasons standard is designed to balance academic realities with statutory requirements that nonimmigrant students maintain progress toward their educational objectives. DHS recognizes that unexpected or unforeseen academic circumstances may arise during the course of study and that, in appropriate cases, such circumstances may warrant an extension of status. The standard is not intended to be so rigid as to penalize students for isolated or temporary academic difficulties. At the same time, DHS does not consider repeated or prolonged inability to complete required coursework, when taken as a whole, to necessarily constitute a compelling academic reason for continued extensions of stay. A demonstrated pattern of insufficient academic progress may indicate an unwillingness or inability to complete the program of study within a reasonable timeframe. Each EOS application will be adjudicated individually on a case-by-case basis. DHS declines to define institutional terminology but will continue to require DSOs to report academic status changes and the effective date or period of suspension, dismissal, probation, or withdrawal based on their institution's definitions.

d. Documented Illness or Medical Condition and Evidence

Comments: Commenters expressed concern that the list of medical professionals who can document a "compelling medical reason" is too narrow and suggested expanding it. A commenter proposed resetting D/S after medical leave and requested a transparent appeal process.

Response: DHS acknowledges the variety of healthcare providers, but these changes are outside the scope of the rulemaking and DHS cannot expand the list without further notice and comment. Immigration officers will evaluate whether delays are due to compelling academic or medical reasons. The rule does not alter the appeals process or availability of appeals.

e. Exceptional Circumstances Outside the Student's Control

Comments: A commenter supported the inclusion of "exceptional circumstances outside the student's control" as a valid basis for extensions,

while others suggested expanding the definition to include DSO errors, research delays, emergencies, and more.

Response: DHS will evaluate each scenario on a case-by-case basis rather than defining specific circumstances, to avoid inadvertently limiting eligibility. The process ensures that only legitimate cases receive extensions.

5. Timely EOS Requests and Reinstatement

Comments: Some commenters supported the requirement for timely EOS filings and the safeguard against fraud. Others requested clearer definitions of “timely submitted,” clarification about campus employment limitations, and clarification on whether departing the United States with a pending EOS application constitutes abandonment. Commenters sought guidance on late filings, recommended allowing EOS submissions up to six months before expiration, and raised concerns about duplicative documentation requirements for EOS and reinstatement, suggesting F–1 students should be able to request status extensions as part of reinstatement rather than filing separate applications. Some suggested that English language students should use the SEVIS HelpDesk for changes instead of EOS. Commenters also proposed streamlining the EOS process by identifying longer academic programs at visa issuance and expediting extensions for students progressing from undergraduate to graduate programs at the same institution. Some also noted inconsistencies in employment authorization provisions and requested that employment eligibility be extended regardless of when the EOS is filed.

Response: USCIS considers a Form I–539 timely filed when received before status expires, and there is no regulation preventing early filing. Generally, EOS applications are not considered abandoned if the nonimmigrant leaves the United States while the application is pending, unless admitted on a new I–20 or DS–2019 after expiration. *See* new 8 CFR 214.1(c)(8). DHS declines to adopt commenters suggestions about utilizing the SEVP Response Center to extend a program rather than applying for an EOS with USCIS, as the EOS process is completed in accordance with statutory and regulatory requirements. DHS also declines to make exceptions for longer programs or those students progressing from undergraduate to graduate programs at the same university because that would defeat the purpose of this rule, which is to have a specified period after which a student must have a check-in with an

immigration officer so that the government can make sure that student has not committed any crimes and has properly maintained status. The EOS process provides immigration officers an opportunity to directly review and determine whether F, J, and I nonimmigrants who wish to remain in the United States beyond their fixed period of admission are complying with U.S. immigration law and are indeed eligible to retain their nonimmigrant status. DHS will continue to evaluate opportunities to reduce administrative burdens and improve efficiency in the future as it continues to develop guidance and system enhancements, to better support students and institutions while maintaining program integrity.

This rule does not generally alter the existing employment authorization regulations which do not permit the F–1 nonimmigrant to engage in employment during the departure period. Under the final rule, EOS and EAD applications do not always have to be filed together, as explained in other parts of this rule, but all employment must cease if the EOS application is filed after the F–1 completes their course of study and any authorized post-completion practical training, including during the departure period. Therefore, DHS declines to modify the language in this rule to allow continued employment regardless of when the EOS is filed.

Current system limitations require separate filings for reinstatement and extension. DHS will continue to explore system improvements but believes the current process is necessary for program integrity.

6. EOS Process and Requirements for J Nonimmigrants

a. Concerns About J–1 Program Transfers and Category Changes

Comments: Commenters expressed concern about how the proposed EOS process would interact with the J–1 transfer process. One commenter noted that, because the J–1 transfer process only allows the new program sponsor to extend the J–1 on the expiration date of the previous sponsor, the proposed EOS requirement could not possibly be “timely filed” with USCIS, potentially leading to overstays through no fault of the nonimmigrant. Another commenter questioned whether J–1 exchange visitors would be considered out-of-status and unable to begin at their new institutions if they could not file extensions with USCIS before their Form I–94 expiration due to transfer delays.

Commenters also raised concerns about J–1 category changes, such as research scholars changing to alien physician status, and whether such changes would be a valid reason for an EOS. They questioned whether a physician who does not receive their DS–2019 before their I–94 expires would be considered out-of-status and ineligible to participate in their medical training program, and whether an unexpired I–94 based on a previous DS–2019 would be valid in combination with a new Form DS–2019.

Response: New 8 CFR 214.2(j)(1)(iv) states that an alien in J–1 status seeking to extend his or her stay beyond the currently authorized period of admission must apply for an EOS, including if a sponsor issues a Form DS–2019 or successor form extending an alien’s program end date for any reason. An EOS application is considered timely filed if the receipt date is on or before the date the authorized admission period expires, including the 30-day grace period. If the extension application is received during the 30-day period following the completion of the exchange visitor program, the J–1 may continue to participate in the program. If the RO is required to update the program status or program end date for an exchange visitor after the program end date listed on the most recent Form DS–2019 (or successor form), the sponsor is required to submit the necessary correction or reinstatement in the manner and timeframe required by DoS. Once the record is corrected or reinstated, the J–1 exchange visitor must submit a request for an EOS to USCIS within 30 days of the status update. Exchange visitors are required to transfer before their programs end and should work with their new sponsor to get an updated Form DS–2019. Category changes and transfers should be coordinated with timely filings to avoid status issues.

b. Concerns About Late Requests for Extension

Comments: Commenters stated that the proposed regulation at 8 CFR 214.2(j)(1)(iv)(D) is unclear, especially regarding the fee structure, reference to fees under 22 CFR 62.43, and the process for correcting or reinstating status after the program end date. A commenter stated that current regulations do not require the sponsor to request a reinstatement or pay a fee if the SEVIS record is not extended by the program end date, allowing for errors to be corrected in the SEVIS system without a fee or adjudication. Commenters requested clarification on whether the 30-day correction and

reinstatement processes can be used to correct status in cases where the SEVIS record was extended in a timely manner, but the extension request to USCIS was filed late or misfiled and returned after the I-94 expired.

Response: Currently, if a sponsor fails to timely extend an exchange visitor's program, SEVP allows up to 120 days to return the record to Active status and extend the program end date (Correct Minor or Technical Infraction). This final rule updates the language which was previously proposed in 8 CFR 214.2(j)(1)(iv)(D) to offer additional clarity and to remove the reference to "the required fee" at 22 CFR 62.43. Once the record is corrected or reinstated, the J-1 must submit a request for EOS to USCIS within 30 days of the status update.

c. Processing Delays and Program Disruptions

Comments: Commenters expressed concern about USCIS processing times for EOS applications and the potential for disruptions to J-1 exchange programs. A few commenters stated that current USCIS processing times often exceed several months, which would make timely decisions unlikely for many J-1 categories with already shorter program durations. One commenter expressed concern that some trainees in lengthy programs might need to go through the process multiple times.

A couple of commenters stated that while the proposed rule would allow J-1 exchange visitors to continue their program activities for up to 240 days after the expiration of their Form I-94 and while an EOS application is pending, this period is shorter than many academic years and medical training programs. These commenters further stated that if an EOS application is still pending after 240 days, exchange visitors might need to stop working mid-year, causing disruptions to educational programs, research activities, and patient care. The commenters recommended that the final rule permit authorization for exchange teachers to remain authorized until adjudication, regardless of the 240-day limit. One commenter provided discussion of academic calendars and employment decision-making in support of their recommendation. Another commenter stated that regardless of the proposed rule, J-1 students who file timely EOS applications should be permitted to remain in the United States and continue their program activities, including academic and extracurricular participation, for the full duration of their DS-2019 extension.

Another commenter noted that the longer processing times may lead to gaps in work for J-1 physicians, which would mean longer hours for physicians who are U.S. citizens and potential burn out from those physicians.¹⁷³ One commenter expressed a similar concern, stating that if a J-1 trainee or researcher encounters an arbitrary admission expiration, they may be required to pause or abandon ongoing study while awaiting an EOS. The commenter also stated that hospitals cannot provide consistent clinical training or achieve research breakthroughs if J-1 staff members face unpredictable admission deadlines under the application of the proposed rule.

A commenter expressed concern that this would be particularly burdensome on USCIS operations as it would require the submission of several separate application fees, and another commenter wrote that this burden would deter foreign physicians from choosing U.S. medical schools for their training and the schools would thus become less globally competitive.

Response: DHS has considered the effects of the rule on J-1 nonimmigrant physicians, teachers, and other exchange visitor program categories. DHS does not intend, through this rule, to discourage J-1 exchange visitors to extend their stay in the United States. DHS does intend to improve monitoring of this population and support the integrity of the country's immigration system. DHS disagrees that a requirement to file an extension request or to depart and reenter the United States is unduly burdensome, noting that this is a requirement for most other nonimmigrants, which include teachers and members of many other professions (e.g. H-1B, L-1, O-1, etc.).

DHS notes that a J-1 nonimmigrant will have a 30-day grace period after their program end date. See new 8 CFR 214.2(j)(1)(ii)(C). As such, the receiving sponsor will have 30 days to issue a new DS-2019 and at that time the alien may apply for an extension. If the extension request is filed within the 30-day period, it will be considered timely.

DHS appreciates the contributions of J-1 nonimmigrants and does not intend to unduly interrupt their work. Under this final rule, J-1 nonimmigrants who timely file EOS on or before March 18, 2027, may engage in J-1 activities, including authorized training and employment, as permitted by their exchange visitor program, for the period

up to the end date of the DS-2019 submitted with the EOS. J-1 nonimmigrants who file for EOS after March 17, 2027, may continue employment activities while their properly filed EOS is pending, for up to 240 days beyond the expiration of their authorized period of admission which should help to minimize potential interruption in employment. See new 8 CFR 214.2(j)(1)(viii). In some instances, J-1 nonimmigrants may choose to depart and reenter the United States to extend their stay. However, those who are here for unpaid training or for studies are allowed to continue those programs for the entire time the EOS application is being adjudicated and are considered in status during that time.

Regarding the commenter's concerns that EOS requests, including the need in some instances to file multiple applications, will be burdensome on USCIS operations, DHS acknowledges there will be an increase in volume of EOS applications received by USCIS following the effective date of the final rule as those nonimmigrants who are required to file EOS begin to do so. DHS has the capability to shift resources as needed and as appropriate to ensure that the larger increased volumes are integrated into existing workflows. With the projected increase in EOS requests, the fees collected for these EOS requests will allow USCIS to allocate their resources to ensure continued service.

d. Existing Oversight and Monitoring for J-1 Exchange Visitors

Comments: Commenters stated that the J-1 Exchange Visitor Program already has sufficient oversight and monitoring, making the proposed changes unnecessary and duplicative. They noted that J-1 exchange visitors are subject to rigorous oversight through DoS, Accreditation Council for Graduate Medical Education (ACGME), the J-1 sponsor, and SEVIS monitoring, and that many J-1 categories already have regulatory time limits. Commenters expressed concern that the proposed rule would divert USCIS resources from higher-priority enforcement tasks and that the D/S system was implemented to reduce administrative burden.

Response: DHS appreciates commenters' feedback regarding the existing oversight and monitoring mechanisms for the J-1 Exchange Visitor Program. DHS recognizes that the program is subject to rigorous oversight by DoS, including sponsor vetting, SEVIS monitoring, and, for certain categories, additional accreditation and sponsorship requirements such as those provided by ACGME and the Educational

¹⁷³ The commenter referenced National Academy of Medicine, *Action Collaborative on Clinician Well-Being and Resilience*, <https://nam.edu/initiatives/clinician-resilience-and-well-being/>.

Commission for Foreign Medical Graduates (ECFMG). DHS also acknowledges that many J-1 categories already have regulatory time limits and that the D/S system was originally implemented to reduce administrative burden for both participants and government agencies.

In drafting the final rule, DHS has carefully considered the effectiveness of current oversight mechanisms and the concerns raised about resource allocation and administrative efficiency. DHS determined that establishing fixed admission periods for J-1 exchange visitors will enhance program integrity and compliance by allowing for periodic review of status and eligibility, consistent with DHS's statutory authority and practices for other nonimmigrant categories. DHS believes this approach will strengthen the overall integrity of the exchange visitor program and provide clearer compliance requirements, while continuing to coordinate with DoS and other relevant entities to minimize unnecessary duplication and administrative burden.

7. Coordination With DoS and Program Sponsors

Comments: Commenters critiqued the rule for not addressing the possibility that authorization issues could be resolved directly between DoS and program sponsors, and for not addressing how DoS delays may impact the process of applying for EOS through USCIS.

Response: The process currently in place for the coordination between DoS and sponsors will continue. This process does not negate the need for further vetting of nonimmigrants in the United States to ensure that they are complying with the terms of their visa and is different from what DoS and sponsors do. Sponsors will be made aware of this rule and its implications and DoS will train sponsors on the rule; therefore, DHS believes that sponsors will have the training necessary to avoid any unnecessary delays in processing new DS-2019s so that nonimmigrants can file for EOS when needed.

8. Concerns About EOS for I Nonimmigrants

Comments: Commenters objected to the need for an extension every 240 days for foreign media representatives, noting that journalists often require several years to complete assignments. Commenters questioned whether there would be limits on the number of extensions, the clarity of denial reasons, and the procedures for existing I visa holders. Concerns were also raised about the impact on dependents,

including family unity and lawful status during pending EOS, and about bundled processing for journalists and dependents. Commenters warned that EOS denial could result in unlawful status and reentry bars.

Commenters proposed that EOS applicants should receive employment authorization until adjudication without time limits, that the maximum period of stay should be increased, and that premium or expedited processing should be available. They also requested bundled or expedited adjudication for dependents, and that travel by the principal should not result in denial of dependents' EOS. Other proposals included eliminating content-based justification requirements for journalists, affirming that EOS review would be limited to neutral immigration criteria, and eliminating nationality-specific admission limits. Some suggested allowing I nonimmigrants to extend visas inside or outside the United States, or at consulates, and proposed an automatic extension term of up to two years for I visa holders already in the United States.

Response: DHS is sensitive to concerns about processing times and the impact on I nonimmigrants and appreciates the alternatives and requests proposed by commenters. After considering these, DHS declines to further modify the final rule. Admitting I nonimmigrants for D/S afforded them different treatment from most other nonimmigrants. DHS considered alternatives and chose to admit I nonimmigrants for a specific time period to ensure oversight and compliance. DHS believes that the 240-day period is not only sufficient to cover the vast majority of assignments¹⁷⁴ but is also an appropriate interval for the U.S. Government to ensure that the alien remains eligible as an I nonimmigrant. DHS is adopting an established timeframe with which I nonimmigrants are already accustomed when they change employers while in the United States. There is no limit on the number of extensions if the applicant continues to pursue I activities and meets eligibility requirements. Dependents may be included in the principal's EOS application or they may file separately, and extensions for dependents may not exceed the principal's authorized period. DHS cannot guarantee processing times but will continue to plan for operational adjustments. The

¹⁷⁴ DHS data shows that 94.6 percent of I's with confirmed exit data stay less than 240 days. Based on DHS's analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

rule does not change eligibility criteria for dependents.

DHS does not believe the rule restricts journalistic activity or imposes content-based review as DHS will review content for the limited purpose of confirming that the foreign information media representative is engaging in bona fide journalism as required to maintain I nonimmigrant status under INA section 101(a)(15)(I), rather than engaging in entertainment or promotional purposes. Nationality-specific admission limits are based on statutory requirements and reciprocity. I nonimmigrants may apply for extensions inside the U.S. or by traveling abroad and being inspected and admitted by a CBP officer; consular processing is not addressed in this rule.

An I nonimmigrant who timely files an EOS application before the expiration of their authorized period of stay is considered to be in a period of authorized stay while the application is pending with USCIS. See new 8 CFR 214.2(i)(5). If the EOS application is denied and the authorized period of stay has expired, the individual must immediately cease employment and depart the United States. DHS encourages I nonimmigrants to closely monitor their admission period and to file extension requests as early as possible to minimize the risk of lapses in status. A lapse in status may result in accrual of unlawful presence and bars to reentry. Under current law, accrual of unlawful presence for more than 180 days may result in bars to reentry under INA 212(a)(9)(B). USCIS does not automatically extend the stay of dependents to match the principal's new period of stay if the principal departs without his or her dependents and is subsequently admitted by CBP. If the principal's EOS application is deemed abandoned because CBP grants a new AUD, USCIS can conduct a split adjudication of the dependents' EOS applications, and USCIS may grant the dependents up to the principal's new AUD, but only beginning when the dependents' initial validity period ends.

9. Denial of EOS for Family Members and Clarification Requests

Comments: Commenters expressed concern about requiring F-2 dependents to file separate EOS applications, citing financial and emotional burdens and requested clarification on whether a denial for the principal would affect dependents.

Response: DHS notes that dependents may be included in the principal's EOS application for no additional fee if statuses expire simultaneously. If filed separately, each requires a fee. If the

principal's EOS is denied, dependents' EOS will also be denied.

Comments: A commenter criticized the language regarding denying EOS for J–2 family members due to criminal activity or unauthorized work and asked if the same would apply to F–1 students and F–2 dependents. The commenter also requested clarification on whether denial of EOS for a J–1 principal would result in denial for all J–2 family members, whether this applies only to jointly filed extensions, and if a denial of the J–1 would require all to leave the United States.

Response: All nonimmigrants, whether principal applicants or dependents are denied EOS if they are found to have committed any crimes while in the United States or have worked without authorization. Under the D/S system this was more difficult to identify because there was no requirement to touch base with immigration officers unless they traveled and were denied entry due to these reasons. This rule will put F, J, and I nonimmigrants on par with all other nonimmigrants. As with all other nonimmigrant visa holders, dependents can be denied EOS or entry into the United States for criminal activity or work without authorization while the principal and other dependents are granted EOS or entry into the United States. However, the reverse is not true. If a principal is found inadmissible for criminal activity or working without authorization, the principal and all the dependents are denied EOS or entry. It does not matter if the EOS was filed under one application or separate applications.

10. Nonimmigrant Status vs. Period of Authorized Stay

Comments: Commenters expressed concern that the rule provides only a “period of authorized stay” rather than maintaining valid F–1 or J–1 status while an EOS application is pending. They noted this distinction has legal implications and recommended revising the language to clarify that applicants with timely filed EOS applications are considered in valid status.

Response: DHS notes that timely filing of an EOS places the alien in a period of authorized stay, avoiding unlawful presence based upon mere expired status and enabling the alien to remain in the United States. See new 8 CFR 214.2(f)(7)(iii). If the EOS is approved, the alien is considered to have maintained status throughout the pendency and subsequent validity period. This approach is consistent with USCIS policy for most nonimmigrants admitted for a fixed period; therefore,

no clarification in the regulatory text is needed.

H. Background Checks and Biometrics

1. Support and Concerns Regarding Additional Security Measures

Comments: Many commenters voiced disapproval about requiring foreign students to undergo more frequent background checks and biometric collections and instead stated existing government oversight is sufficient. Commenters suggested targeted enforcement, background checks, and additional biometrics collections should be used instead of blanket policies. A small number of commenters stated additional background checks and biometric data collection could address security concerns without broad regulatory change. Additionally, some commenters expressed support for following the 2019 GAO recommendation¹⁷⁵ to require DSOs and ROs to undergo more training and more rigorous background checks.

Response: DHS disagrees that existing government oversight is sufficient for F, J, and I nonimmigrants. Under the D/S framework, there are no background checks required while the alien is in the United States unless the F, J, or I nonimmigrant applies for a change of status to a different nonimmigrant status, or another benefit with USCIS. As a result, under D/S, F, J, and I nonimmigrants can be present for long periods in the United States without undergoing U.S. government review in the form of an EOS application, including accompanying background checks or subsequent visa application or inspection at a POE.

DHS believes that additional background checks and biometric data collection is appropriate to enhance oversight, prevent fraud, and address national security concerns. By transitioning from D/S to admission for a fixed period of time, DHS will be able to conduct periodic background checks of nonimmigrants to mitigate national security risks and enhance compliance with immigration law. Further, collection of biometric data will verify identity, monitor compliance, and detect potential risks. These measures align with other nonimmigrant visa categories and are consistent with the purpose of this rulemaking. Targeting specific groups of people or individuals, as some commenters suggests, could lead to constitutional violations and would be programmatically difficult to implement. Therefore, DHS believes it is easier and more fair to implement this

provision across the board. DHS recognizes commenter's support to require DSOs and ROs to undergo more training and more rigorous background checks, but DHS declines to adopt requirements in regulation at this time. Under this rulemaking, DHS offices will be providing greater oversight to prevent and deter fraud and abuse within the F, J, and I nonimmigrant categories.

2. Request for Waiver of Biometrics and Interviews

Comments: Commenters called on DHS to waive the biometrics and interview requirement, including in cases where students that have no violations and are bona fide students. Commenters stated that mandatory biometrics collection for EOS applications would be logistically unfeasible given limited USCIS appointments. One commenter believed I-visa applicants should be exempt from biometrics, stating biometrics add little security value but create significant barriers.

Response: DHS declines to waive the biometrics and interview requirements, as those steps are critical in the vetting process of nonimmigrants and are necessary for program integrity, identity verification, background checks, and national security. DHS will continue to evaluate operational capacity to ensure effective and feasible collection of biometrics. As part of the EOS application process for F, J, and I nonimmigrants, USCIS may require biometrics (such as fingerprints, photographs, and signatures) as provided in 8 CFR 103.16, and applicants may be required to appear for an interview under 8 CFR 103.2(b)(9). The purpose of collecting biometrics is to confirm identity, conduct background and security checks, and screen for national security or fraud concerns. The requirements in this rule are not unique in that DHS has continually amended and incorporated biometric requirements regarding the admission process and sharing data with relevant agency components.

I. Employment Authorization

1. General Feedback on Automatic Extension of Employment Authorization

Comments: Some commenters opposed the automatic extension of employment authorization during pending EOS filings, suggesting it could incentivize meritless filings. Others appreciated the inclusion of automatic extensions for on-campus work, CPT, Special Student Relief, and Severe Economic Hardship, and recommended expanding these authorizations.

¹⁷⁵ GAO 19–297, *supra* note 73.

Commenters highlighted the importance of employment authorization for part-time work, internships, and career development, noting that without it, students may not be able to afford tuition or living expenses.

Response: DHS appreciates the commenter's concern that the automatic extension of employment authorization during pending EOS filings could create incentives for nonimmigrants to file meritless EOS requests. DHS notes separate commenters' appreciation for the inclusion of this automatic extension of employment authorization during pending EOS filings in certain situations, including commenters' request to expand this automatic extension. DHS carefully considered the options and based this timeframe on the period of stay authorized in 8 CFR 274a.12(b)(20). DHS believes that adopting an already established timeframe, to which at least thirteen nonimmigrant classifications are already accustomed, while also requiring the nonimmigrant to leave the United States immediately for a denied EOS request, is reasonable and allows authorized work for a limited period of time and activities consistent with the classification while maintaining program integrity.

2. Proposed 240-Day Auto-Extension Period

Comments: Many commenters expressed concern that the proposed 240-day automatic extension of employment authorization while an EOS application is pending would be insufficient given USCIS processing times and backlogs. They recommended increasing the length of automatic extension, with some suggesting it last for the duration of the pending EOS request, including for OPT and STEM OPT. One commenter stated that USCIS processing times include 30–60 days for SEVIS updates, university admission cycles typically span 6–12 months, and OPT and CPT applications require 90 or more days of lead time. Commenters wrote that the processing times for I–539s often exceed 240 days; one noted that during the first Trump administration, backlogs of Form I–539 grew as long as 18 months. Commenters also wrote that the lack of an option for expedited processing for the I–539 is a critical flaw.

Commenters stated that additional adjudication volume, coupled with new screening requirements, staffing reductions, and the complexity of training new adjudicators would likely exacerbate these delays. A commenter stated that it would shift limited USCIS resources away from higher priority

cases such as asylum or family reunification. One commenter cited a report stating that DHS will face additional EOS requests from 220,122 F–1 students and 240,583 J–1 exchange visitors each year.¹⁷⁶

Response: DHS acknowledges and recognizes concerns that USCIS will experience an increased workload due to an expected increase in volume of EOS applications, following the effective date of the final rule. However, as noted in the NPRM, DHS will not require those aliens in F–1 status who have timely and properly filed an application for post-completion OPT or a STEM OPT on or before March 18, 2027 to file an EOS application. Those aliens are only required to file the application for employment authorization for post-completion OPT or STEM OPT extension. DHS expects this flexibility will mitigate the potential processing delays associated with Form I–539. DHS will continue planning operational adjustments to address future processing times and believes that a temporary measure is appropriate as these processing times are subject to change. In addition, USCIS is a fee funded agency and may set fees to support the additional workload associated with the adjudication of these cases and can continue to prioritize higher priority cases as needed. USCIS will account for the projected volume of filings and level of effort necessary to adjudicate various immigration benefit requests when conducting its biennial assessment of fees.

Comments: Commenters requested clarification on whether it will be legal for them to stay in the United States while their OPT or EOS applications are still pending after 240 days. One commenter recommended clarifying the effect of departure while EOS or EAD is pending. Another commenter requested clarification on whether students approved for OPT accrue unemployment days in SEVIS while awaiting EOS adjudication.

Commenters requested clarification on several other aspects of the proposed rule, particularly regarding transfers while an EOS application is pending. A commenter said that there are numerous statements throughout the proposed rule text that seem to ignore the 4-year admission limits or the 240-day extension of employment authorization while the EOS application is pending, citing proposed 214.1(a)(4)(iii) as an

example. A commenter recommended that DHS clarify whether an F–1 student with a pending EOS application will remain eligible to: (1) timely file an OPT application, (2) have that application adjudicated without delay, and (3) begin authorized employment while the application is pending, provided all other eligibility requirements are met.

Response: This rule provides that an alien with F–1 status whose admission period on Form I–94 has expired, but who has timely filed an EOS application, will be authorized to continue pursuing a full course of study after the expiration of the admission period until USCIS adjudicates the EOS application.¹⁷⁷ This provides nonimmigrant students with ongoing authorization to continue studies as long as the student has timely filed his or her EOS and nonimmigrant students will not be penalized if USCIS is unable to adjudicate his or her EOS application before the student's new term or course of study is underway. In such cases, the student will be able to continue pursuing his or her full course of study.

The new provision at 8 CFR 214.1(a)(4)(i) addresses aliens applying for admission as F nonimmigrants. This new section regulates admission periods at points of entry when an EOS application is pending (if they have time remaining on the period of stay authorized prior to departure or after a period of admission has expired and when the alien seeks admission with a Form I–20 for a program end date beyond their previously authorized period of admission). For pending applications for OPT and STEM OPT, the provision allows for admission of the F–1 students for the time recommended by the DSOs on the I–20 (plus 30 days). These aliens will be admitted for either a new period of time or the remaining period of time in F–1 status. A pending EOS may be deemed abandoned if the alien leaves the United States, applies for admission while his or her EOS application is pending, and is admitted based on a new Form I–20 or DS–2019.¹⁷⁸ In this case, the AUD provided by CBP on the alien's I–94 would govern.¹⁷⁹ This is because, in these cases, CBP's grant of a new period of authorized stay would supersede the pending EOS application seeking a period of authorized stay, rendering the EOS application superfluous.

Per this rule, F–1 students with properly filed, pending EOS applications will be considered to be in a period of authorized stay and may

¹⁷⁶ The commenter referenced Chishti, M. and Gelatt, J., *Antiquated U.S. Immigration System Ambles into the Digital World*, Migration Policy Institute (2023).

¹⁷⁷ See new 8 CFR 214.2(f)(5)(viii).

¹⁷⁸ See new 8 CFR 214.1(8)(ii).

¹⁷⁹ *Id.*

remain in the United States while the application is pending, and may continue to pursue a full course of study, but are prohibited from engaging in employment until their EOS applications and applications for employment authorization based on either an internship with an international organization, pre-completion OPT, or post-completion OPT are approved. For F–1 nonimmigrants who have timely applied for EOS and are currently authorized for on-campus CPT and employment authorization due to severe economic hardship, the rule provides the automatic extension of authorized employment to 240 days. Severe economic hardship employment authorization resulting from emergent circumstances under the redesignated paragraph 8 CFR 214.2(f)(5)(vi) is automatically extended for up to 240 days or until the end date stated in the **Federal Register** notice announcing the suspension of certain requirements, whichever is earlier. See new 8 CFR 214.2(f)(5)(viii). Further, J–1 exchange visitors may also continue their employment for up to 240 days. See new 8 CFR 214.2(j)(1)(vii)(A).

DHS recognizes commenter's request for clarification about whether students approved for OPT will accrue unemployment days in SEVIS while awaiting EOS adjudication. If the student does not have a valid OPT employment authorization, they will not incur unemployment time in SEVIS.

In response to the requested clarification on the transfer process while an EOS application is pending, DHS retained certain existing school transfer procedures while implementing new restrictions to prevent the abuse of the F classification. This rule will restrict school transfers and changes of educational objectives within a student's first academic year of a program of study, unless an exception is authorized by SEVP. This rule also prohibits F–1 students in a graduate level program of study from changing educational objectives or transferring at any point during their program of study, but it does allow SEVP to authorize an exception to the transfer prohibition due to extenuating circumstances.

Additionally, DHS has updated the number of expected EOS requests using updated data for the regulatory impact analysis of the final rule. DHS expects 390,052 F Visa and 31,007 J Visa EOS requests in Year 10, when the number of EOS requests annually is expected to be more stable.

Comments: Many commenters suggested that DHS use SEVIS data to facilitate automatic extension of status

for students in good standing to prevent administrative burden. One commenter suggested that DHS leverage its access to SEVIS data to identify which pending EOS requests should be subject to an RFE after filing, rather than imposing a fixed period of admission on all students. One commenter reasoned that even with fixed admission periods, DHS could develop new EOS protocols that would provide the compliant majority of F and J nonimmigrants with flexibility, predictability, and certainty in maintaining their status. One commenter recommended that the I–94 and an EAD receipt notice serving as evidence of eligibility for an automatic extension up to 240 days. One commenter recommended that DHS remove the 30/60 day I–765 filing requirement as it proposed to do in 2020.

Response: DHS disagrees with the commenters' proposals to utilize SEVIS data to grant automatic extensions as that is the current system and it is not working. However, both USCIS and CBP will utilize information in SEVIS to identify fraud and abuse in EOS filings and admission requests. As noted in the NPRM, there has been considerable fraud and abuse even with DHS leveraging SEVIS data. DHS believes that the mechanisms that are implemented in this rule are the best tools to combat fraud and abuse. Furthermore, DHS has considered and disagrees with commenters' proposals regarding the 240-day period. DHS based the 240-day timeframe on the period of stay authorized in 8 CFR 274a.12(b)(20), which generally provides an automatic extension of employment authorization of 240 days to aliens whose status has expired, but on whose behalf an application for EOS was timely filed through a Form I–539. DHS believes that adopting an already established timeframe that aligns with other nonimmigrant classifications is reasonable and will help minimize disruptions to on-campus employment by teaching assistants, post-graduates working on research projects, and other positions that are integral to an F–1 student's educational program. Additionally, given that USCIS's average EAD processing time is typically 60–120 days for foreign students and 90–120 for most others, a 240-day timeframe provides sufficient flexibility in case of unexpected delays.

Comments: Commenters also raised concerns about the effect of travel during the 240-day period, including scenarios where a family emergency could require travel abroad, resulting in the EOS application being deemed abandoned. Additionally, commenters

stated that the 240-day extension does not account for the most common extension scenarios, such as extensions for a summer or a single academic term, which are often less than 240 days.

Commenters noted that employment disruptions due to processing delays could negatively impact educational institutions, employers, research projects, and campus operations. They requested clarification on legal status during pending applications, the effect of departure, and eligibility for OPT while EOS is pending.

Response: DHS understands the commenters' concerns regarding circumstances that may require international travel during the 240-day extension period. In the NPRM, DHS specifically considers scenarios where an F, J, or I nonimmigrant with a pending EOS application may need to travel abroad (e.g., for a family emergency). The NPRM states that USCIS will not consider the EOS application abandoned if the alien departs the United States while the application is pending, provided that the previously authorized period of admission has not expired, and the alien seeks admission for the balance of the previously authorized admission period. However, if the alien departs and seeks admission with a new Form I–20 or DS–2019 for a program end date beyond their previously authorized period of admission while the EOS is pending, USCIS may deem the EOS application abandoned.

DHS appreciates commenters expressing concern that the 240-day extension does not account for the most common extension scenarios, such as extensions for a summer or a single academic term, which are often less than 240 days. But, the 240-day extension period does generally allow for nonimmigrants who timely request short extensions (lasting less than 240 days) to continue their activities consistent with their classification while the EOS is pending. There is an exception for I nonimmigrants with passports from PRC (excluding Hong Kong SAR and Macau SAR), where the period is up to 90 days.

DHS believes the 240-day period is sufficient and aligns with other nonimmigrant classifications. Applicants with properly filed, pending EOS applications are considered to be in a period of authorized stay and may continue their studies, but are prohibited from employment until their EOS and EAD are approved, except for certain types of employment that are automatically extended discussed elsewhere in this rule. Generally, F–1 students may not engage in post-

completion OPT while an EOS is pending, but there is an exception during the transition period for this rule.

DHS acknowledges concerns about increased workload and processing delays. To mitigate these, DHS will not require F–1 students who timely file for post-completion OPT or STEM OPT on or before March 18, 2027 to file an EOS application for the requested period of post-completion OPT or STEM OPT; only the employment authorization application is required.¹⁸⁰ If the alien's application for post-completion OPT or STEM OPT employment authorization is approved, the alien will be authorized to remain in the United States in F status until the expiration date of the EAD, plus 60 days.

3. Impact on Pending Employment Authorization for OPT and STEM OPT and Travel

Comments: A commenter requested clarification on how the proposed rule would impact students with pending employment authorization applications who are admitted based on a DSO's recommended employment end date for post-completion OPT or STEM OPT. The commenter stated that the proposed changes that impact post-completion OPT and/or STEM OPT are confusing and appear to address a situation in which an OPT or STEM OPT applicant travels while their OPT or STEM OPT Form I–765 application is pending, but more analysis or clarification from DHS is needed.

Response: DHS appreciates commenters' concerns, but, as proposed in the NPRM, if an alien in F, J, or I nonimmigrant status timely files an application for EOS, USCIS will not consider the application abandoned if the alien departs the United States while the application is pending, provided that when the alien seeks admission, the previously authorized period of admission has not expired, and the alien seeks admission for the balance of the previously authorized admission period. See new 8 CFR 214.1(c)(8)(i). However, an application for EOS may be deemed abandoned if an alien departs the United States and seeks admission with a new Form I–20 or DS–2019 for a program end date beyond their previously authorized period of admission while the application for EOS is pending. As noted in the NPRM, USCIS will not consider as abandoned any corresponding applications for employment authorization. See new 8 CFR 214.1(c)(8)(ii).

If USCIS approves the Form I–765 and the EAD expiration date is different from the expiration date on the I–94, the F–1 nonimmigrant would still be authorized to stay in the United States until the expiration date indicated on the I–94, even if the F–1 nonimmigrant ceases employment upon the expiration of the EAD. (and assuming the F–1 nonimmigrant does not violate any terms of the authorized stay). See new 8 CFR 214.2(f)(5)(i). DHS also notes that aliens in F, J, and I nonimmigrant status should travel with a copy of their Form I–797C, Notice of Action, or successor form, which confirms the receipt of either their Form I–539 or Form I–765, along with proposed length of stay as evidenced by the Form I–20, DS–2019, or letter of employment for foreign media organization. See new 8 CFR 214.1(c)(8)(iii).

4. OPT and EOS/Employment Authorization Requirements

Comments: Commenters expressed concern about the requirement for students seeking to engage in OPT to file both an EOS and an employment authorization application, citing duplicative, burdensome, and costly processes. The commenters noted potential delays or misalignment in the processing of the two forms could prevent students from starting OPT on time, harming their education and professional development. Commenters also requested clarification on concurrent filing and premium processing. Furthermore, commenters recommended that F–1 status be automatically extended with OPT approval, and that OPT and EOS applications be bundled or adjudicated together, or that Form I–765 be updated to include an EOS for an increase in efficiency. Some suggested eliminating the EOS requirement for OPT or STEM OPT altogether.

Response: DHS appreciates these concerns and clarifies that, under the final rule, F–1 students who timely file for post-completion OPT or STEM OPT within six months of the effective date of this final rule are not required to file an EOS application. The only form that the nonimmigrant will need to file is the Form I–765. For others, concurrent filing is recommended, and related cases will be adjudicated together. DHS believes this approach balances regulatory compliance with minimizing disruptions. DHS will continue to assess resource allocation and processing improvements. At this time, however, EOS and EAD applications must be filed on separate forms but can be filed together at the same time. And the need to file EOS is based on the program end

date on a student's I–20. Therefore, a student who opts to engage in OPT during his or her program rather than after completion, will only need to apply for an EAD, and not an EOS. However, under this rule, an F–1 student would need to apply for an EOS if more time is needed to complete their program, apply for OPT, STEM OPT, or begin a new program of study. The student will need to work with their DSO to ensure that the EOS application is timely filed.

5. Employment Authorization Processing Delays

a. OPT and STEM OPT

Comments: Commenters remarked that the proposed rule left considerable ambiguity around processes and timelines associated with post-completion OPT, including whether students would be able to begin OPT if their employment authorization was approved while their EOS was still pending. Commenters expressed concern that if they are required to file an I–539 while on OPT authorization, and are denied or otherwise delayed, then it would instantly end their F–1 nonimmigrant status and cancel OPT work authorization. One commenter stated that it is unclear what steps should be taken if one wishes to apply for OPT while EOS is pending. Commenters asked how DHS would handle dual applications and ensure the EOS application is processed before the work authorization. A commenter expressed concern that the rule would replace a single-step process with two separate USCIS applications by requiring the filing of both an EOS and Form I–765 to engage in OPT. Specifically, the commenter explained that after receiving the DSO's OPT recommendation, students would first need to submit Form I–539 (Extension of Stay) to USCIS, including the OPT-endorsed I–20, filing fees, biometrics, and proof of maintained status. Only after securing this extension would they be able to proceed in filing Form I–765 for work authorization. The commenter stated that the rule doubles the number of applications, fees, and adjudication timelines.

Another commenter argued that almost all F–1 students would be required to expedite their process, which would be a financial burden. Another commenter cited an anecdote of a friend whose OPT application was delayed for almost 5 months, making it almost impossible to find a job. One commenter wrote that DSOs would need additional training on how to recommend EOS for a student in SEVIS

¹⁸⁰ See new 8 CFR 214.1(m)(1)(i).

and may take on legal liability should students request advice on their EOS applications.

Commenters cited studies showing the economic benefits of OPT, including a study that OPT does not cost U.S. workers their jobs or decrease their wages, and an analysis that found curtailing OPT would result in the loss of 443,000 jobs, including 255,000 jobs held by U.S. workers.¹⁸¹ One commenter also flagged that many students use OPT or CPT to do service-based volunteer or internship training after graduation. Another commenter cited a study that found unemployment rates to be lower in areas with larger numbers of students working through OPT as a share of workers in STEM occupations.¹⁸²

Commenters expressed concern that the proposed requirements would dissuade employers from hiring foreign students due to uncertainty about when students could begin work, potentially leading to missed project milestones, increased turnover, and a weaker position in global talent competition. Commenters added that employers may be unwilling to extend offers or initiate onboarding for students whose OPT authorization is uncertain, which would deny students valuable professional opportunities through no fault of their own.

Multiple commenters recommended alternative solutions for OPT situations. One commenter recommended that F–1 status be automatically extended with OPT approval. Another commenter noted that currently, as part of the I–765 adjudication, many USCIS officers issue RFEs to confirm that F–1 students have maintained their status. USCIS could modify the I–765 instructions to require the submission of maintenance of status documents.

Commenters expressed appreciation for the inclusion of the 180-day automatic extension of OPT-related employment authorization while STEM OPT extension requests are pending. However, some commenters expressed concern that USCIS processing delays could result in situations where petitions remain pending beyond the 180 days provided. Commenters recommended updating the automatic extension period to either lengthen it or

allow conditional continuation of employment authorization until Form I–765 applications are adjudicated, without a specified maximum period. One commenter recommended that DHS pause the OPT unemployment clock during documented 221(g) administrative processing.

A commenter asked DHS whether a student filing a change of status from an undergraduate to a graduate degree would see their OPT or STEM OPT work authorization continue without interruption, and if not, what bridging mechanism would prevent status gaps and unlawful-presence accrual.

Response: When USCIS receives an application, an officer searches DHS systems to locate related files. This process will not change once this final rule goes into effect. If USCIS receives an extension request, or OPT request, USCIS will conduct searches to determine if a related application has been filed. If a related file is found, both cases will be worked together.

DHS disagrees that the requirement to file Form I–539 to extend an alien's stay in the United States beyond their fixed period of admission is unnecessary when an alien is also filing Form I–765 requesting employment authorization for OPT. These two forms serve two distinct purposes and require two separate adjudications. The request for EOS governs the alien's status and determines whether that alien remains eligible for the classification, whereas the request for employment authorization is focused on whether the alien is eligible for OPT pursuant to his or her studies. A student who opts to engage in OPT during his or her program rather than after completion, will only need to apply for an EAD, and not an EOS. However, under this rule, an F–1 student would need to apply for an EOS if more time is needed to complete their program, apply for OPT, STEM OPT, or begin a new program of study. The student will need to work with their DSO to ensure that the EOS application is timely filed. Under the final rule, DSOs and ROs will have to spend approximately 135 hours for rule familiarization and adaptation in the first year after the rule takes effect. To minimize disruptions, the final rule includes provisions for automatic EOS and employment authorization for F–1, J, and I nonimmigrants who timely file EOS applications. These provisions help prevent interruptions in activities and employment while applications are pending.

During the transition period, under the final rule, aliens in F–1 status who have timely filed Form I–765 for post-completion OPT or a STEM OPT

extension on or before March 18, 2027, will not be required to file an EOS application, but, instead, need only approval of the Form I–765.¹⁸³ DHS believes this will help alleviate concerns regarding the impact of potential processing delays on such applicants. After this period, an F–1 student recommended for post-completion OPT must apply for an EOS and employment authorization and may not engage in post-completion OPT unless such employment authorization is granted.¹⁸⁴

If the student wishes to begin a new program at a higher educational level, they must obtain a new Form I–20 and, if the new program is not completed within the current admission period, apply for EOS before the end of their current authorized stay (including the 30-day grace period).

DHS acknowledges some foreign students may face delays or other situations that limit opportunities to participate in OPT. Nonimmigrants studying in the United States on F–1 visas, by statute, must be bona fide students who seek to enter the United States temporarily and solely for the purpose of pursuing such a course of study.¹⁸⁵ DHS recognizes the importance of balancing regulatory compliance with minimizing disruptions. However, the loss of training opportunities for foreign students does not outweigh the national security benefits of having a fixed period of admission and EOS procedure. Additionally, the rule allows F–1 students recommended for post-completion OPT or STEM OPT to remain in the United States without filing a separate EOS application, provided they timely file for an EAD within six months of the rule's effective date. If approved, the nonimmigrant will be granted F–1 status until the EAD expires, plus 60 days. If the EAD is denied, they can stay until their program end date plus 60 days if otherwise maintaining status.¹⁸⁶ Additionally, DHS acknowledges the benefits of OPT opportunities to both nonimmigrant students and employers for building a workforce and avoiding potential labor shortages in technology fields. However, DHS notes that the primary purpose of the F–1 student classification is not employment. Instead, the purpose of OPT and STEM OPT is to complement a student's academic experience in the United

¹⁸¹ Commenters referenced *Optional Practical Training and International Students After Graduation*, Niskanen Center (2019) and *The Economic Impact of Curbing the Optional Practical Training Program*, Business Roundtable (December 2018).

¹⁸² The commenter referenced Zavodny, M., *International Students, STEM OPT, and the U.S. STEM Workforce*, National Foundation for American Policy (March 2019).

¹⁸³ See new 8 CFR 214.1(m)(1)(i).

¹⁸⁴ See new 8 CFR 214.2(f)(10)(ii)(D).

¹⁸⁵ INA 101(a)(15)(F)(i)–(ii); 8 U.S.C. 1101(a)(15)(F)(i)–(ii).

¹⁸⁶ See new 8 CFR 214.1(m)(1)(i).

States and to provide practical training in the student's major area of study.

Per this rule, F–1 students with properly filed, pending EOS applications will be considered to be in a period of authorized stay and may remain in the United States while the application is pending, and may continue to pursue a full course of study, but are prohibited from engaging in employment until their EOS applications and applications for employment authorization based on either an internship with an international organization, pre-completion OPT, or post-completion OPT are approved. The rule specifically provides that an F–1 student who has timely filed an EOS application will be able to continue engaging in CPT (or other employment such as on-campus or severe economic hardship employment) for up to 240 days while the EOS is pending with USCIS, even if the period of admission on Form I–94 or successor form expired.¹⁸⁷ During the automatic extension, if the EOS application is filed during the 30-day grace period after completion of studies or OPT, the student may continue studying but may not engage in practical training or employment until the EOS is approved. See new 8 CFR 214.2(f)(7)(iii)(B). If the EOS is denied, the alien must cease working and depart the United States immediately.

DHS acknowledges commenters' suggestions to automatically extend F–1 status with OPT approval, lengthen or remove existing automatic extension periods, or pause the OPT unemployment clock in certain circumstances. These recommendations would require changes to regulatory and policy frameworks beyond the scope of this rulemaking. DHS will, however, continue to monitor implementation of this rule and may consider whether additional adjustments or guidance are warranted in the future.

b. Curricular Practical Training

Comments: Commenters expressed the importance of CPT and the ability of students to participate in an uninterrupted program. Commenters expressed concern that the proposed rule would increase uncertainty for CPT students while their EOS is pending. One commenter stated that CPT is a critical bridge for STEM students who are not accepted to an H–1B position.

One commenter wrote that a DSO must recommend the EOS in SEVIS before the program end date but has no visibility into when the student actually filed or when USCIS received the

application. Without this information, the commenter reported the DSO cannot reliably confirm ongoing CPT eligibility or advise on status, creating avoidable compliance risk. This commenter recommended enabling real-time data sharing among USCIS, CBP, and SEVIS, and standardizing I–94 issuance and update practices. Commenters requested clarity on how DSOs can confirm eligibility and SEVIS, USCIS, and CBP data should be integrated. Another commenter wrote that DHS would need to provide clarity on how a student who would have to file an EOS for their last semester of studies in which CPT is also required to meet the course requirements, as the EOS takes a minimum of four months to be approved, the semester would end, and the student would fail to get their degree because they could not get CPT.

Commenters expressed uncertainty and requested clarification about how CPT would be handled under the proposed rule. One of these commenters noted that proposed 8 CFR 214.2(f)(5)(v) states that students are not eligible for any practical training or employment while their EOS is pending, but proposed rule 8 CFR 214.2(f)(5)(viii) states that CPT authorizations will be “automatically extended.” They said they did not understand how both could be true at the same time.

This same commenter also requested clarification around CPT and severe economic hardship put forth by proposed 8 CFR 214.2(f)(5)(viii). The commenter questioned how CPT could be “automatically” extended when DSOs are only able to authorize CPT up to the I–20 program end date, asking whether DSOs could authorize CPT beyond a student's authorized duration of stay as long as the Form I–539 has been filed within the previous 240 days. The commenter said that DHS needs to consider details related to employment, training, and potential Form I–9 discrepancies, stating that the proposed rule, as written, could lead to confusion that will cause students to violate status without knowing. The commenter additionally voiced concern that the rule expects all employers to understand what a student's work eligibility is when applying for an EOS.

Some recommended allowing DSOs to add or update CPT authorizations while EOS is pending and suggested automatic extensions for students in critical technology fields. They reasoned that adding new CPT authorizations allows students to continue making progress toward completing their program and avoid unnecessary delays due to an inability to complete internships, practical, or other required experiences.

They further reasoned that updating existing authorizations allows DSOs to appropriately report when a CPT experience has ended. The commenter also suggested that DHS should also ensure any modifications to SEVIS allow for the technical capability to make these edits to a student's record.

One commenter stated that if the misuse of CPT is an issue, then DHS could limit CPT to one program per level or eliminate it entirely rather than punishing students who have no intent to misuse CPT. Another commenter recommended specifically rescinding day-one CPT.

Response: DHS understands the concerns but disagrees with the premise that the rule will increase uncertainty for F–1 students engaged in CPT. The rule specifically provides that an F–1 student who has timely filed an EOS application will be able to continue engaging in CPT, on-campus employment, or severe economic hardship employment, for up to 240 days while the EOS is pending with USCIS, even if the period of admission on Form I–94 or successor form expired.¹⁸⁸ This means that the CPT will be automatically extended for up to 240 days or until USCIS adjudicates the EOS application. During this period, the F–1 student will be in a period of authorized stay, even if the Form I–94 or successor form expired.

An EOS application is timely filed if it is filed before the Form I–94 or successor form expires, including the 30-day grace period for departure under new 8 CFR 214.2(f)(5)(v).¹⁸⁹ However, it is important to note that if the EOS is filed during the 30-day grace period for departure, the student may not continue or begin engaging in practical training or other employment (*i.e.*, on-campus or severe economic hardship employment) until the EOS is approved; the student may only continue his or her full course of study during this time. In other words, if the EOS is filed within the 30-day grace period, the F–1 student does not receive an automatic extension of CPT and must wait for approval of the EOS application before engaging in CPT, even if the EOS is considered to be “timely filed.” For these reasons, to avoid any interruptions to CPT, students are encouraged to apply for EOS application prior to entering the 30-day grace period for departure.

To be clear, the rule does not make substantive changes to the eligibility or the process for requesting CPT authorization under 8 CFR 214.2(f)(10)(i). The first step for

¹⁸⁷ See new 8 CFR 214.2(f)(5)(viii).

¹⁸⁸ See new 8 CFR 214.2(f)(5)(viii).

¹⁸⁹ See new 8 CFR 214.2(f)(7)(iii)(B).

requesting CPT authorization begins with the school's DSO and does not require an EAD from USCIS. The DSO endorses the Form I-20 for CPT, and students must continue to meet the requirements under the existing regulations. Similarly, the provisions in this rule do not affect the DSO's role in authorizing CPT; it only affects the student's employment eligibility status during the EOS process. To grant authorization for a student to engage in CPT, the DSO will continue to update the student's record in SEVIS as being authorized for CPT and provide the endorsed Form I-20 or successor form to the student prior to the commencement of employment, indicating that CPT has been approved, as required by the existing regulations.¹⁹⁰ For purposes of the admission period, if the F-1 student's 4-year fixed period is about to expire, then the student will need to file a timely EOS application with USCIS consistent with the new provisions of this rule, as discussed earlier.

For purposes of employment eligibility verification Form I-9 for CPT, the student's authorized employment period, when combined with a notice issued by USCIS indicating receipt of an EOS application, will be considered unexpired for up to 240 days or until USCIS issues a decision on the EOS application, or for CPT, until the CPT end date authorized by the DSO on Form I-20 or successor form, whichever is earlier.

DHS has carefully considered the alternative recommendations for CPT put forth by the commenters but declines to adopt changes to CPT at this time. Specifically, this rule focuses on eliminating the D/S framework and setting fixed admission periods and EOS requirements, and it was not intended to substantially revise CPT provisions. As such, amendments to CPT, such as exceptions for certain fields or eliminating Day-1 CPT, are beyond the scope of this rule. DHS is in the process of updating SEVIS and will continue to provide guidance and technical updates to stakeholders to ensure compliance and to minimize confusion.

c. Economic Hardship and Special Student Relief

Comments: A commenter expressed support for DHS's proposal to codify an automatic extension of employment authorization for F-1 students approved for SSR due to emergent circumstances when a timely EOS application is pending (proposed 8 CFR 214.2(f)(5)(viii)). They said this

clarification aligns with longstanding SSR policy and reasoned it would reduce avoidable lapses in lawful employment, mitigate household financial shocks for students affected by crises, and decrease unnecessary expedite requests and RFEs, thereby conserving USCIS resources.

A commenter requested clarification around automatic extension of work authorization for severe economic hardship, reasoning that this authorization comes from USCIS. The commenter asked, if a student is authorized until their I-20 program end date and then applies for an EOS, whether an "automatic" extension of severe economic hardship would mean that a student can work beyond the EAD end date without requesting a new EAD card. They further asked what would happen if the student has already been approved for a full year of severe economic hardship authorization prior to the extension.

Another commenter expressed concern that the rule would exacerbate financial and administrative burdens for economic hardship and SSR beneficiaries needing to extend, as they would require additional petitions to continue their authorizations. In line with other commenters' remarks, they said that the 240-day extension does not consider that Form I-539 petitions could have processing times between 12 and 18 months during peak periods, and this rule would in many cases double the applications that USCIS would be receiving and adjudicating.

Response: DHS appreciates the commenter's support for DHS's proposal to codify an automatic extension of employment authorization for SSR due to emergent circumstances when a timely EOS application is pending adjudication. DHS understands that some F-1 students may encounter economic hardship during their nonimmigrant stay in the United States. Students may, under certain circumstances, be eligible for off-campus employment authorization if they demonstrate severe economic hardship.¹⁹¹ As this relates to this rule, individuals with a timely filed and pending EOS application are considered to be in an authorized period of stay and may receive automatic extensions of employment authorization under certain circumstances.

DHS based the 240-day timeframe on the period of stay authorized in 8 CFR 274a.12(b)(20), which generally provides an automatic extension of employment authorization of 240 days to aliens whose status has expired but

on whose behalf an application for an EOS was timely filed through a Form I-539, and believes that adopting an already established timeframe to which many nonimmigrants are accustomed, is reasonable and will help minimize disruptions while balancing the need of DHS to monitor and verify the activity of these aliens in the United States and provide additional protections and oversight for the programs in which these aliens engage.

DHS acknowledges this rule does result in additional costs and time for some nonimmigrants. However, as discussed in this preamble and in the NPRM, DHS believes that any burdens and costs imposed are outweighed by the benefits of this rule, which creates a mechanism for DHS to increase vetting, reduce overstays, and determine whether nonimmigrants are complying with the conditions of their nonimmigrant classification. The requirements imposed by this final rule provide the U.S. Government more opportunities to review a nonimmigrant's records, admissibility, and any possible indicators of fraud, abuse, or national security concerns. Furthermore, fixed admission periods and filing an EOS application with USCIS are requirements for most other nonimmigrants who wish to enter or remain in the United States. DHS believes that the EOS requirement will allow DHS to vet nonimmigrants periodically to prevent and reduce issues of fraud, abuse, and national security threats.

DHS also acknowledges that this rule will affect USCIS' workload. As outlined within this final rule, USCIS is a fee funded agency and may set fees to support the additional workload associated with the adjudication of these cases. USCIS will account for the projected volume of filings and level of effort necessary to adjudicate various immigration benefit requests when conducting its biennial assessment of fees.

d. Interaction With H-1B Status

Comments: Commenters expressed concern that the proposed rule would undermine or eliminate cap-gap protection for F-1 students transitioning to H-1B status. Commenters stated that eliminating cap-gap protection would hurt both students and employers. Another commenter added that eliminating cap-gap would increase burden on DHS staff to process extra extension of status requests. Commenters stated that currently, F-1 status and work authorization are automatically extended for students who timely file for a change of status to

¹⁹⁰ See 8 CFR 214.2(f)(10)(i).

¹⁹¹ See 8 CFR 214.2(f)(9)(ii)(C).

H-1B, covering the gap until the H-1B start date. Commenters stated that eliminating D/S would force cap-gap students to apply for an EOS during this period. Commenters raised concerns about complications with travel and re-entry, as the cap-gap date would not be covered under the proposed rule. Commenters also expressed concern that the proposed rule could cause legal consequences for students even for a brief lapse in lawful presence, which would create brief lapses in lawful status.

Commenters remarked that the proposed rule lacks clarity regarding its impact on cap-gap protections and fails to provide a mechanism for cap-gap extensions. Commenters requested clarification about the process and timeline for transitioning to H-1B status for students who are beneficiaries of H-1B cap petitions. Specifically, commenters asked whether the H-1B cap-gap extension process would change and whether extensions of F-1 status and OPT employment authorization would still be granted if the Form I-94 expired during the “cap-gap extension” period before H-1B status began.

Commenters urged DHS to preserve cap-gap status in the final rule and continue automatically extending F-1 status and work authorization for students who are beneficiaries of an H-1B cap petition. They reasoned that maintaining cap-gap protection would ensure the retention of top international talent while EOS requests are pending. Commenters requested clarification in the final rule that cap-gap protections would remain in place, noting that any ambiguity could cause disruption for thousands of students and employers who rely on these protections annually.

One commenter wrote that the extension period will overlap with cap-subject H-1B filings and OPT requests, meaning USCIS will be at their busiest when these extensions are submitted. This commenter wrote that this would impact physician training.

Another commenter asked how the rule will interact with existing statutes, such as the American Competitiveness in the Twenty-First Century Act of 2000 (AC21) portability for H-1Bs.

Commenters expressed concern that without similar protections for F nonimmigrants, students could experience unnecessary gaps in employment authorization.

One commenter requested clarification on the new bridging mechanics of status and OPT EAD to October 1st for students transitioning to H-1B. One commenter asked what mechanism will be in place to prevent

a gap if a fixed admission period expires before a cap-gap transition, whether the student will need to file an EOS application, whether USCIS will adjudicate timely filed EOS applications in a way that preserves status, whether there will be a maximum duration for employment authorization during pending EOS or cap-gap, and if so, whether USCIS will issue receipts or other evidence acceptable to employers for continued employment during any cap-gap or pending EOS period.

Response: DHS understands the commenters’ concerns regarding the H-1B cap-gap provision and EAD extensions. Notably, this rule does not make any significant changes to the automatic extension of employment authorization regulations governing the H-1B cap-gap extension under redesignated 8 CFR 214.2(f)(5)(vii) and the EAD extensions for STEM OPT under 8 CFR 214.2(f)(11)(i)(C) and 8 CFR 274a.12(b)(6)(iv). Under this rule, eligible F-1 nonimmigrants will continue to benefit from the cap-gap automatic EOS and any employment authorization, which extends until April 1 of the fiscal year for which the H-1B status is being requested or until the validity start date of the approved petition, whichever is earlier. *See* redesignated 8 CFR 214.2(f)(5)(vii). Similarly, eligible F-1 nonimmigrants who have timely applied for the 24-month STEM OPT extension will benefit from the automatic extension of employment until the date of USCIS’ written decision on the Form I-765, but not to exceed 180 days. *See* 8 CFR 214.2(f)(11)(i)(C) and 8 CFR 274a.12(b)(6)(iv).

6. Employment Authorization and Auto-Extension for Pending EOS/EAD: Applications Under Sec. 214.2(j)(1)(v)–(viii), (ix) and 274.12(c)(5)

Comments: Commenters requested that DHS provide continuation of employment and status for OPT/STEM OPT and J-1 researchers while timely EOS or related adjudications are pending. One commenter wrote that J-1 scholars often extend short-term research stays, and that requiring USCIS approval for each renewal could delay or disrupt these collaborations.

Commenters expressed specific concern about the impact of the proposed rule on nonimmigrants in J-1 and J-2 status, and work authorization. Commenters expressed concerns that J-2 spouses would not receive automatic employment authorization extensions. One commenter asserted that disruption in J-2 employment status would be particularly troublesome for dual income households. Commenters

suggested that automatic extensions should also be applied to J-2 EAD holders. One commenter reasoned that many J-2 spouses are physicians and that expiration of their work authorization could disrupt patient care. Another commenter suggested that J-2 spouses remain authorized to work until the adjudication process is complete. The commenter reasoned that, specifically for teachers, if spouses lose their work authorization, J-1 exchange teachers would be more likely to pursue H-1B status, which would destabilize program attrition for dual language classrooms. The commenter remarked that this policy revision aligns with existing regulations under 8 CFR 214.2(j)(1)(v) and 8 CFR 274a.12(b)(20).

Response: DHS acknowledges commenters’ concerns about the continuity of employment and status for J-1 researchers, and J-2 spouses while EOS or related adjudications are pending. Under the rule, J-1 researchers may continue their program activities and employment for up to 240 days after the expiration of their admission period, provided their EOS is timely filed. However, at this time, DHS is not extending automatic employment authorization to J-2 spouses while their EOS is pending. J-2 spouses must have a valid EAD and period of admission to work in the United States, and employment authorization is not automatically extended during the pendency of an EOS application because a J-2 spouse is only allowed to work to earn extra income for the family’s customary recreational and cultural activities and related travel, among other things, but not to support the J-1 principal alien.¹⁹² DHS believes the current approach is necessary to maintain program integrity and ensure proper vetting of all applicants.

J. F Nonimmigrants

1. Changes in Educational Objectives, School Transfers, Training Limits, Program Duration

a. Definition of Educational Level and Lifetime Limits

Comments: Many commenters expressed concern that the term “educational level” was not sufficiently defined or clarified in the proposed rule. These commenters remarked that DHS did not provide a clear hierarchy of educational levels, leaving questions about how different types of degrees would be classified. Commenters requested clarification on how various degrees would be ranked, including whether a Juris Doctor (JD) would be

¹⁹² *See* new 8 CFR 214.2(j)(1)(v).

considered equivalent to, higher than, or lower than a master's degree (such as LLM), Ph.D., or MD; whether post-master's certificates would be considered equivalent to, higher than, or lower than a master's degree; and how stackable credentials would be classified. Another commenter expressed confusion on definitions for undergraduate and graduate level training in medical education. Commenters remarked that proposed rule artificially separates "program extension" from "status extension," even though current regulations already require justification and documentation for program extensions through DSOs and ROs.

Commenters also raised concerns about whether the proposed rule could be interpreted as a lifetime limit on pursuing programs at the same or lower level, or if it would only apply to a student's current SEVIS record. Commenters remarked that a lifetime limit is unjustified, reasoning that there are many situations where another degree or certificate at the same or lower level would make academic or professional sense.

Response: DHS appreciates these comments. DHS generally relies on NCES' definition of educational levels, which provides a structure for determining whether a nonimmigrant student's program of study reflects upward academic progression. The list of educational levels that schools use to update their Form I-17, "Petition for Approval of School for Attendance by Nonimmigrant student," is available to the public.¹⁹³ This list contains the following educational levels: 1. Primary and Secondary Education; 2. ELT; 3. Post-secondary Certificates/Non-Degree; 4. Associate; 5. Bachelor; 6. Master; 7. Doctorate. DHS anticipates providing guidance on educational levels to clarify how it utilizes the NCES definitions of education levels to ensure consistency across components, with ED, and by DSOs. DHS recommends that for specific student circumstances, the aliens contact their DSO for more information about particular programs including medical education.

DHS acknowledges commenters concerns that there may be instances where a student desires to enroll in a lower educational level or repeat the same level. The policy in this rule prevents F-1 students who have completed a program at one educational level from starting another program at

the same or a lower level (e.g., someone who finished a bachelor's degree cannot start another bachelor's degree or an associate degree as an F-1 student). This is to prevent F-1 students from using the U.S. educational system as a means to unnecessarily (or under false pretenses) prolong their stay in this country. Additionally, the limits of study at the same or lower educational levels will be applied prospectively. Any programs completed prior to the effective date of the rule will not be counted towards the limits. DHS has therefore clarified in the final rule that this limitation of study at the same or lower educational levels applies only to programs that are completed after the effective date. See 8 CFR 214.2(f)(5)(ii)(C).

DHS also acknowledges that a program extension is not the same as a status extension and reiterates that aliens must follow applicable requirements for both.

b. ELT Limits and Program Duration

Comments: Commenters expressed opposition to the proposed 24-month cap on ELT programs, stating it fails to account for the individualized nature of language training and fails to account for students' learning goals, with most ELT students enrolling for less than one academic year (averaging 12.8 weeks in 2024). Commenters explained that language learning depends on numerous variables including starting proficiency level, native language, age, prior education, and individual aptitude. One commenter submitted a detailed comment explaining how the proposed rule would significantly and disproportionately disrupt ELT students and the industry. They explained that the proposed rule limiting ELT to 24-months does not consider the students' baseline English proficiency at the beginning of the ELT program as well as the differing speeds of language progression and cited to research showing that working communication proficiency may take more than two years.

Commenters expressed particular concern about a potential lifetime limit, noting that language skills can regress over time, and many students return, legitimately, for additional English study years later for new or renewed professional, academic, or personal reasons. A commenter stated that a potential 24-month lifetime limit on ESL, restrictions on transfers, and a ban on reverse matriculation would be difficult to monitor and enforce at the programmatic level since schools would need to collect additional information prior to I-20 issuance.

Commenters recommended maintaining the current framework, stating that it more accurately reflects the flexible nature of ELT acquisition, and allows students to remain for the full length of their program as indicated on their Form I-20. Commenters alternatively recommend extending the maximum admission period to lengths such as 36 or 48 months, instead of 24 months. Another commenter recommended that the limitation on language studies should be extended when a nonimmigrant student is pursuing Testing of English in Foreign Language studies.

Additionally, the commenters noted that some nonimmigrant students may require additional time due to illness, disability, family emergencies, or simply because they began at beginner level. Commenters expressed concern that the proposed fixed admission period is arbitrary and lacks empirical support. Commenters expressed particular concern about the impact the proposed changes would have on pathway programs and conditional admission models that integrate intensive English language study with academic coursework. Commenters noted that ELT programs typically last less than a full academic year and serve as bridges to degree programs.

Commenters cited data from Open Doors, indicating that 28 percent of language training nonimmigrant students intend to pursue degree programs in the United States following the completion of the nonimmigrant student's ESL program. One commenter referenced the 2024 Open Doors Report on International Educational Exchange which noted that 67,924 foreign students participated in intensive ELT during the year, with 50 percent of students enrolled at programs linked to U.S. colleges and universities; 42 percent of those students planned to pursue a degree after their training, arguing that the rule could hamper enrollment and finances for ELT institutions if the path to a graduate program is uncertain.¹⁹⁴ Commenters also referenced research distinguishing between Basic Interpersonal Communication Skills, typically achieved in 1 to 2 years, and the more advanced Cognitive Academic Language Proficiency, which can require 5 to 7 years of intensive study. Both approaches would be impacted by the proposed fixed period of admission. Commenters noted that the Cambridge study cited in the proposed rule

¹⁹³ See DHS, *Form I-17 Petition Update* (last updated June 2, 2025), <https://studyinthestates.dhs.gov/sevis-help-hub/school-records/school-certification/update-school-information/form-i-17-petition-0>.

¹⁹⁴ The commenter did not elaborate on their citation to the 2024 Open Doors Report on International Educational Exchange.

measures basic proficiency rather than sophisticated academic communication skills needed to succeed at a post-secondary level. Commenters also noted that the Foreign Service Institute's research contradicts the proposed timeframe, as the Institute estimates that approximately 2,200 hours (equivalent to more than 3 years) are needed for native speakers of languages like Chinese, Korean, Arabic, or Japanese to reach English speaking proficiency. Commenters stated that ELT represents a distinct educational objective rather than an education level, with no nationally recognized completion standard. Commenters further stated that the proposed rule conflicts with established accreditation standards. Commenters also requested clarification on whether the proposed 24-month aggregate cap applies per program, per uninterrupted F-1 stay, or as a lifetime limit, with some commenters stating that this creates confusion and potential risk for students and institutions.

On the other hand, one commenter recommended that the ESL cap be reduced to 12 months as opposed to 24 months, stating that 12 months is more than enough time for an F nonimmigrant to learn English.

Response: DHS appreciates the comments but notes that any programs completed prior to the effective date of the rule will not be counted towards the limits for ELT or other programs. In addition, the lifetime limit of 24 months for ELT will be applied prospectively. This timeframe coincides with the amount needed to gain the highest level of English proficiency under the Cambridge English Exam.¹⁹⁵ DHS expects this rule will affect relatively few ELT students and believes the 24-month cap is appropriate for program integrity and oversight. In addition, F-1 nonimmigrants pursuing ELT who are subject to the transition period (F-1 students admitted for D/S and present in the United States on the effective date of the final rule) may continue their program of study until the program end date, not to exceed 4 years. *See* new 8 CFR 214.1(m).

DHS appreciates the commenters' concerns about English training programs; however, an aggregate of 24 months of ELT will be applied to all students to prevent abuse of the F-1 program. Most ELT students were enrolled in programs shorter than 2 years, as reflected by data provided in the NPRM preamble.¹⁹⁶ DHS recognizes commenters' reports that more advanced language proficiency requires additional years of study, or that some ELT students may require more than 2 years to obtain English language proficiency. To the extent a nonimmigrant wanted to continue with ELT in the United States after the 24-month cap was completed, they can do so while admitted for other reasons. For example, an F nonimmigrant admitted for programs other than ELT are not precluded from continuing ELT during their stay in the United States. Any programs completed prior to the effective date of the final rule will not count towards a foreign student's limits for ELT or programs of study at the same or lower educational levels.

DHS is concerned about vulnerabilities, fraud, and abuse in the nonimmigrant student classification, but especially in the ELT programs. The two years for standalone ELT schools/programs will be calculated as an aggregate of 24 months from the student's program start date (plus a 30-day period for departure). Students who encounter extenuating circumstances such as illness, disability, or other emergencies during their studies, will still be limited to the 24-month admission period. Students may depart and reenter the United States to resume studies (such as for a school break) but will not receive additional admission time to account for the time spent outside of the country.

DHS recognizes commenters' concerns about the impact the proposed changes would have on pathway programs and conditional admission models that integrate intensive English language study with academic coursework. An F-1 student who has been admitted to a degree program that integrates completion of a pathway program at the same institution of higher learning will be granted a period of admission that includes completion of both programs of study, up to a maximum of four years. For example, if a student has been admitted to a bachelor's degree program but needs to first complete a six-month pathway program at the same school, DHS will grant the student a period of admission that includes the time

allotted to complete both the pathway and bachelor's programs, up to a maximum of four years. If more time is needed to complete the degree program, then the student will need to apply for an EOS. This ensures that bona fide students engaged in such pathway programs are able to request an EOS with USCIS to stay in the United States and continue their studies, reflecting a clear upward academic progression. Additionally, students in pathway programs who encounter extenuating circumstances prior to program completion, such as illness, disability, or other emergency, may also cite such reasons when applying for an EOS. Per existing regulations at 8 CFR 214.3(k), DSOs are prohibited from issuing Forms I-20 based on conditional admission and should not be issuing Forms I-20 for students who have not met all admission requirements for the programs they are seeking to attend.

DHS recognizes the importance of supporting legitimate educational pathways and acknowledges the need for flexibility in certain circumstances, such as recognized bona fide educational tracks, graduate program specializations, and market-driven licensure requirements. DHS will provide updated guidance to clarify the application of these restrictions, particularly for graduate programs and specialized educational pathways.

As far as the commenters' concerns that these new rules will cause difficulty for monitoring, SEVIS is being updated to manage all the new requirements from this rule. DHS will also be providing training to stakeholders and broadcast messages with reminders, so DHS is confident that the transition to this new rule will provide the enhanced monitoring needed to effectuate this rule.

Finally, DHS disagrees with the commenters that say this rule conflicts with established accreditation standards. The commenters are mistaken when they think that accredited programs will need to be shortened to fit the 4-year admission period. That is untrue. If the program has been accredited as a 5-year program, the I-20 or DS-2019 will state the full program length. The student will need to apply for an EOS with USCIS prior to the expiration of his or her currently authorized period of stay¹⁹⁷ using the same I-20 or DS-2019 used to enter the country and may continue to study while the application is pending. If the student has not committed any crimes

¹⁹⁵ According to Cambridge English, it takes approximately 1,000 to 1,200 hours to achieve the highest level of English proficiency from being a beginner of English. This is based on the Common European Framework of Reference (CEFR), which is an international standard for describing language ability. *See* Cambridge English, *Guided Learning Hours* (Dec. 17, 2025), <https://support.cambridgeenglish.org/hc/en-gb/articles/202838506-Guided-learning-hours>. Given that an academic year is 9 months, it would take the average F-1 student less than 18 months (or less than 24 months to include summer breaks and annual vacations) to achieve advanced English proficiency through guided instruction.

¹⁹⁶ *See* 90 FR at 42087 and Cambridge English, *supra* note 195.

¹⁹⁷ With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

or otherwise violated his or her status, then the EOS should be granted and the program of study completed as accredited.

c. Impact on K–12 Students and 4–Year Limit

Comments: Several commenters stated that the impact of the proposed rule on K–12 students would be significant, noting that the proposed rule focuses on post-secondary education with little acknowledgment of the impact on K–12 nonimmigrant students who also utilize the F–1 visa. A commenter noted that F–1 visas are not just for post-secondary education, and that in 2024, there were over 54,000 foreign students in K–12 schools. Commenters requested exceptions to the 4-year limit for students enrolled as K–12 students, particularly those who want to enter in 7th or 8th grade and stay until they graduate high school. A commenter stated that many high school campers choose to apply and attend their academy the following fall and requiring a formal EOS for a camper enrolled for only 4 to 6 weeks prior to the academy transfer would be an unnecessary and unreasonable burden.

Response: Regarding the 4-year limit and the K–12 population, the rule provides that SEVP-certified private schools for grades K–12 may issue Forms I–20 for up to grade 12, requiring an application for an EOS only every four years if the student never travels abroad during that time. If the student travels abroad, the stay will be extended for a four-year maximum every time the grade school student travels abroad. This may not work for the camper scenario because they will most likely need a new I–20 to indicate the new study program; however, F–1 students are allowed to begin studies while an EOS application is pending.

DHS does not believe this rule will cause undue burden to students or schools. DHS is not changing the fundamental requirements to qualify for these nonimmigrant statuses; it is instead changing the length of time that an individual may lawfully remain in the United States in F or J status without filing an EOS. Further, as is the case for the fixed period of admission policy more generally, a fixed date of admission simply places these nonimmigrants in the same position as most other nonimmigrants who are temporarily in the United States. They will still be able to continue to pursue their full course of study or exchange program; however, if they need additional time in F or J status, the burden will now be on them to request authorization directly from DHS and

establish eligibility to extend their period of stay in such status, whereas previously they obtained an extension of lawful status in conjunction with a program extension through a DSO or RO. DHS does recognize it is imposing limits to F–1 undergraduate students on transferring or changing educational objectives within the first academic year of a program of study, unless an exception is authorized by SEVP for extenuating circumstances. This will help to combat fraud and abuse in this visa category. DHS also recognizes F–1 students may need to change programs or educational objectives to complete elementary or secondary education. DHS has therefore clarified in the final rule that a student needing to change schools to complete elementary or secondary education may be considered an extenuating circumstance. *See* new 8 CFR 214.2(f)(5)(ii)(A).

d. Same-Level or Lower-Level Degree Enrollment

Comments: Commenters stated that limits to same and lower-level degree enrollment will not meet the needs of students. Commenters emphasized that pursuing programs at the same or lower level is common practice, particularly for students in professional programs seeking to specialize in new subject matter. Commenters urged DHS to rescind the rule, stating it would unnecessarily restrict students from adjusting their studies and pursuing diverse programs, especially in STEM jobs, and would also contribute to a chilling and coercive work atmosphere, reasoning that educational mobility is an important tool to improve working conditions for all. Comments stated that the rule limits nonimmigrant students' ability to diversify their resumes, making them less competitive in the global marketplace, and disproportionately impacting students from developing countries who may need to retrain or requalify in new disciplines due to evolving labor market demands.

Along these lines, commenters noted that the rule restricting multiple degrees imposes difficulties for nonimmigrants in fields that involve interdisciplinary components of research and study. Commenters noted that the United States is experiencing ongoing workforce shortages in STEM, especially in areas requiring interdisciplinary expertise gained through multiple academic programs, including advanced manufacturing and pharmaceutical manufacturing.

Commenters reiterated that F visa students may have legitimate reasons for pursuing multiple degrees at the same

level, including specialization, professional pivoting, gaining of interdisciplinary skills, meeting licensing requirements, fulfilling prerequisites for graduate study, career advancement, and developing specialized skillsets. In that regard, a commenter proposed regulatory changes under 8 CFR 214.2(f)(5)(ii)(C) to include that “[s]tudents may pursue a second degree at the same level if in a different field or institution.” Similarly, another commenter suggested adding that “[s]ame-level prohibition applies only to identical CIP codes, not substantially different disciplines” under 8 CFR 214.2(f)(5)(ii)(C).

One commenter explained that nursing, dental hygiene, diagnostic medical sonography, and veterinary technology programs require students to first complete prerequisites and then often wait one to two years before program admission. Another commenter stated community colleges provide a critical steppingstone for students refining their career goals and the limit on transfers between levels of study would disproportionately affect students who discover new academic interests after completing an undergraduate program.

Similarly, commenters described reasons students may pursue lower-level degrees, such as the need to complete certificate programs in specialized fields or enrollment in community college courses to develop specific academic skills or for financial reasons.

A commenter added that DHS failed to provide a reasonable explanation as to why changing programs and pursuing consecutive degrees is impermissible or non-compliant. Similarly, another commenter stated that the rule's restrictions on second master's degrees, limitations on transferring schools, or changing majors, and rigid time caps on student status' do not directly advance the goal of preventing visa abuse or ensuring compliance.

Response: Under the new requirements, any undergraduate student who has enrolled in a program at one educational level, but who has not completed that program, is authorized to change to another program at the same educational level or transfer to another school after completion of one academic year.¹⁹⁸ DHS believes this will prevent aliens from remaining in the United States for lengthy periods of time in F–1 student status, while also accommodating the legitimate academic activities of bona fide students that are not following the typical upward

¹⁹⁸ *See* new 8 CFR 214.2(f)(5)(ii)(A).

progression. This includes a desire to pursue a different field of study or to pursue more specialized studies in their established programs. The limits on specific programs at the same or lower educational levels will be applied prospectively, allowing students who began their studies under the previous regulatory scheme to continue their program.

DHS understands that there are legitimate cases of students gaining knowledge at a lower or the same educational level. However, DHS believes that most students follow an upward trajectory. For that reason, any undergraduate-level student who has enrolled in a program at one educational level is authorized to change to another program at the same educational level or transfer to another school only after completion of one academic year.¹⁹⁹

DHS is also restricting school transfers and changes of educational objectives within an undergraduate student's first academic year of a program of study, unless an exception is authorized by DHS, and prohibiting F-1 students in a graduate level program of study from changing educational objectives or transferring at any point during their program of study, unless SEVP authorizes an exception for the transfer due to extenuating circumstances.²⁰⁰ DHS believes these changes will accommodate the legitimate academic activities of bona fide students, such as a desire to pursue a different field of study or more specialized studies in their current field at the undergraduate level, while maintaining the integrity of graduate level programs to avoid school and major switching that takes places away for aspiring graduate students. These changes will also provide DHS with flexibility to grant exceptions for extenuating circumstances.

DHS believes this will encourage F-1 students to complete the programs of study for which they were admitted to the United States and to only pursue additional programs of study that demonstrate an upward progression in degree levels, which is expected from a qualified bona fide student who is coming to the United States temporarily and solely to pursue a course of study.

DHS disagrees with the commenters' assertion that DHS has failed to provide a reasoned explanation regarding changing programs and the permissibility of pursuing consecutive degrees. In the NPRM, DHS provided a reasoned explanation balancing the

logical progression to a higher educational level as the traditional trajectory for higher education with the necessity to address and deter fraud, exploitation, and abuse in connection with the duration of stay framework.²⁰¹ Continuing to allow nonimmigrants to complete one program, then move on to another, or move to a lower education level raises serious concerns that the intent is not to pursue a full course of study but rather to circumvent the U.S. immigration system and prolong their stay in the U.S. under the guise of pursuing education. As such, these restrictions do advance the goal of preventing visa fraud and abuse, enhancing national security, and ensuring program integrity.

DHS recognizes commenters' concerns about the restrictions effect for those pursuing multiple degrees, including the concern that this will impose difficulties for nonimmigrants in fields that involve interdisciplinary components of research and study. Students will be able to continue learning at all academic levels while also making progress in the degree program for which they have been issued a Form I-20, thereby mitigating these effects and ensuring students continue to make upward progress on their studies in the United States while in the country as an F nonimmigrant. However, this rule does not prevent students who need double majors to achieve their goals from planning ahead and enrolling in both at the same time. For example, nothing in this rule prevents someone from doing a J.D./M.B.A. program at one institution with one I-20 indicating the program end date that accounts for the longer time it takes to complete the double major.

DHS also recognizes commenters' concerns about programs which require the completion of prerequisites, then waiting a year or more before program admission. During this gap, if a student no longer qualifies for their current nonimmigrant visa category (for example, if they are no longer enrolled full-time in a qualifying course of study), they cannot remain in the United States. This requirement is the same as currently required under D/S. In such cases, the students need to depart the country and apply for a new visa once they are eligible for admission to the new program. DHS encourages students to plan ahead and consult with their DSO or an immigration advisor to understand their options and maintain compliance with U.S. immigration regulations.

e. Program Changes for Undergraduate Students

Comments: Commenters pointed out that there are many academic programs and educational pathways. Commenters emphasized that the restrictions would particularly affect dual, interdisciplinary, and accelerated degree programs, noting that at one institution approximately 20 percent of foreign students graduated with dual majors. Commenters expressed concern that the rule would disrupt innovative collaborative programs between institutions, such as 2+2-degree programs through which students complete 2 years at a community college before transferring to a four-year institution. Commenters stated imposing EOS requirements would undermine the seamless transition promised by these educational packages and discourage resource-pooling programs.

Commenters stated that changes for undergraduate students were unfair and unrealistic. A majority of commenters expressed opposition to the prohibition on F-1 undergraduate students changing programs or educational objectives within their first year of study. Commenters expressed the restriction is overly limiting and lacks sufficient justification, particularly since similar restrictions do not apply to U.S. students. Commenters remarked that changing majors is a common practice among all undergraduates, with studies indicating approximately 80 percent of students change majors at least once, often increasing their likelihood of graduating. Along these lines, some commented that nursing students who don't meet the GPA requirements must change majors and indicated that the proposed restrictions on changing majors were not realistic.

Commenters described how the U.S. higher education system is uniquely designed to allow students to explore different fields through general education requirements before selecting a major. Commenters noted the first year typically consists of exploratory coursework that helps students discover interests across interdisciplinary fields. Many commenters pointed out that foreign students face additional challenges when selecting institutions, as they often must choose schools without having visited campuses or met faculty, making it unreasonable to limit them to their initial choice if it proves to be a poor fit.

Commenters identified numerous reasons why students might need to legitimately change programs or schools before completing their first academic

¹⁹⁹ See new 8 CFR 214.2(f)(8)(i).

²⁰⁰ See new 8 CFR 214.2(f)(5)(ii)(A) and new 8 CFR 214.2(f)(8)(i).

²⁰¹ See 90 FR at 42087–89 (Aug. 28, 2025).

year, including discovery of new academic interests, poor academic fit, financial constraints, family circumstances, safety concerns, discriminatory treatment, school closures, program eliminations, and the need for additional language training. Commenters also expressed concern that the transfer restriction would particularly impact English language programs and community colleges, potentially increasing costs and time to degree completion. Clarification was sought about when transfers would be allowed for F-1 students.

Response: Undergraduate students seeking to transfer to another school or change their educational objectives during their first year of study still retain flexibility in having their cases reviewed by DHS, which may then authorize the change in educational objective or school transfer if an exception is warranted. Transfers to other schools or changing majors after the first year of study is allowed at the undergraduate level, including for students who do not meet certain requirements to progress within their program and change majors. Any graduate student that fails out of the program will need to return home.

This particular change seeks to address significant costs incurred by universities when working with potential F-1 students who then transfer to less expensive schools upon arrival in the United States. This provision will provide more stability in the admission process and still provides the students with the ability to explore coursework and majors during the first year. Most undergraduate students take similar classes in their first year; therefore, the majority of the commenters' objections about changing degrees in the first year are not a concern under this new framework.

f. Program Changes for Graduate Students

Comments: Commenters stated that changes to graduate programs do not account for actual experiences of students. The majority of commenters expressed opposition to the proposed rule's prohibition on F-1 graduate students changing programs or educational objectives during their program of study. Commenters expressed particular concern about the impact on Ph.D. students, remarking that the proposed restrictions demonstrate a lack of understanding about the nature of graduate education, which often involves interdisciplinary work and evolving research interests.

Commenters stated that the rule would disrupt common practices in

graduate education, including master's students being promoted to Ph.D. programs midway through their studies, Ph.D. students receiving master's degrees enroute to their doctorate, and students pursuing dual degrees at the graduate level. Another commenter expressed the proposed rule would eliminate the "master-out" option for Ph.D. students who are awarded a master's degree when they cannot finish, and harm "academic mobility" for second master's degrees and master's-out pathways. Commenters clarified that graduate school, particularly at the doctoral level, is not a fixed, linear path, and intellectual discovery often leads students to pivot to related fields. Commenters stated that the rule would punish academic growth by causing students to abandon years of work rather than transition programs. Many commenters expressed concern with the proposed rule's different provisions for graduate students compared to undergraduate students, noting that the proposed rule lacks explanation or rationale for these distinctions. One commenter reported extenuating and uncontrollable circumstances may cause a graduate student to transfer programs or institutions, while another commenter thought the proposed rule would punish students for issues beyond their control by locking students into a major their first year and by requiring graduate students to remain in their program. Another commenter stated that the proposed rule would make Ph.D. enrollment riskier and would leave open teaching assistant and research positions that are dependent on foreign students.

Commenters provided numerous reasons why graduate students might need to change programs, including refined research direction, changes in advisors, moves from master's to doctoral programs, suggestions from faculty members, personal or academic circumstances, and changes in research funding. Commenters emphasized the critical relationship between graduate students and their faculty advisors, explaining that students often choose specific institutions because of faculty members whose research aligns with their interests, reasoning that when faculty members relocate to another university, graduate students may need to transfer to continue working with their chosen mentors and maintain access to specialized research facilities. Commenters noted that research funding is often tied to specific faculty members, requiring students to follow

their advisors to maintain financial support.

Commenters urged DHS to reconsider its restrictions on graduate students seeking to transfer or change educational objectives, with specific requests to allow Ph.D. students the option to transfer, particularly in cases involving academic or financial necessity. If DHS proceeds with finalizing the rule, commenters suggested establishing exceptions, such as allowing students to transfer to continue mentorship with their advisor, and proposed simplifying procedures for program extensions and transfers, especially at the graduate level. Commenters asked what happens after the 240-day authorized stay ends while an application is pending, the earliest filing date for applications, and how Ph.D. students whose programs exceed four years would justify extensions.

Commenters noted the rule could prevent individuals who completed a Ph.D. from later enrolling in a U.S. MD program or vice versa, despite these degrees preparing students for distinct career paths. Commenters expressed concern about uncertainty for medical residents on F-1 visas regarding whether residency would be considered a higher education level than medical school, potential barriers to changing disciplines during residency, and disruptions to transitions between PharmD programs or movement from PharmD to research-focused graduate programs.

Relatedly, a few commenters noted that the changes would prohibit students from pursuing a second master's degree which could hamper their ability to shift careers and add interdisciplinary training. One commenter pursuing a second STEM master's degree also expressed concern for the uncertainty surrounding using OPT after a second master's degree and stated that this might direct students away from the United States. Another commenter spoke about how the inability to pursue a second master's degree may hamper a student from "applied, industry-ready training."

Response: DHS acknowledges that students may seek to engage in programs simultaneously at a lower level or obtain multiple degrees, at differing levels, throughout the course of their time in the United States. Students will be able to continue earning such credentials while also making progress in the degree program for which they have been issued a Form I-20. For example, a student issued a Form I-20 for a Ph.D. program as their primary academic objective could obtain a master's degree incidental to

status while progressing toward completion of the Ph.D. program.

DHS generally relies on NCES' definition of educational levels, which provides a structure for determining whether a nonimmigrant student's program of study reflects upward academic progression. The list of educational levels that schools use to update their Form I-17, "Petition for Approval of School for Attendance by Nonimmigrant student," is available at <https://studyinthestates.dhs.gov/sevis-help-hub/school-records/school-certification/form-i-17-listing-of-available-degrees>. This list contains the following educational levels: 1. Primary and Secondary Education; 2. ELT; 3. Post-secondary Certificates/Non-Degree; 4. Associate; 5. Bachelor; 6. Master; 7. Doctorate. DHS may provide updated guidance on educational levels to ensure consistency across components and with ED.

DHS appreciates commenters' concerns about the rule's effect on academic growth of students. DHS recognizes academic pathways can be complex and that students may pursue multiple degrees or transition programs, including from undergraduate to graduate studies. The Department does not intend to discourage academic advancement or require students to abandon years of work.

DHS also recognizes the different approaches for undergraduate students and graduate students. This rule aims to balance program integrity and national security with the need to support legitimate educational pursuits. DHS believes differing approaches for undergraduate and graduate students are appropriate given the difference in the general ages of the students, a graduate student's previous opportunities to explore academic interests prior to entering graduate school, and a focus on more specific degree programs at the graduate level. DHS maintains it is appropriate to prohibit an F-1 student at the graduate degree level or above from changing educational objectives at any point during their program of study for the reasons outlined above. However, DHS recognizes that extenuating circumstances, such as a school closure or a school's prolonged inability to hold in-person classes due to a natural disaster, may prevent a graduate student from being able to continue their studies unless the student transfers to another SEVP-certified institution. The NPRM proposed prohibiting an F-1 student at the graduate level from transferring, without exception. DHS agrees with commenters that these situations may be outside the students' control and, taking

this into consideration, DHS has amended the regulatory text to allow SEVP to authorize an exception to this transfer prohibition in extenuating circumstances. See new 8 CFR 214.2(f)(5)(ii)(A), 8 CFR 214.2(f)(8)(i)(C), and 8 CFR 214.2(f)(8)(i)(D). For the purposes of this rule, "extenuating circumstances" for a transfer are rare, exceptional events beyond the control of the school and the affected students that prevent an SEVP-certified school from continuing to provide the student's approved course of study, such as a permanent or extended school closure, a school merger that eliminates the student's program, a loss of necessary authorization for the school to enroll F-1 students, or the school's prolonged inability to deliver required instruction due to a natural disaster or comparable emergency. In such circumstances, SEVP may, in its discretion and in coordination with the impacted SEVP-certified school or schools, permit the transfer of student records to another SEVP-certified school so that the student may continue, to the extent practicable, in the same educational objective. This exception is narrow, is intended only to preserve continuity of study in emergency situations, does not create an entitlement to transfer, and does not otherwise authorize an F-1 student to change educational objectives. Affected students generally will access this exception through their DSOs, as SEVP becomes aware of qualifying extenuating circumstances through notifications from SEVP-certified schools and SEVP's existing outreach to schools during such events.

Regarding the claim that the rule will make Ph.D. enrollment riskier and result in unfilled teaching assistant and research positions, DHS does not intend for this rule to significantly affect these populations since foreign students may still study, teach, and research in the United States under this fixed period of admission framework. They may also apply for an EOS if they want to request an extension of their admission period and shouldn't experience any disruptions if they apply as early as possible (180 days) before the expiration of their current stay. Additionally, assistantships are awarded based on student need and should not be the primary motivation in enrolling foreign students.

Regarding comments on the relationship between graduate students and their faculty advisors and students choosing institutions based on faculty member's research, such students should consider applying for J-1 visas to better align their goals with the appropriate nonimmigrant status. DHS

notes that J-1 categories include research scholars and college and university students, and requirements for transferring programs for J-1 students are governed by DoS regulations. See 22 CFR 62.20, 62.23, 62.42.

DHS also acknowledges the request for simplified procedures for program extensions and transfers. DHS declines to alter the current procedures, as they are necessary for program integrity and national security. DHS will, however, evaluate needs for guidance to assist in the transition and application of these new rules and will provide this guidance to stakeholders as needed.

DHS recognizes commenters' request for clarification about what happens after the 240-days. The 240-day period offers certain F nonimmigrants the ability to continue with authorized employment for this time period while their EOS is pending. If the EOS takes longer than 240 days to adjudicate, the F nonimmigrant would need to stop authorized employment, but they can remain in the United States, can continue their full course of study, and are considered to be in a period of authorized stay during that period.

g. Delay and Suspension of Change in Educational Objectives

Comment: Commenters discussed several technical and implementation concerns regarding the proposed limitations on program changes and transfers. A commenter expressed concern that the discretionary provision in 8 CFR 214.2(f)(5)(ii)(E) may be exploited by future administrations. Other commenters opined DHS should not codify a regulation which cannot be implemented. Another commenter opined the delay or suspension of the educational objectives provision could create confusion and arbitrary outcomes. Similarly, a commenter thought 8 CFR 214.2(f)(5)(ii)(E) would cause students, schools, and employers unnecessary uncertainty and resulting harm.

Response: DHS recognizes that this rule requires updates to SEVIS and other systems and it has been planning for these changes. The language proposed in 8 CFR 214.2(f)(5)(ii)(E) would provide DHS authority to delay or suspend implementation of the provisions relating to a change in educational objectives, outlined in 8 CFR 214.2(f)(5)(ii)(A) through (C), via announcement in the **Federal Register** and SEVP's website. DHS has given the comments on this provision considerable thought and agrees that this provision, as proposed, could cause unnecessary confusion and uncertainty

in the future. DHS does not identify an indefinite need to suspend or delay the implementation of 8 CFR 214.2(f)(5)(A) through (C) and therefore, DHS has decided to amend 8 CFR 214.2(f)(5)(E) to limit the agencies' ability to delay or suspend implementation to two years from the effective date of this final rule.

2. Preparation for Departure

a. Support for Reducing the F–1 Departure Period From 60 to 30 Days

Comments: A few commenters expressed support to reduce the F–1 visa departure period from 60 days to 30 days. One commenter stated the 60-day departure period was misaligned with enforcement objectives and increased the risk of visa overstays. This commenter referenced DHS reports showing above-average overstay rates in the student and exchange visitor visa categories. Another commenter stated that shortening the departure period would limit the risk of unauthorized employment or “loitering” after the lawful stay has ended.

Response: DHS appreciates the commenters' support for this rule and agrees that reducing the departure period will reduce overstays, strengthen oversight, and yield additional benefits to enhance the U.S. immigration system. This rule establishes an effective mechanism to periodically and directly assess whether nonimmigrants in F, J, and I status are complying with the conditions of their nonimmigrant classifications and U.S. immigration laws, and to obtain timely and accurate information about the activities these aliens have engaged in and plan to engage in during their temporary stay in the United States. DHS believes that this rule will encourage aliens to maintain lawful status and reduce instances in which aliens in F, J, and I nonimmigrant status unlawfully remain in the United States after their program, practical training, or activities or assignments end.

b. Opposition to Reducing the F–1 Departure Period From 60 to 30 Days

Comments: Most commenters expressed opposition to reducing the F–1 post-completion departure period from 60 to 30 days for many reasons because this timeframe serves as a critical buffer for foreign students in transitioning without risking life-changing immigration penalties for minor issues at no fault of the alien before going back to their country. For example, commenters said delayed transcripts, job offers, or cancelled or delayed flights could trigger unlawful presence which could lead to bans from

re-entering the U.S. Commenters also remarked that DHS presented no data suggesting the current 60-day period poses national security issues or compromises program integrity. As one commenter stated, there is no evidence offered that the extra 30 days are somehow used to threaten national security, avoid authorities, or otherwise abuse the F–1 visas. Another commenter stated that the shortening of the grace period from 60 to 30 days was unnecessary and counterproductive to ensure an orderly completion of stay.

Commenters stated that 30 days was insufficient for foreign students to complete post-graduation logistics such as terminating housing leases, selling belongings, closing financial accounts, arranging shipping, and making travel arrangements. Commenters added that these unresolved logistical and financial matters often burden local communities when students cannot efficiently conclude their affairs. In addition, commenters state a shortened 30-day departure period amid USCIS processing delays could lead to an increase in inadvertent overstays and unlawful presence, potentially exposing students to serious immigration consequences including reentry bans.

Commenters cited a negative impact on academic institutions, including an increased administrative burden for schools and DSOs, who would face greater pressure to process requests quickly in the 30-day grace period during already busy periods, potentially leading to higher error rates.

One commenter stated the shortened departure period will negatively impact foreign students in transition to other institutions or educational levels. Regarding academic transitions, a commenter stated that many institutions require more than 30 days to post final grades, verify program completion, or issue diplomas, making the proposed timeframe impractical for students needing to secure admission to new programs. Other commenters said that abruptly changing baselines disrupts settled expectations and will deter prospective students from choosing U.S. programs, which will in turn harm U.S. economic competitiveness.

Commenters identified negative effects of the shortened departure period on students' eligibility for the OPT program, including those in STEM programs. A commenter stated that the current 60-day departure period provides essential flexibility for students to select OPT program start dates that align with job search efforts and USCIS processing times and added that shortening this window would constrain students' ability to secure

suitable employment and potentially increase the risk of exceeding unemployment limits. One commenter stated that in the 2023–2024 academic year, approximately 242,800 foreign students participated in OPT, a record high. Commenters also reported foreign students contributed \$43.8 billion to the U.S. economy and supported 378,000 jobs in the same period. Research has shown that OPT participants directly enhance innovation; for instance, an additional 10 OPT participants in a region is correlated with 5 more patents filed. By reducing the grace period, the commenter stated that DHS risks making the OPT program essentially unworkable, leaving graduates without enough time to transition into jobs. In effect, OPT could become nominal but not functional, depriving both students and the U.S. economy of its benefits. Commenters stated that USCIS processing delays combined with the shortened departure period could result in students losing portions of their OPT eligibility, which ultimately discourages participation in the program and negatively affects the U.S. workforce and economy. Commenters also stated broader economic concerns, including that the shortened departure period could impact STEM fields where foreign students constitute a significant portion of the graduate student population and workforce.

Also discussing the OPT program, one commenter stated that hard end dates can collide with graduation and employment start dates under OPT and STEM OPT and the grace-period reduction further complicates transfers and changes of level. The United States hosted more than 1.1 million foreign students in 2023/24, and 242,782 students participated in OPT—record highs. Even small percentages of disrupted transitions would affect thousands of offers and research projects. At a national scale, a 1 percent policy-driven deferral/attrition/drop-out ($\approx 11,000$ students) corresponds to roughly \$0.43 billion less in annual tuition plus local spending, based on Association of International Educators' (NAFSA) \$43.8 billion total economic contribution across 1.13 million students (\$38,900 per student).

Another commenter stated that OPT requires an extensive adjudication process, typically three to four months for approval and issuance of the EAD. Students may only file for OPT within 90 days prior to their program end date, and any delay in adjudication, issuance, or delivery of the EAD can extend well beyond the proposed 30-day grace period. A commenter was concerned DHS had not provided sufficient

guidance on how the shortened grace period would apply in complex scenarios involving OPT and international travel. A commenter also stated that, under the proposal, F-1 students admitted under D/S would continue to receive a 60-day grace period following their program end date, consistent with prior rules. However, the proposal fails to account for a critical edge case. Under current regulations, an F-1 student may select an OPT start date up to 60 days after their program end date. Consider, for example, a student whose OPT EAD card—issued prior to the effective date of the proposed rule—bears a start date 59 days after program completion. The commenter reported the proposal is unclear as to whether such an EAD would remain valid if the student departed the United States after the program end date and sought reentry. The commenter asked if the newly reduced 30-day grace period applies retroactively to such students, thereby rendering their validly issued EAD unusable. The commenter continued that it remains unclear whether a student would also be required to file an EOS application to preserve their status, despite already holding an approved and valid EAD. This ambiguity raises serious concerns about retroactive impairment of vested rights and undermines the predictability and reliability essential to the immigration system.

Multiple commenters stated they anticipated their specific work sectors would be affected by the decrease from 60 days to 30 days, including:

- In Technology: Final interviews, relocation logistics, and HR onboarding often require more than 30 days for international graduates to transition into tech roles. The current 60-day period is already tight and cutting it in half will make tech companies lose promising candidates.
- In Accounting/CPA: The busy season stretches into late spring, and international staff often finish work assignments before transitioning to OPT or other statuses. Thirty days is insufficient to close out engagements, relocate housing, and file applications without risk of status violation.
- In Tax Consultancy: Filing seasons are cyclical, and projects often stretch beyond a month. Critical deadlines including quarterly filings or compliance reviews could be missed, creating risk for the U.S. tax system.
- Global Supply Chain: Predictable cycles are disrupted by shortening the grace period, leaving gaps in staffing that cannot be modeled or mitigated in time.

Several commenters expressed opposition to DHS's rationale for reducing the F-1 departure period to align with other nonimmigrant visa categories. One commenter stated that F-1 students differ significantly from M and J visa holders, as they are full-time, degree-seeking individuals with unique administrative needs who often establish deeper connections and accumulate more possessions during their longer stays. Commenters also expressed concern with comparisons to H-1B holders with a 10-day grace period, remarking that the departure logistics for professional workers differ significantly from those of students who have developed years' worth of belongings and community ties.

Response: DHS understands concerns related to the shortened departure period. However, as noted in the NPRM, many nonimmigrants who are authorized to remain in the United States for several years are only provided with a 10-day period to depart the United States. In addition, individuals in other student and exchange visitor categories—M vocational students and J exchange visitors—have been subject to a 30-day departure period for many years under the current regulations and have shown that this time frame is sufficient. This change is meant to align all nonimmigrant student categories with the same departure period.

DHS disagrees with the contention that it takes longer for F nonimmigrant students to depart than it does for J-1 scholars and physicians, some of whom stay up to 7 years, and DHS believes it has provided sufficient justification for making the change to the departure period timeframe. As stated in the NPRM, the F and J classifications should have a standard period of time to prepare for departure, or take other actions to extend, change, or otherwise maintain lawful status.²⁰² The F category, albeit distinct from M or J, shares a core similarity in that many aliens in these categories are seeking admission to the United States to study at U.S. educational institutions. Thus, these categories should have a standard period of time to prepare for departure, or take other actions to extend, change, or otherwise maintain lawful status.²⁰³ Notably, J exchange visitors only get 30 days to depart and do so effectively, and commenters have not identified meaningful distinctions between F

nonimmigrant students and J exchange visitors that should be considered, or that demonstrate why a different period for departure for F nonimmigrant students would be appropriate.

DHS does not believe that this rule will increase overstays and unlawful presence especially due to USCIS processing delays. Upon nearing the expiration of the fixed admission period, F, J, and I nonimmigrants may seek to extend their status with USCIS by timely filing an application for EOS. Upon a timely filed EOS, F, J, and I nonimmigrants will not need to cease their studies, programs or activities authorized within their nonimmigrant classification. As discussed in sec. IV.G. above, students may apply for an EOS with USCIS if seeking to continue a research project or other academic project, or if otherwise needing additional time to complete their academic program. A student ultimately has the responsibility to comply with the law. For students who depart the United States, they may apply for admission with CBP upon re-entry rather than with USCIS.

Furthermore, this rule also includes provisions to minimize any employment interruptions for those F-1 nonimmigrants filing timely EOS applications and seeking to extend their employment authorization. Any F-1 student's currently on authorized on-campus, CPT and/or severe economic hardship authorized employment are automatically extended during the pendency of the EOS application, but such automatic extension may not exceed 240 days beginning from the end date of his or her period of admission. For severe economic hardship employment authorization resulting from emergent circumstances under 8 CFR 214.2(f)(5)(vi), the employment authorization will be automatically extended for up to 240 days or until the end date stated in the **Federal Register** notice announcing the suspension of certain requirements, whichever is earlier. However, for any F-1 student who files an EOS application during the 30-day grace period for departure provided under new 8 CFR 214.2(f)(5)(v), the F-1 nonimmigrant will not receive an automatic extension of authorized employment, including on-campus employment, CPT, and severe economic hardship, and must wait for approval of the EOS application (and employment authorization application, if required) before engaging in one of the forementioned employment benefits. Notably, this rule does not make any significant changes to the automatic extension of employment authorization regulations

²⁰² See *Retention of EB-1, EB-2, and EB-3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers*, 81 FR 82398, 82401 (Nov. 18, 2016).

²⁰³ *Id.*

governing the H-1B cap-gap extension under redesignated 8 CFR 214.2(f)(5)(vii) and the EAD extensions for STEM OPT under 8 CFR 214.2(f)(11)(i)(C) and 8 CFR 274a.12(b)(6)(iv). Under this rule, eligible F-1 nonimmigrants will continue to benefit from the cap-gap automatic EOS and any employment authorization, which extends until April 1 of the fiscal year for which the H-1B status is being requested or until the validity start date of the approved petition, whichever is earlier. Similarly, eligible F-1 nonimmigrants who have timely applied for the 24-month STEM OPT extension will benefit from the automatic extension of employment until the date of USCIS' written decision on the Form I-765, but not to exceed 180 days.

DHS does recognize confusion may arise related to the shortened grace period and OPT, since students will now have 30 days, rather than 60 days, to depart the country or seek to maintain lawful status, but current regulations allow a student to request a start date that is up to 60 days after the student's program ends. To resolve this conflict, DHS has updated 8 CFR 214.2(f)(11)(i)(D) to replace "60" with "30." This technical change aligns with the 30-day period that was proposed in the NPRM under 8 CFR 214.2 (f)(11)(i)(B)(2) and with the 30-day period of preparation for departure under new 8 CFR 214.2 (f)(5)(v).

c. Recommendations and Alternatives to the Proposed 30-Day Departure Period

Comments: Many commenters offered the alternative of keeping the 60-day departure period intact. Others recommended special departure period provisions for specific situations. For example, a commenter suggested maintaining a 60-day departure period for graduates of accredited health-professional programs and for students with timely-filed OPT/STEM OPT or cap-gap situations. Another commenter suggested limited, compliance-conditioned automatic grace extensions to reduce needless filings and "status gaps" for OPT/STEM OPT and R&D roles.

One commenter suggested that the 60-day grace period be extended if the F-1 visa holder is seeking employment in the United States. Another commenter suggested graduates be granted a minimum 90-day grace period, extendable to 120 days when seeking academic employment. A commenter suggested maintaining the 60-day period while implementing additional reporting requirements in SEVIS at the end of the departure period or allowing

more flexibility in departure periods based on individual circumstances. Commenters recommended that DHS focus on strengthening visa screening at the issuance stage rather than reducing the F-1 departure period to address security concerns.

Rather than shortening the F-1 period, a commenter suggested extending the departure period for J-1 and M-1 visa holders to 60 days for consistency across student visa categories. Other commenters suggested making the departure period 45 days. Some commenters suggested requiring periodic SEVIS check-ins or improved reporting mechanisms, rather than shortening the grace period. Similarly, one commenter stated that to the extent the grace period reduction is intended to reduce the likelihood of potential unlawful stays or activities, a background check at the beginning of the approval process is the key.

Three commenters recommended that the grace period be extended. One suggested extending it to a period of one year, rather than 30 days, another to a period of 180 days, and another that did not state a specific period of time. Another encouraged DHS to allow a middle-ground solution, such as fixed-term authorization combined with automatic grace periods, or tiered extensions based on academic progress and institutional standing.

Response: DHS believes that changing the departure period for F nonimmigrants from 60 to 30 days is appropriate for several reasons as discussed in the NPRM. Under existing regulations, F-1 students are provided 60 days following the completion of their studies and any practical training to prepare for departure from the United States. However, this is twice as long as other SEVP programs (J and M nonimmigrants). In addition, this 60-day period is also six times longer than certain nonimmigrants who are authorized to remain in the United States for years but are only provided with a 10-day period to depart the United States. For example, DHS provides a 10-day period following the end of the alien's admission period as stated on the I-94 for aliens in the E-1, E-2, E-3, H-1B, L-1, and TN classifications in a 2016 rulemaking. DHS notes that a grace period of up to 10 days after the end of an authorized validity period provides a reasonable amount of time for such nonimmigrants to depart the United States or take other actions to extend, change, or otherwise maintain lawful status.²⁰⁴ It is unclear to DHS why F students would need a

significantly longer period of time to prepare for departure when other nonimmigrants have less time to prepare for departure.

DHS believes that 30 days is sufficient and an appropriate balance between the 60-day and 10-day periods that aliens are granted to prepare for departure. As with the J and M nonimmigrants, F students are seeking admission to the United States to study at a U.S. educational institution. Thus, DHS believes the standard period of time of 30 days is reasonable and adequate period for F-1 students to prepare for departure and is in line with similar classifications (the M and J departure periods). DHS understands that there are legitimate reasons for F-1 nonimmigrants to require additional time to complete a program. As noted, the rule provides F-1 nonimmigrants with the opportunity to apply for EOS if required, or to depart and re-enter the United States. DHS disagrees that 60 days is insufficient to either apply for EOS if required, or to depart and re-enter the United States.

3. Practical Training: OPT, STEM OPT, CPT, and I-94 Expiration Dates

Comments: A commenter requested clarification and examples as to how the fixed admission period and grace periods would interact with: (a) completion of Program A to post-completion OPT (and STEM OPT, if applicable) to enrollment in program; (b) school processing timelines; and (c) any automatic or conditional extensions, if the rule is finalized.

Response: The proposed rule provides timelines and mechanisms for maintaining status when transitioning between programs, engaging in post-completion OPT/STEM OPT, and applying for extensions. See new 8 CFR 214.2(f)(5), (f)(7), and (f)(8), and 8 CFR 214.2(f)(10). First, F-1 students are initially admitted for the length of their program as listed on Form I-20, not to exceed 4 years, plus a 30-day grace period for departure or to take steps to maintain lawful status. After completing Program A, a student may apply for post-completion OPT through their DSO and upon the DSO's recommendation, apply for EOS and employment authorization with USCIS. If EOS is approved for OPT, the student's period of admission is extended to the end date of the EAD for OPT, plus a 30-day grace period. If eligible, the student may apply for a STEM OPT extension. Both would require filing a subsequent EOS application and employment authorization to USCIS. If approved, the admission period extends to the new EAD end date for STEM OPT, plus a 30-

²⁰⁴ See 81 FR at 82401 (Nov. 18, 2016).

day grace period. If the student wishes to begin a new program at a higher educational level, they must obtain a new Form I-20 and, if the new program will not be completed within the current admission period, apply for EOS before the end of their current authorized stay (including the 30-day grace period). However, if USCIS has not approved the EAD at the time of application for admission but the DSO has approved a term for OPT, the F or J nonimmigrant may be admitted for up to 240 days to allow for USCIS to adjudicate the EAD.

The student must ensure their EOS application is filed before the current period of admission expires. If a student timely files an EOS application before their current admission period expires, they are considered in a period of authorized stay while the application is pending. *See new 8 CFR 214.2(f)(5)(viii).* For certain types of employment (*e.g.*, on-campus, CPT, severe economic hardship), employment authorization is automatically extended for up to 240 days while the EOS is pending. *See new 8 CFR 214.2(f)(5)(viii) and new 8 CFR 274a.12(c)(3)(iii).* If the EOS application is filed during the 30-day grace period after completion of studies or OPT, the student may continue studying but may not engage in practical training or employment until the EOS is approved. *See new 8 CFR 214.2(f)(7)(iii)(B).* The rule provides that USCIS may approve extensions in cases such as school closures, natural disasters, or other circumstances beyond the student's control, as described in the rule. *See new 8 CFR 214.2(f)(7)(i)(C)(2)(iii).*

Comments: Some commenters expressed concerns in that the rule would eliminate Day-1 CPT, indicating that fields such as business, computer science, and health sciences often require early practical training as part of the academic program. Along these lines, they stated that prohibiting Day-1 CPT would undermine the integrity of these academic programs and prevent students from meeting graduation requirements on time, while reducing the ability of U.S. industries to access talent trained in cutting-edge fields. Similarly, another commenter noted that the rule would impose financial accessibility and tuition burdens because students rely on Day-1 CPT to pay tuition and living expenses, given that foreign students must pay full tuition. The commenter called for DHS to retain flexibility for Day-1 CPT authorization, while addressing concerns through different methods, such as increase in reporting requirements or SEVIS oversight.

Response: These comments misinterpret the rule as the rule does not prohibit or eliminate Day-1 CPT. The rule primarily imposes a fixed admission period of up to 4 years for F-1 students and requires students to apply for EOS if additional time is needed to complete their programs of study or for practical training. In doing so, it eliminates the D/S framework, but it does not make substantive changes to CPT.

Separately, DHS notes that the primary purpose of the F-1 nonimmigrant status is for foreign students to study in the United States and not a pathway for employment. Moreover, as a requisite for the F-1 nonimmigrant visa, foreign students must provide evidence of financial ability to support themselves to study in the United States by demonstrating that they (or their sponsor) have sufficient funds to cover tuition and living expenses during the period of intended study. As such, F-1 students should not be relying on future or prospective income from Day-1 CPT as their primary means to financially support themselves in the United States.

Comments: Many commenters stated the need for OPT reform, specifically highlighting OPT students working in STEM. One commenter said despite being backed by the INA, OPT is now used to bypass congressionally set limits on H-1B visas, with the program operating as an H-1B substitute. The commenter further states that this influx of OPT students into STEM fields has offset many American STEM graduates into other non-related fields. Another commenter suggested that, due to not being explicitly authorized by statute and disproportionately benefitting foreign graduates over U.S. citizens and permanent residents, the STEM OPT extension program should be phased out entirely.

Response: This rule does not make any substantive changes to OPT and STEM OPT other than in the context of admission and extensions. Requests for OPT, STEM OPT, and H-1B reform are outside of the scope of this rule. However, DHS notes that while this rule does not make any substantive changes to OPT and STEM OPT other than in the context of admission period and extensions of stay, DHS believes that strengthening the F nonimmigration classification and creating more vetting mechanisms will help DHS in identifying issues of OPT and STEM OPT fraud and abuse.

Comments: A commenter stated that the overlap between OPT processing and H-1B application cycles creates a 6–8 week window where status

uncertainties could disrupt the talent pipeline.

Response: DHS confirms that the rule does not modify or remove automatic extension of the authorized period of stay and employment authorization for F-1 students who are beneficiaries of timely filed H-1B cap-subject petitions. Eligible F-1 students will continue to be granted automatic extension of the authorized period of stay and employment authorization through April 1 of the relevant fiscal year or until the H-1B petition's validity start date, whichever is earlier.

Comments: A commenter recommended clarification on the impact of the proposed rule in specific situations, including students who receive a Form I-20 for 3 years and a Form I-94 valid for 3 years, but graduate in 1.5 years. The commenter asked if these students need to apply for extension of their I-94 end stay when they apply for post-completion OPT, since the student would still be within their Form I-94 3-year timeframe. Alternatively, the commenter asked if these students wanted to apply for a STEM OPT, would they need to apply for a Form I-94 EOS before or concurrently with the STEM OPT extension.

Response: In such cases, students will be able to continue pursuing their full course of study. If the I-20 says 3 years, their admission period on the I-94 will be 3 years plus the 30-day departure period. Before the I-94 expiration date, they will need to file for an EOS. They will also need to apply for EAD for OPT or STEM OPT simultaneously with the EOS. The EOS is only valid until the date of their employment authorization. Aliens who need additional time to complete their current course of study, including requests for post-completion OPT, STEM OPT, or academic training, or would like to start a new course of study or exchange visitor program must file for an EOS with USCIS. This EOS will be for an admission period up to the new program end date, or OPT end date, listed on the Form I-20 or DS-2019, or successor form, with the maximum period of 4-years.

4. OPT Regulatory Language

Comments: A commenter stated that the proposed regulatory text at 8 CFR 214.2(f)(5)(i) only mentions OPT. The commenter noted that this may be an oversight and requested confirmation that transfers and change of level cases would also be mentioned in the regulations should the rule be finalized.

Response: DHS agrees with the commenter and has updated the regulatory text to clarify a continuing F-

1 student may be granted additional time to complete their program of study as described in new 8 CFR 214.2(f)(7) and (f)(8)(iv), begin a new program of study, as described in new 8 CFR 214.2(f)(5)(ii)(D) and (f)(7), or following the completion of studies to engage in post-completion OPT and STEM OPT, as described in new 8 CFR 214.2(f)(5)(i)(D).

5. Leave of Absence

Comments: Some commenters worried about instances where students might need a leave of absence, including needing to leave for medical, personal, or family reasons, or for mandatory military duty in the student's home country. Commenters sought clarification on how the rule would apply to students needing to take a leave of absence and return to resume their program and some expressed concern about the student needing to complete the EOS process with a possible denial. One commenter reported that, under the prior rules, students who needed this temporary leave of absence would depart the United States but could then return under a new SEVIS record at the same degree level to resume their studies. The commenter was unclear on the applicability of the new limitation relating to completion of a degree at the same educational level on this population.

Response: An F-1 student may take a temporary absence of five months or less and return using his or her previously created SEVIS record and Form I-20, endorsed by the DSO for reentry. See 8 CFR 214.2(f)(4), which is unchanged in this rulemaking. Prior to ceasing participation in a full course of study, the student must inform his or her DSO and the DSO must terminate the student's SEVIS record for the reason of Authorized Early Withdrawal. Prior to the student seeking reentry, the DSO must submit a correction request in SEVIS to return the student's SEVIS record back to active status. The SEVIS record must be in Active status prior to the student requesting reentry into the United States. A DSO can submit a request to change an F-1 student's SEVIS record to Active up to 60 days in advance of the student's return from a temporary absence. If an F-1 student is absent from the United States for more than five months, except in cases where a student is studying abroad, the student will need to seek admission in initial status, which includes but is not limited to, obtaining a new Form I-20 and will result in a new determination of the student's authorized period of stay.

Further, this final rule provides that if the student is unable to complete his or

her program of study by the end date indicated on his or her Form I-20 due to compelling academic reasons, documented illness or medical condition and/or circumstances beyond the student's control, the student may apply for an EOS from USCIS. See new 8 CFR 214.2(f)(7). The student should carefully consider the timing of his or her extension request but in any case, USCIS must receive the request for extension prior to the program end date noted on the Form I-20.

K. J Nonimmigrants

1. General Impacts on all J-1 Programs

Comments: Commenters expressed significant concerns about the rule's impact on J-1 nonimmigrants, their dependents, and on the exchange program categories. Commenters cautioned that the rigidity of the rule could threaten institutional knowledge and research outcomes in various industries, including public health, medical treatment, and scientific advancement more broadly, as they rely on experienced, stable research personnel and staff in J-1 status. Relatedly, a commenter warned about the loss of federal return on investment, explaining that many research projects are funded by federal agencies, such as the NSF and NIH, and such projects could be interrupted by the proposed rule, directly threatening the integrity of publicly funded research and the return on taxpayer investment. Commenters stated that the rule imposes time limitations on J-1 categories and requires exchange visitors to undergo a delayed and costly extension process through USCIS, removing the flexibility currently inherent in the exchange visitor program and resulting in financial and administrative burdens to sponsors, students, host families, and schools. Similarly, another commenter further noted that the new costs and processing requirements would impose a disproportionate financial burden and hinder a sponsor's ability to manage extensions efficiently under existing DoS regulations.

Specifically, commenters warned that EOS delays or denials could render extension decisions ineffective, create legal uncertainty, interrupt students' ability to remain enrolled, disrupt research, healthcare systems, educational progression, and discourage participation in U.S. programs thereby reducing overall participation in J-1 programs. Some noted that these programs often require more than four

years to complete,²⁰⁵ meaning multiple EOS applications would be necessary. An NGO reported that USCIS already has a record backlog of more than 11 million pending cases and a processing time of up to 18 months; therefore, USCIS will not be able to successfully manage the additional filings through the elimination of the DoS process. The NGO noted this would greatly impact the exchange model by no longer being able to support J-1 students' goal of extending their stay, fulfilling their academic aspirations, or submitting a dual application with the intention to study at two different universities for a year-long exchange experience.

In addition, commenters voiced concerns relating to SEVIS and its administrative challenges. Specifically, a commenter stated that the proposed rule would create confusion in the system upon which sponsors and government officials rely for tracking J-1 program details. The commenter stated that currently, each exchange visitor has a single end date tracked through SEVIS, but with the proposed changes, the J-1 nonimmigrants would have a DS-2019 end date, and a Form I-94 end date, which might be different. The commenter also noted that this may cause a dependent family member to have a Form I-94 record with yet another end date, making it more challenging for J programs to track the status of these nonimmigrants, which could potentially lead to inadvertent lapses in compliance. Similarly, another commenter warned that an EOS application would not provide a meaningful additional checkpoint and might even weaken the existing provisions in SEVIS by giving program participants unneeded and unmonitored time after program completion.

Response: DHS appreciates these concerns about all the changes that will have to be made to comply with this final rule. DHS recognizes this rule may result in adjustments by stakeholders, administrative costs, and time, but the enhanced national security and program integrity outweigh these burdens. SEVIS is being updated to handle these

²⁰⁵ Some commenters stated that the National Center for Education Statistics reports that the median time for completing a bachelor's degree is 4.3 years, and the National Science Foundation reports a median of 5.7 years for completing a Ph.D. Others added that the National Center for Education Statistics calculates the median time to complete a Ph.D. program as 7.3 years. Commenters referenced National Center for Education Statistics, *Fast facts: Time to degree*, U.S. Dep't of Educ., <https://nces.ed.gov/fastfacts/display.asp?id=569>; National Science Foundation, National Center for Science and Engineering Statistics, *Doctorate recipients from U.S. universities: 2023 (Survey of Earned Doctorates)* (2024), <https://nces.nsf.gov/surveys/earned-doctorates/2023#data>.

changes. For example, the I-94 date will now be visible in SEVIS so that DSOs and ROs will be able to flag the need for an EOS and inform the participants. However, dependents will be expected to track their own need for an EOS if, for some reason, the dates on the principal's I-94 does not match that of the dependents. The I-94s will always include the 30-day departure period afforded F and J nonimmigrants; therefore, there should be no new unmonitored time that hasn't existed previously. If the principals finish their programs early, SEVIS will be updated to reflect that change and the family will have 30 days to depart after the completion of the program.

The D/S framework generally lacks predetermined points in time for USCIS or CBP immigration officers to directly evaluate whether F, J, and I nonimmigrants are maintaining their status and poses a challenge to DHS's ability to effectively monitor and oversee these categories of nonimmigrants. DHS believes that 4-year maximum admission periods will provide more frequent direct check-in points for nonimmigrants and align the educational structure of the programs for their intended purposes. In sum, DHS believes these measures are necessary to protect the integrity of these nonimmigrant programs due to heightened concerns related to fraud, abuse, and national security.

In addition, DHS does not believe that the rule will cause educational or employment disruptions for exchange visitors, schools, sponsors, or any other stakeholders because the rule allows J-1 nonimmigrants to continue employment and training activities, consistent with the exchange program, while a properly filed extension request is pending, for up to 240 days beyond a J-1 nonimmigrant's expiration of the authorized period of admission. DHS notes that the 240-day rule is the same requirement for most other nonimmigrants, including members of many other professions (e.g., H-1B, L-1, O-1, etc.). DHS also notes that USCIS generally recommends that nonimmigrants apply for EOS within the six months²⁰⁶ preceding the expiration of their current stay and the 240 only starts tolling after the expiration of their current stay.

DHS acknowledges that a J-1 nonimmigrant will not be able to continue employment if the EOS application is still pending after 240 days. However, the J-1 nonimmigrant

will be able to remain in the United States in a period of authorized stay while the EOS request remains pending. While this could result in administrative costs and time to adjust for changes, DHS believes the enhanced national security and program integrity outweigh these burdens. Furthermore, as discussed previously, J-1 nonimmigrants may be able to seek expedited adjudication through USCIS in certain instances.²⁰⁷ Given these options, DHS disagrees that a fixed period of admission and the requirement to file an EOS application is unduly burdensome such that this rule will discourage J-1 exchange visitors from participating in these programs.

2. Duplicative Processes and Regulatory Authority Conflicts

Comments: Multiple commenters expressed concern that the proposed rule would create a duplicative process for J-1 exchange visitors seeking extensions, writing that DoS already has effective processes in place for J-1 extensions. The commenters stated that DoS currently has sole authority when it comes to approving program extensions for all J-1 program categories and the proposed rule, if finalized, would complicate this authority by requiring participants to file a separate EOS application with USCIS. A commenter requested clarification about how the DoS will coordinate with DHS to minimize contradictory timelines between visa issuance, I-20/DS-2019 validity, and EOS approval.

Commenters stated that the existing D/S framework for J-1 nonimmigrants includes strict limitations, making this rule unnecessary. On that same note, commenters emphasized that J-1 exchange visitors are carefully monitored, with DSOs and ROs regularly reporting information including address changes, academic progress, and current employment details to DHS and to DoS. A commenter also noted that J-1 programs currently have defined maximum program lengths, category change restrictions, and additional safeguards such as the 2-year home residency requirement and repeat participation bars that effectively discourage extended stays. A DSO noted that DoS regulations are sufficient to accomplish DHS's goals, as the J-1 program contains 14 different categories of which many already have regulatory time limits in place under 22 CFR 62.20(i)(3), rendering this rule duplicative and unnecessary.

Response: DHS disagrees with the commenter that this rule creates duplicative processes that are not necessary. Notably, the DoS regulations for J-1 nonimmigrants to extend their programs are distinct from the requirements for USCIS to adjudicate their EOS. The program period refers to the official duration of the academic or training program in which the nonimmigrant is enrolled (e.g., the start and end dates of a degree or course); the period of stay is the length of time the nonimmigrant is authorized to remain in the United States, which may include time before, during, and after the program period, as permitted by their visa status.

While an RO's recommendation and DoS approval of program extension may be one factor in favor of an EOS, an immigration officer also reviews factors relating to an alien's immigration status, including any criminal records and grounds of removability that may be triggered based on criminal background checks. ROs are not immigration officers and lack the statutory and regulatory authority to grant EOS. The EOS process under this rule would give immigration officers a mechanism to make this evaluation at reasonably frequent intervals. DHS expects this change to deter and prevent fraud.

To begin the EOS process, a J-1 nonimmigrant will first have to obtain a recommendation from ROs, and approval from DoS where applicable, under the DoS regulations. DHS has specified in the rule that the EOS may be granted subject to the DoS regulations on the extension of the program, contingent upon DoS' approval of the extension of the program itself. See new 8 CFR 214.2(j)(1)(iv)(C) ("[s]ubject to the restrictions in the regulations at 22 CFR part 62, extensions of stay may be granted for a period up to the length of the program, as listed on the Form DS-2019, or successor form, not to exceed 4-years, unless the J-1 exchange visitor is otherwise restricted by regulations at 22 CFR part 62."). Specifically, DoS regulations provide that the ROs may extend a J-1 exchange visitor's participation in the Exchange Visitor Program up to the limit of the permissible period of participation authorized for the alien's specific program category. See 22 CFR 62.43. The RO then issues a duly executed Form DS-2019 reflecting the extension and provides a notification copy of the form to the DoS. See 22 CFR 62.43(a)-(b). Extensions beyond the maximum program duration are allowed in some program categories for exceptional or unusual circumstances, with approval

²⁰⁶ With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

²⁰⁷ See *Expedite Requests*, supra note 167.

from DoS. To obtain approval for such extensions, the RO must submit an electronic request that justifies the petition and provides supporting documentation to the DoS on behalf of the participant. *See* 22 CFR 62.43(c). Thereafter, under the requirements of this new rule, a J-1 nonimmigrant would need to apply for EOS with USCIS. If DoS denies the extension of the exchange visitor program, the nonimmigrant has no basis on which to file an EOS with USCIS. USCIS would deny the petition because there is no valid underlying program.

In sum, DoS and DHS processes and systems are necessarily different due to the unique responsibilities of the two departments. The processes established in this rule provide DHS with mechanisms to deter and prevent fraud, and therefore, are necessary to implement. Under the D/S framework, there are no background checks required unless the nonimmigrant applies for a change of status to a different nonimmigrant status, or another benefit with USCIS. This has created situations where nonimmigrants in D/S can be present for long periods in the United States without undergoing U.S. government review in the form of an EOS application, including accompanying background checks, or subsequent visa application or inspection at a POE, because program extensions under the D/S framework can be acquired through application to a DSO or RO. Recognizing and addressing this vulnerability is a key part of this rule's national security goals and is vital to increase the U.S. government's oversight and monitoring of these aliens.

3. Impacts to U.S. Foreign Relations and Intellectual Exchange

Comments: Commenters stated that a "one-size-fits-all" admission period limit could deter nonimmigrants from participating in cultural and educational exchange programs. Commenters stated the proposed rule would negatively affect U.S. interests and reduce exchange programs that build goodwill and mutual understanding. Commenters asserted that the proposed changes to the J-1 program conflict with the United States' objective of strengthening its economic and intellectual capital by discouraging international participation and by imposing artificial limits on scholars' stays, signaling a retreat from the nation's commitment to mutual understanding and knowledge sharing.

A commenter recommended that DHS reconsider the proposed modification to the J-1 visa provisions and maintain the recent policy changes that have

supported the program's success. The commenter explained that historically the J-1 visa has facilitated cultural and educational exchange, and that the removal of the 2-year home-country physical-presence requirement for J-1 visa holders from 34 countries, including China, India, and South Korea, represented a significant step toward strengthening international collaboration and improved the United States' ability to retain global talent. The commenter wrote that reinstating or altering this requirement could deter prospective exchange visitors, particularly those from countries recently removed from the DoS Skills List and further asserted that such changes could reduce the competitiveness of U.S. institutions in attracting top-tier international scholars and researchers.

Response: DHS appreciates these concerns. However, DHS does not intend for the rule to result in a significant decline in foreign student participation in J-1 programs nor a significant reduction in talent, technological innovation, or economic benefits associated with foreign nationals. DHS asserts that the United States will continue to attract talented foreign exchange students, scholars, researchers, and physicians because U.S. institutions offer a high-quality education. For further discussion on this issue regarding participation in J-1 programs, *see General Impacts on all J-1 Programs*, Sec. IV.K.1 above.

DHS also notes that the proposed rule changes how J-1s are admitted and how they extend their stay, but it does not affect the two-year home residency requirement. If a J-1 is subject to INA 212(e), they must still fulfill or obtain a waiver for that requirement before certain immigration benefits are available, regardless of the new admission procedures under this rule.

4. Grace Period for J-1 Nonimmigrant Classification

Comments: A couple of commenters stated that the J-1 grace periods should be maintained or extended. Furthermore, a commenter expressed that the J-1 grace period should be increased to 60 days. Another commenter expressed concern about the applicability and eligibility requirements of the 30-day grace period under the proposed rule, and requested clarification on what would happen to J-1 nonimmigrants who do not complete their academic objectives.

Response: DHS has considered the effects of the rule on J-1 nonimmigrant physicians, teachers, and other exchange visitor program categories.

DHS does not believe that this rule will discourage J-1 exchange visitors from participating in exchange programs. DHS disagrees that the 30-day grace period is an insufficient grace period for J-1 nonimmigrants and declines to increase the period to 60 days. In fact, the regulations prior to this rule provided a 30-day period for departure and this rule does not change that. *See* 8 CFR 214.2(j)(1)(ii) (2025). J-1 nonimmigrants who are unable to complete their programs on time and need additional time to complete their academic objectives may file for EOS to USCIS, which will adjudicate the EOS. In addition, DHS notes that as long as J-1 nonimmigrants submit an EOS prior to the expiration of the I-94, which includes the 30-day grace period, their extension request will be considered timely filed, and the J-1 nonimmigrants will be able to continue their J-1 authorized activities in accordance with the requirements outlined in new 8 CFR 214.2(j)(vii). Allowed activities are also discussed in section IV.K.1 above.

5. J-2 Dependents

Comments: Commenters expressed concern regarding the requirement that J-2 dependents also need to apply for an extension. A commenter stated that the proposed rule is not clear on how the admission of J-1 dependents will be impacted if this rule is finalized. The commenter requested clarification about whether dependent admissions are automatically tied to the approval of the principal's visa approval.

Response: The authorized period of initial admission for a J-2 spouse and unmarried children under the age of 21 cannot exceed the period of authorized admission of the principal J-1 exchange visitor. Likewise, EOS for J-2 dependents cannot exceed the authorized admission period of the principal J-1 exchange visitor. *See* new 8 CFR 214.2(j)(1)(ii)(B) and new 8 CFR 214.2(j)(1)(iv)(E). A J-2 dependent's EOS application may either be included on the J-1 nonimmigrant's EOS application, or the J-2 nonimmigrants must file their own EOS. On the application for EOS, the J-2 nonimmigrants must prove that they are maintaining lawful status and have not engaged in unauthorized employment. Furthermore, if the J-1 nonimmigrant's EOS request is denied, the J-2 nonimmigrants' EOS will also be denied.

6. Specific J–1 Programs

a. Medical Training, Healthcare Programs, and Healthcare Workers

Comments: Commenters stated the rule would significantly disrupt medical training and the clinical coverage that J–1 physicians provide across the United States. Commenters also pointed to the shortage of healthcare workers in the United States in various fields and raised concerns on the potential impacts of the rule to the U.S. healthcare system, including decreasing participation of physicians in the J–1 program. Many commenters emphasized that international physicians are essential to the U.S. healthcare system with one citing to statistics from a J–1 sponsor.²⁰⁸

Specifically, commenters stated that international medical graduates (IMGs) constitute approximately 25 percent of the current physician workforce and play a vital role in addressing these shortages. Commenters also noted that approximately 17,000 J–1 physicians currently provide essential patient care across more than 770 teaching hospitals in 49 states, the District of Columbia, and Puerto Rico, and that more than 4,000 J–1 physicians enter U.S. residency and fellowship programs each year. Commenters mentioned that IMGs, including practitioners and trainees, represent large numbers particularly in the specialty fields, such as nephrology, endocrinology, psychiatry, psychology, geriatrics, infectious diseases, Alzheimer's and cancer research, epidemiology, biomedical sciences, and clinical research. A commenter wrote that infectious disease physician care is especially important especially for HIV research/care, and that almost a third of infectious disease physicians come from other countries, including those on J–1 visas.

In addition, some commenters added that J–1 physicians disproportionately serve in primary care specialties experiencing the most severe shortages, including internal medicine, pediatrics, and family medicine. An individual who identified as a physician, citing the ECFMG, noted that this rule would impact over 15,000 J–1 physicians in residency programs nationwide, three out of four of whom are J–1 residents in a primary care specialty (Internal Medicine, Family Medicine or Pediatrics), with greater concentrations in hospitals and communities experiencing shortages. Similarly, a commenter expressed concern that the proposed rule, if finalized, would have

a devastating impact on the health care of children, the training of the future pediatric subspecialty physician workforce, and future scientific research in the field. Another commenter stated that the proposed rule could cause a nursing shortage as foreign students play a vital role in caring for U.S. citizens. Another commenter noted that the rule poses a threat to preparedness for future pandemics and health crises.

Additionally, commenters stated that J–1 physicians do not displace U.S. graduates but rather fill residency positions that would otherwise remain vacant. On that same note, commenters stated that foreign physicians frequently work in rural and underserved communities where healthcare access is already limited and bring valuable multilingual skills and cultural competence to care teams. In a joint submission, a program sponsor and a healthcare provider explained that in hard-to-staff regions, shortages form the basis for Health Professional Shortage Areas (HPSA) and Medically Underserved Areas (MUA) designations, and that many of these communities, particularly in rural areas, are unable to fill positions with American medical graduates. The same commenters emphasized that the current J–1 waiver program acknowledges this problem by allowing each state a limited number of waivers to address severe workforce shortages and warned that any disruption to existing training pathways would further exacerbate critical subspecialty shortages, including pediatric nephrology, neurology, endocrinology, infectious disease, and child/adolescent psychiatry. Along these lines, some commenters added that because some communities often cannot fill positions with American medical graduates, the Conrad 30 program and other J–1 waiver programs that direct physicians to underserved areas after completing their training are essential for addressing physician shortages in rural and underserved communities. A commenter also added that J–1 physicians predominantly train and serve in hospitals located in HPSA and in regions identified as medium to high-vulnerability by the CDC's Social Vulnerability Index. In sum, commenters warned that the proposed rule would make it more difficult for foreign physicians to study and provide care in rural and underserved communities, potentially worsening the projected physician shortage, resulting in reduced access to care, longer wait times, and increased costs, and undermining patient care across the United States.

The commenters opined that these issues will arise due to the various requirements of the new rule. With respect to EOS requirements, commenters expressed concern about the potential for delays in processing EOS applications, which could prevent physicians from beginning or continuing their training on time. A commenter remarked that navigating extension applications during clinical rotations would create dangerous interruptions in patient care continuity and disrupt the training pipeline. Another commenter noted that current USCIS processing times for EOS range from 6 to 19 months, far longer than the 3- to 4-month window between Match Day and residency start, which could cause disruptions during the Match cycle. The commenter added that there is not currently an option to expedite or “premium process” an EOS application, and even if there were, such an option would be cost-prohibitive for J–1 physicians who are only paid a stipend.

Commenters also noted the timeline constraints for filing EOS, stating that J–1 physicians currently must apply for continuation of sponsorship annually to ensure compliance with regulatory requirements and that IMGs are currently in accredited, monitored, and intensely regimented training programs. They cautioned that the proposed EOS requirement would incentivize program sponsors to issue DS–2019s for longer periods to reduce costs, potentially decreasing sponsor checkpoints for status maintenance—an outcome contrary to the rule's stated policy goals. Relatedly, commenters also stated that the proposed rule and the imposed timelines would destabilize graduate medical education programs across the United States. They explained that residency and fellowship training operate on precise annual cycles, with contracts issued just months in advance of the July start date. Commenters reasoned that residency and fellowship contracts are typically issued only a few months before the academic year begins on July 1, creating what they described as “an impossible timeline” for compliance. Commenters added that this would occur annually, potentially preventing thousands of J–1 physicians from continuing their training programs on time, further straining an already stressed healthcare system. Another commenter stated that even brief disruptions to J–1 status could force hospitals to stop treating patients mid program, jeopardizing continuity of care in hospitals and clinics.

Further underscoring the length of medical training, many commenters stated that the proposed four-year limit

²⁰⁸ A commenter referenced Intealth, *J–1 Visa Sponsorship, 2024; Essential to U.S. Health Care* (Feb. 7, 2025), https://www.intealth.org/pdfs/J-1_US_Infographic.pdf.

is incompatible with many medical training pathways, which routinely extend beyond this proposed timeframe; completing a fellowship in addition to a residency could take five to seven years. Specifically, commenters stated that the fixed admission periods in the proposed rule would not allow J–1 physicians to complete their standard residency programs that lead to certification in specialties that require longer training periods. Multiple commenters also stated that the proposed rule would make fellowship trainings nearly impossible for many J–1 physicians, and that preventing clinicians from pursuing lateral training weakens cross-functional literacy on care teams. Commenters raised particular concern for medical specialty and subspecialty training programs, which can last from one to 7 years depending on the specialty. Commenters noted that while most residency programs require a minimum of 3 years of training, some specialties require as many as 7 years, which would directly conflict with the proposed 4-year limit. Commenters remarked that cardiologists and other medical specialists typically train for 3 years and then a 3-year fellowship and therefore, they would be disincentivized to continue training with uncertainty for an extension. Along those lines, a commenter pointed that certain neurology training pathways, especially child neurology programs, often exceed the proposed four-year limit, and thus, the rule would inhibit completion of neurological medical training, exacerbating the current shortage of neurologists. Similarly, a commenter stated that most physicians seek subspecialty training beyond their 4 years of residency training, including most medical and surgical specialties. Another commenter wrote that the proposed four-year limitation fundamentally misaligns with the structure of medical education, which typically requires six to eight years to complete residency and fellowship training. A professional association further stated that this is particularly significant as recent survey data indicates that 93 percent of adult neurology residents and 56 percent of child neurology residents report plans to pursue fellowship training.

Lastly, several commenters noted that the proposed rule would impact J–1 physicians who have already met the maximum period of admission for J–1s but have not yet completed their training and therefore are not eligible for the H–1B lottery.

Response: DHS agrees that J–1 health professionals provide an important

service to the United States and has carefully considered the effects of the rule on J–1 nonimmigrant physicians and the U.S. healthcare system. However, DHS does not believe that this rule will discourage J–1 exchange visitors from participating in medical training in the United States or make the program cost-prohibitive.

First, DHS acknowledges the concerns regarding delays in EOS adjudications and potential disruptions while the EOS application is pending. However, DHS notes that the rule allows J–1 nonimmigrants who have timely filed for EOS (which USCIS generally recommends that applicants file within six months preceding the expiration of their current stay²⁰⁹) to continue employment and training activities, consistent with the exchange program, for up to 240 days beyond the expiration of their authorized period of admission. Secondly, as discussed previously in section IV.G.2.a. above, an applicant may request that USCIS expedite the adjudication of an application, including for an EOS, that is under USCIS jurisdiction.²¹⁰ DHS will continue to explore expanding premium processing for Form I–539 for the affected populations, including J–1 physicians. With respect to the commenter’s concern that premium processing would be cost prohibitive for J–1 physicians who pay a stipend, DHS recognizes that aliens have varied ability to pay fees associated with applications, petitions, and other requests. DHS notes that there is no requirement to request premium processing, and there is no cost to the alien associated with an expedite request. Therefore, DHS is not making a change responsive to this comment.

However, DHS and DoS have made operational changes that will avoid the need for those professions (e.g., alien physicians, professors, or research scholars) on a yearly contract from needing to apply for EOS every year. The DS–2019 will be filled out in more detail, and the free text field (question number 4) will not only list the name of the program but will now also list the full dates of the program. Question number 3 will continue to list the contract end dates. DHS (CBP and USCIS) will utilize the dates in question number 4 to determine the maximum duration of the J–1 nonimmigrant’s stay up to 4 years subject to restrictions at 22 CFR part 62. No changes to the regulatory text or form are required to

²⁰⁹ With respect to the earliest filing date for a Form I–539, there is no prohibition on filing the form before a certain date ahead of expiration.

²¹⁰ See *Expedite Requests*, *supra* note 167.

make this change. It will be accomplished through training. DHS believes this rule is necessary to improve monitoring of this population and support the integrity of the country’s immigration system. As with F nonimmigrants, setting the length of the J nonimmigrant’s specific program and requiring EOS extensions thereafter will establish a mechanism for immigration officers to vet these nonimmigrants at defined periods and determine whether the J–1 nonimmigrants are complying with the conditions of their classification. Specifically, requiring J–1 nonimmigrants to request an EOS will improve consistency of terms of admissions between nonimmigrant categories, enable stronger oversight by government officers who will review the nonimmigrant’s requests, enhance the government’s ability to effectively enforce the statutory inadmissibility grounds related to unlawful presence, and deter aliens and entities from engaging in fraud, abuse, espionage and other criminal activities within these nonimmigrant programs. While the rule may have some impact in USCIS processing times, such is the burden of robust enforcement of the law, and DHS believes that the benefits of increased contact with the relevant populations of nonimmigrants outweigh processing time considerations. In sum, these proposed changes would provide the government with additional protections and mechanisms to exercise the oversight necessary to vigorously enforce our nation’s immigration laws and protect the integrity of the immigration system.

Comments: Commenters stated that the proposed rule is unnecessary for the J–1 physician program because it is already subject to strict requirements and regulated by DoS and non-governmental entities, such as the ECFMG, ACGME, and monitored in SEVIS. Commenters added that physician trainees are unlike other J–1 categories because training occurs in structured, accredited, and already heavily monitored programs, including accreditation oversight, continuous federal tracking and reporting, ongoing national and institutional oversight, and annual compliance renewals. On that note, commenters emphasized that J–1 physicians are among the most vetted visa holders.

Specifically, commenters explained that J–1 physicians must earn the ECFMG Certification and undergo national security vetting, identity checks, and fraud-prevention screening before obtaining their J–1 visa. Some commenters added that the proposed

rule would only introduce a duplicative review of J-1 physicians, given that the J-1 sponsor, ACGME accredited programs, and DS-2019 monitoring already provide significant oversight for J-1 physicians. A commenter mentioned that DHS should recognize J-1 sponsorship by a non-governmental organization as sufficient evidence of compliance to eliminate duplicative DHS adjudication and administrative burden. Commenters also added that the rule would not improve compliance but instead increase the risk of disruptions to training and patient care in the healthcare system.

Response: DHS acknowledges the commenters' concerns. However, DHS disagrees that the current system provides sufficient oversight over the J-1 physicians and that recognizing the work of J-1 sponsors would be an effective mechanism to prevent fraud and abuse of the nation's immigration system. Generally, DHS does not have the authority to delegate its immigration responsibilities to non-government organizations, even where J-1 is concerned. Furthermore, permitting non-government organizations to conduct national security and fraud prevention undermines the Federal Government's responsibility to ensure the national security of the United States meets certain standards.

As explained earlier at length, *see General Impacts on all J-1 Programs*, sec. IV.K.1, DoS and DHS processes and systems are necessarily different due to the unique responsibilities of the two departments. The processes established in this rule provide DHS with mechanisms to deter and prevent fraud, and therefore, are necessary to implement. Recognizing and addressing the vulnerability in the D/S framework is a key part of this rule's national security goals and is vital to increase the U.S. government's oversight and monitoring of these aliens.

Comments: Commenters recommended that DHS create exceptions, preserve the D/S system, or alternatively lengthen the period of admission to be longer than 4 years for J-1 physicians without requiring repeated USCIS filings, to avoid any disruptions in their training and employment. Some commenters in particular sought exceptions for certain J-1 physicians, such as physicians completing their accredited medical training programs and medical residents and fellows in ACGME-accredited program. Specifically, with respect to lengthening the admission period, many commenters recommended that the period of admission align with the full length of their approved training,

residency, or fellowship program, as documented on the Form DS-2019, or with the DoS recognized length of U.S. medical training, such as 7 years for physicians, to avoid mid-program EOS applications and ensure uninterrupted medical education and patient care. Another commenter stated that full program length admissions should include an additional 6-month period to accommodate for medical exams, personal leave, and other aspects of graduate medical education. One recommended a longer transition period for J-1 physicians to accommodate July start dates, licensure, and credentialing. A commenter specifically suggested a 120-day departure period for health-sciences graduates to allow sufficient time for licensure scheduling and relocation to clinical positions or residencies. Another commenter recommended that DHS revise the rule for longer admission periods to allow second master's program opportunities in healthcare fields.

Several commenters suggested that DHS adopt a more targeted approach by establishing enhanced SEVIS analytics to identify overstay patterns, create streamlined renewal processes, and develop bilateral agreements with key partner countries for expedited processing. Similarly, a commenter recommended implementing enhanced SEVIS reporting requirements for medical schools and teaching hospitals, reasoning that this targeted approach would maintain oversight capabilities while protecting the integrity of medical training programs essential to American healthcare delivery.

Some commenters also recommended that DHS streamline COS and EOS adjudications for J-1 physicians, and medical physicist/other healthcare professionals, such as waiving biometric requirements and interviews for EOS filings to reduce administrative burden. One commenter also added EOS expedited adjudications for J-1 physicians pursuing a subspecialty. A commenter called for a clear, streamlined mechanism for program-based extensions that avoids unnecessary delays and ensures uninterrupted training and patient care if DHS moves forward with the rule.

Relatedly, other recommendations included changes to provisions relating to the 240-day rule in the context of pending EOS applications. Some commenters requested that DHS allow J-1 physicians to continue their employment activities beyond 240 days or the entire period that the EOS is pending. Separately, an organization requested that DHS include specific provisions for J-1 physicians to enable

them to change programs with the appropriately endorsed Form DS-2019, during the pendency of an EOS application. The organization also provided the following proposed amendment: "J-1 nonimmigrants who are employment authorized with a specific employer incident to status continue to be authorized for such employment, or any employment authorized by their designated J-1 sponsor on Form DS-2019, for up to 240 days under the existing regulatory provisions at 8 CFR 274a.12(b)(20), if their status expires while their timely filed EOS application is pending." The commenter also requested that DHS modify Form M-274, Employer Handbook, to reflect the procedures relating to automatic extensions of work authorization for J-1 physicians.

Lastly, a university program noted that if DHS proceeds with the rule, any changes to the J-1 program must include robust protections, including automatic extensions; expedited adjudication; clear safe-harbors; explicit exemption of clinical training programs from fixed-end-date requirements; sufficient notice and transition periods for training programs; and consultation with medical education stakeholders.

Response: DHS took these comments into consideration and is sensitive to commenter's concerns that with the time it takes to process extensions at USCIS, the rule might have an impact on the ability of J-1 physicians to provide healthcare in the United States. However, DHS declines to carve out an exemption for J-1 physicians. As discussed above, in *General Impacts on all J-1 Programs*, sec. IV.K.1, J-1 nonimmigrants may request that USCIS expedite the adjudication of an application, including for an EOS, that is under USCIS jurisdiction.²¹¹ With respect to allowing J-1 physicians to continue employment beyond the 240 days while a timely filed EOS is pending, DHS notes that the 240-day rule is the same requirement for most other nonimmigrants, including members of many other professions (e.g., H-1B, L-1, O-1, etc.). On that note, this rule will create consistency by aligning the requirements with other nonimmigrant classifications. And similar to those other visa categories, USCIS generally recommends that applicants apply for EOS within the six months²¹² preceding the expiration of

²¹¹ See *Expedite Requests*, *supra* note 167.

²¹² With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

their currently authorized period of stay.

The goals of the rule, described above, extend to all J-1 nonimmigrants, including J-1 physicians. DHS also noted instances of national security risks in the context of J-1 nonimmigrants.²¹³ Because these instances occur in a variety of programs and educational levels, DHS does not believe that it would be appropriate to only apply a fixed period of admission for undergraduate students and not for other students and programs. For further discussion on the purpose and need for this rule, see secs. II.B. and III.C.

Lastly, regarding SEVIS enhancement, DHS notes that SEVIS is being updated as a result of this rule. DHS will continue to work with different agency components to ensure that all information related to SEVIS records is accurate and up to date. DHS agency components are modifying interfaces to make sure that all relevant data related to the regulation is available not only to DHS components, but to DoS as well.

b. J-1 Research Scholars and Academic Programs

Comments: Commenters expressed concern about the negative impact this rule would have on professor and research scholar programs and academic training programs, including potentially disrupting collaborative research in various fields. Commenters noted that requiring exchange visitors in these programs to apply for program extensions through DHS could jeopardize grant-funded projects, as continuity of personnel is critical for meeting project timelines and deliverables. Commenters indicated that postdoctoral programs at research institutions would be especially impacted, some noting that domestic postdoctoral scientists typically favor higher-paid positions outside academia, but highly qualified international postdoctoral scientists are critical to advancing research, as many of them take positions in academic settings. Commenter noted that J-1 scholars often extend short-term research stays, and requiring USCIS approval for each renewal could delay or disrupt research advancements.

Citing data from 2023, one commenter noted that Ph.D. degrees in Biological Sciences take an average of 5.8 years to complete. Additionally, the commenter noted that nonimmigrant visa holders made up 43 percent of doctoral students in science, engineering, and health, indicating that a substantial population

would be impacted by the rule.²¹⁴ Relatedly, several UI/UX designers indicated that the rule would impact design projects, as product cycles—from initial user research, wireframing, prototyping, to usability testing and final rollout—could easily span more than four years and foreign students in multi-stage design-related STEM programs would be required to reapply for status during critical project milestones, causing interruptions.

A university stated that the rule will increase demand from universities for H-1B and other visas/status changes, as exchange visitors would not be able to complete their allowed five years without applying for an EOS. The university stated that the burden of payment of the EOS application fee and uncertainty of approval for current J-1 exchange visitors would likely be dismissed in favor of a more stable status. The university predicted that intended researchers and post-docs may bypass the J-1 visa completely and opt to apply for H-1B or another visa for entry to the United States.

Some commenters requested changes to the rule for J-1 nonimmigrants, including an exemption or a longer admission period for J-1 research scholars, short-term scholars, and professor categories, stating that these J-1 nonimmigrants participate in programs that run up to 5 years. Commenters explained that under this rule, these J-1 nonimmigrants would be required to request an EOS for the remaining year, which could lead to unforeseen troubles for the participants and require DHS to move quickly in processing these extensions. Similarly, another commenter asked that DHS specifically ensure that doctoral students are exempt from any fixed date policies, stating that the current D/S framework provides the necessary flexibility, efficiency, and stability for clinical and biomedical research training programs. Other commenters requested that DHS provide continuation of employment for J-1 researchers while timely EOS or related adjudications are pending.

On the other hand, some commenters stated that J nonimmigrants should be

admitted for only the specific program of assignment that they are involved in. The commenters noted that this period of admission should not exceed one year, ideally 6–12 months.

Response: DHS appreciates the contributions of J-1 researcher scholars and reiterates that this rule does not prevent participation in J-1 exchange programs but rather sets a fixed period of admission with the opportunity to apply to extend one's stay, if required. As discussed previously in this section on J nonimmigrants, DHS does not expect that the rule will discourage or lower J-1 participation or have a significant impact on J exchange visitor programs. Alternatives to U.S.-based exchange visitor programs may be more difficult to find in other countries, providing less of an incentive for nonimmigrants to choose an alternative. Changing to a different visa category has always been an option and will continue to be an option; however, an alien and his or her employer will need to weigh the costs and uncertainty of approval in those categories against the costs and approvability of an EOS.

Furthermore, as mentioned previously, DHS declines to adopt the suggestion that certain populations of students or exchange visitors, such as research scholars, be exempt from the fixed period of admission. As explained in the NPRM, DHS has identified troubling instances of J-1 nonimmigrants abusing the D/S framework and engaging in fraud and espionage. Therefore, DHS does not intend to exempt any visa classification from the fixed admission period framework.

c. Summer Work Travel, Intern, Trainee, and Camp Counselor Programs

Comments: Commenters expressed concerns about the impact of the proposed rule on the J-1 Summer Work Travel (SWT), camp counselor, intern, trainee, and other short term training programs, which DoS has already imposed time limitations. With respect to SWT, commenters stated that SWT is governed by 22 CFR 62.32, which limits participation to a maximum of 4 months during the student's academic summer break, with modest extensions. An NGO noted that SWT and camp counselor programs typically issue DS-2019 Forms that already cover the maximum duration for their categories; therefore, the rule will primarily impact the Au Pair, Intern, and Trainee categories. The NGO also noted that these categories already have a regulatory-mandated maximum duration, making indefinite extensions under the current D/S framework impossible. Commentators

²¹⁴ The commenter referenced National Center for Science and Engineering Statistics, *Survey of Earned Doctorates 2024* (Aug. 2025), Tbl 21, <https://nces.nsf.gov/surveys/earned-doctorates/2024#data>; see also National Center for Science and Engineering Statistics, *Graduate Enrollment and Postdoctoral Appointments in Science, Engineering, and Health Rise, Driven Largely by Increases in the Number of Women and Temporary Visa Holders* (Jan. 21, 2025), Tbl 1, <https://nces.nsf.gov/pubs/nsf25316#:~:text=Between%202022%20and%202023%2C%20the,Table%20%E2%80%8B1.>

²¹³ See 90 FR at 42079 (Aug. 28, 2025).

urged DHS to recognize the unique structure of short-term summer categories such as Camp Counselors and SWT and allow program date and sponsor adjustments.

Relatedly, commenters also highlighted concerns about the Camp Counselor program, which limits the admission period to 4 months with no extensions. See 22 CFR 62.30. One commenter noted that 32,000 international counselors participated in camps across the United States, indicating that the population impacted by the proposed rule is significant.²¹⁵ Another commenter requested that DHS clarify whether camp counselor sponsors may still issue an updated DS-2019 to accommodate “in-season adjustments” within the 4-month term, so long as the counselor’s overall program length does not exceed regulatory limits.

Other commenters expressed similar concerns about the J-1 Intern and Trainee programs which currently permit 12 months for interns and 18 months for trainees (22 CFR 62.22). Similarly, commenters expressed concerns about the impact of the proposed rule on the J-1 Secondary School Student Program (SSSP), which is regulated by 22 CFR 62.25. The commenters stated that the proposed rule, if finalized, would create financial burdens, reduce flexibility, and increase delays for EOS applications for SSSP participants. A professional association cited the J-1 SSSP as an example, noting that nearly 20,000 students participated in SSSP in 2024 under 22 CFR 62.25. The SSSP allows participants who enroll for one academic semester to extend to a full academic year through a streamlined, SEVIS-based process that does not require USCIS involvement. The professional association stated that the proposed rule would eliminate this flexibility by requiring a full USCIS extension filing, including a \$420 fee, potential biometrics, and lengthy adjudication.

Response: DHS acknowledges that these changes may result in additional costs and time for some nonimmigrants. However, DHS and DoS have made operational changes that will avoid the need for those J-1 visitors on annual agreements from needing to apply for EOS after every renewal. Sponsors will fill out the Form DS-2019 in more detail, and the free text field (field 4) will not only list the name of the

program but will now also list the expected completion date of the full length of the program. Field 3 will continue to list the program end date, which aligns with the end date of the current agreement. DHS (CBP and USCIS) will utilize the dates in Field 4 to determine the maximum duration of the J-1 nonimmigrant’s stay up to 4 years subject to restrictions at 22 CFR part 22. No changes to the regulatory text or form are required to make this change. It will be accomplished through training.

DHS recognizes in-season adjustments and other desired changes to program duration may take place for some J-1 visitors who are admitted for a short duration, such as camp counselors, interns, trainees, and students in SSSP. If these visitors would like to remain in the United States under a J-1 visa for longer than their initial AUD, they will need to file an application for an EOS. Sponsors cannot make these adjustments. As discussed in this preamble and in the NPRM, DHS believes that any burdens and costs to certain J nonimmigrant visitors is outweighed by the benefits of this rule, which creates a mechanism for DHS to increase vetting, reduce overstays, and determine whether nonimmigrants are complying with the conditions of their nonimmigrant classification. The requirements imposed by this final rule provide the U.S. government more opportunities to review a nonimmigrant’s records, admissibility, and any possible indicators of fraud, abuse, or national security concerns. Furthermore, fixed admission periods and filing an EOS application with USCIS are requirements for most other nonimmigrants who wish to enter or remain in the United States. DHS believes that the EOS requirement will allow DHS to vet nonimmigrants periodically to prevent and reduce issues of fraud, abuse, and national security threats.

d. Teacher Programs

Comments: Commenters stated the proposed rule is not aligned with academic calendars and could force teachers to stop working mid-year if their extension applications are still pending after the 240-day period. In that regard, a commenter stated that J-1 exchange teachers should remain authorized until adjudication occurs, even if this process exceeds 240 days. Furthermore, a commenter noted that the 30-day grace period is insufficient for teachers to complete end-of-semester responsibilities such as grading, classroom closure, and travel preparations.

Another commenter noted that J-1 teachers typically serve in areas where there are teacher shortages and the proposed rule would further disrupt areas that are already struggling to retain teachers. The same commenter noted that the J-1 teaching population is a small part of the overall J-1 population, but its impact is outsized.²¹⁶

A DSO stated the final rule should explicitly exempt J-1 exchange teachers from duplicative adjudications, reasoning that the DoS framework already provides layered safeguards through vetting, monitoring, incident reporting, and capped participation. Incorporating this exemption directly into the regulatory text would preserve DHS resources, prevent classroom disruption, and maintain robust security for a population already subject to intensive oversight.

Response: DHS appreciates this concern and all the changes that will have to be made to comply with this final rule. However, DHS declines to allow nonimmigrants presently in the United States to continue under the D/S framework because this would undermine the purpose of this rule: to effectively enforce compliance with the statutory inadmissibility grounds related to unlawful presence and to mitigate the risks found in the D/S framework. DHS believes these measures are necessary to protect the integrity of these nonimmigrant programs. DHS does not believe there will be significant educational disruptions for students, schools, or any other groups, as the rule will allow employment and training activities, consistent with the exchange program, to continue while a properly filed extension request (which USCIS generally recommends that applicants file within the six months²¹⁷ preceding the expiration of their stay) is pending for up to 240 days following the expiration of the applicant’s currently authorized period of stay. Moreover, as described above in *General Impacts on all J-1 Programs*, sec. IV.K.1 above, J-1 nonimmigrants may request that USCIS expedite the adjudication of an application, including for an EOS, that is under USCIS jurisdiction.²¹⁸ DHS has determined that the fixed admission periods for up to 4 years would provide more frequent direct check-in-points for nonimmigrants due to heightened concerns related to fraud, abuse, and national security threats. As noted

²¹⁶ The commenter referenced *Facts and Figures 2015–2024*, *supra* note 215.

²¹⁷ With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

²¹⁸ See *Expedite Requests*, *supra* note 167.

²¹⁵ The commenter referenced DoS, *Facts and Figures 2015–2024* (July 24, 2025), BridgeUSA, <https://j1visa.state.gov/facts-and-figures-2015-2024/>.

elsewhere in the rule, DHS believes that the rule will provide more clarity and consistency, as the fixed period and EOS requirements are consistent with how other nonimmigrant categories are admitted.

Comments: Two academic groups submitted a joint comment stating that the current J-1 visa qualifications create a gap in the system by allowing participation for au pairs and K-12 language teachers but not for early-education teachers who provide language instruction. The two academic groups noted that children who begin learning a second language between birth and seven years old demonstrate advanced cognitive skills and stated that excluding early education teachers from the program is illogical given the nationwide shortage of educators. They asserted that early-education programs across the country are closing due to inadequate staffing and suggested expanding the J-1 eligibility to include early-education teachers to help address this shortage that has become a problem that permeates throughout American society. The commenters provided publications in support of their statements.

Response: Early childhood educators are not included in the teacher regulations. Early childhood educator is a broad term that encompasses preschools, daycare centers, pre-K, Head Start and kindergartens or early elementary support roles. This does not meet the definition of “teacher” except in the one circumstance outlined in the teacher regs for immersion programs 62.24(f)(6) “. . . teach at the pre-kindergarten level only in a language immersion program offered as regular course of study by an accredited primary school.”

DHS does not have authority to expand eligibility of J-1 programs because DoS has that authority. Therefore, comments related to expanding the J-1 eligibility to include early-education teachers are outside the scope of this rule.

e. Au Pair Program

Comments: Commenters stated that the proposed rule would negatively impact J-1 au pairs and American families who rely on them for childcare. A commenter noted that roughly 70 percent of au pair participants extend their program length after the first year, most commonly for 12 additional months. An au pair agency stated the au pair program extension process should be exempt from the proposed ruling because au pairs are limited to a maximum stay of two years, never have J-2 dependents, and are monitored by

their host families and by representatives of the sponsoring agency. A commenter stated that requiring USCIS EOS applications would more than double the cost from \$367 to over \$800 due to additional filing fees, biometrics, and processing charges and, in many cases, host families would be required to pay these costs, raising the price of participation in an au pair program for working and middle-class families.

Separately, a commenter provided recommendations for the au pair program as follows: that DHS should consider the Bureau of Educational and Cultural Affairs’ (ECA’s) extension approval transmitted via SEVIS as sufficient for the EOS (no separate Form I-539 application); that if a separate Form I-539 application is required, DHS should commit to a 30-day adjudication period for au pairs to preserve continuity for U.S. families; that DHS should confirm the DoS authority to issue a DS-2019 for the maximum period of 2 years so that au pairs can receive a 2-year J-1 visa, subject to ECA’s current 1-year review process to determine program eligibility for the second year; that DHS should exempt the au pair program administered by ECA from the scope of the final rule.

Response: DHS acknowledges the additional cost to nonimmigrant au pairs because of the EOS filing process. Because the cost of an EOS request is small, relative to the overall cost of participation, DHS does not expect this rule to be cost prohibitive. The final rule will impose incremental costs on all J visas, including nonimmigrant au pairs, but will in turn protect the integrity of the J program by having immigration officers evaluate and assess the appropriate length of stay for these nonimmigrants. DHS anticipates that J-1 au pairs will continue to participate in the program and the benefits to American families utilizing the au pair program will continue in the long run.

DHS disagrees that using ECA as the oversight process for the J-1 au pair program would be an effective mechanism to prevent fraud and abuse of the nation’s immigration system. Generally, DHS does not have the authority to delegate its immigration responsibilities to other departments, even where the au pair program is concerned. As previously mentioned, DoS and DHS processes and systems are necessarily different due to the unique responsibilities of the two departments. The processes established in this rule provide DHS with mechanisms to deter and prevent fraud related to DHS’s immigration enforcement responsibilities, and therefore, is

necessary to implement. Furthermore, after reviewing the comment, DoS has informed DHS that it does not intend to permit sponsors to issue a DS-2019 beyond the existing 1-year maximum. The initial process for obtaining an extension of the 1-year maximum continues to be the same as always. The host families will need to utilize the current DoS process to obtain permission to extend the program. However, now the au pair will need to apply for an extension with USCIS or travel abroad and be readmitted for the new period by CBP after DoS approves the program extension and issues a new DS-2019. The new DS-2019 will be submitted to USCIS along with the EOS application.

L. Comments To Enhance SEVIS and Agency Communication

Comments: Several commenters expressed concern that the current SEVIS system is unprepared to implement initiatives in the proposed rule and that necessary modifications to the system may not be possible. Specifically, commenters raised concerns about the SEVIS system citing a history of outages, technical failures, and overall, the system is unreliable, inaccurate, and may be missing data from other systems. Furthermore, commenters raised concerns about the SEVIS systems ability and readiness, its need for technical updates, reliability and capacity to handle additional processing requirements, and the risk of errors. A commenter stated that significant technical updates would need to be made to SEVIS and pointed to existing problems with Computer Linked Application Information Management System (CLAIMS) failing to update information from USCIS to SEVIS as an example that would need to be improved. Commenters noted that information flows between USCIS and SEVIS regarding EOS requests, status changes, and employment authorizations often fail to transfer correctly, adversely affecting students’ and exchange visitors’ program status. Commenters also cited the need for costly redesigns, software integrations, and new protocols to ensure data accuracy.

Commenters recommended system improvements in SEVIS, such as upgrading fraud prevention measures with real-time tracking and data integration, biometric integration, targeted investigations for high-risk cases real-time, and improvements of the data flow between other government systems and SEVIS. Another commenter stated that meaningful implementation of the capability to track fixed

admission end dates, support dynamic program transitions, or capture the academic and employment metadata in SEVIS would require redesigns and new interagency protocols to ensure data accuracy and suggested it would result in greater delays, reduced accountability, and raise the risk of unintentional status violations.

Many commenters proposed improvements to the SEVIS system with regard to extensions. One commenter cited to DHS's website²¹⁹ to indicate the SEVIS system currently only allows one-year extensions at a time and stated that would need to be remedied but did not state why. One commenter suggested SEVIS functionality should be extended to connect to a school's certification of the Form I-17 and an alert be triggered when a program extension is entered for a student beyond the stated time to completion, while another commenter proposed changing the regulations so that SEVIS actions related to extensions, change-of-program, change-of-level, transfers and other functions require SEVP adjudication similar to how correction requests are currently handled in the SEVIS system. Another commenter recommended allowing additional functionality to DSOs to upload any evidence for extensions into a SEVIS location that could be adjudicated by or accessible to DHS as needed, while another commenter suggested ICE could increase the number of agents it has monitoring SEVIS or alter the system as needed to adjust for the increase in active records.

Based on the updates needed in the SEVIS system due to the rule, several commenters emphasized that the time it could take to implement such updates could result in disruption for universities and foreign students. One commenter stated that because DHS is proposing to include a provision whereby DHS may delay or suspend implementation of the proposal due to technical issues, imposing the rule nationwide is premature and unworkable as it would create confusion and arbitrary outcomes for students and schools. Another commenter remarked that training requirements for adjudicating officers, university staff, and federal workers on possible system updates to SEVIS as well as updates to the I-539 and instructions would create implementation challenges that DHS has not adequately addressed.

In addition, several commenters raised concerns with respect to how I-94 data collection could affect SEVIS data, including inputting I-94 Arrival Record data incorrectly into the SEVIS system or the absence of the data entirely. Specifically, one commenter cited to a report to Congress²²⁰ and voiced concern that travel data collected in ADIS could result in a person having multiple active and inactive records in SEVIS resulting in difficulty to determine if a person is in valid status. A commenter proposed enhancing the SEVIS system by strengthening data integrity through ensuring data like the I-94 Arrival Record is inputted into SEVIS correctly to avoid discrepancies and including a field for DSOs to report potential or suspected fraudulent activity. A couple of commenters recommended safeguards against errors, including instituting a visible I-94 expiration field in each SEVIS record that could be accessed by a designated sponsor, batch alerts for upcoming expirations, and a direct communication channel with CBP for schools and sponsors to fix I-94 entries quickly and prevent avoidable violations. A commenter recommended that SEVIS should be updated to include the Form I-94 "Admit Until Date," and USCIS and CBP procedures should be updated so status end date data can be inputted and maintained accurately. The commenter stated that CBP would likely need to increase staffing to accommodate the increased workload.

Relatedly, some commenters expressed concerns regarding data transfer between different agencies and their systems and how agencies and systems would work together to ensure a smooth transition. Commenters expressed concern over data fragmentation due to moving from automatic updates under SEVIS to manual USCIS adjudications, stating that the rule does not enhance the government's goals for security and efficiency, but instead creates bureaucracy, wastes tax-payer money, decreases efficiency, and increases the amount of visa paperwork for the government, visa sponsors, and universities. In that regard, commenters suggested improving data flow between different government systems and ensuring accuracy in SEVIS rather than requiring students to undergo lengthy extension processes. Another commenter urged increasing surveillance or adding reporting requirements in SEVIS while implementing a better system of

communication between CBP, SEVIS, and USCIS in lieu of upending the current system.

Several commenters proposed other alternative recommendations and solutions in lieu of the proposed rule. Some commenters suggested allowing SEVP-certified schools to extend admission in SEVIS for students in good academic standing; creating standards-based continuations tied to SEVIS verification to avoid mass EOS filings; automatically approving extensions certified by Principal DSOs or ROs unless flagged for review; accepting DSO certification as the primary evidence for eligibility while limiting the number of times a DSO can create a program extension before the student has to apply to USCIS for an extension; and having SEVIS issue RFEs regarding EOS applications that warrant priority review. Another commenter recommended requiring schools to upload supporting documentation when extending I-20s in SEVIS in a similar way to uploading a I-983 training plan for F-1 students in STEM OPT and utilizing the data reported in SEVIS to identify students at risk of overstay in place of eliminating D/S. Separately, a commenter proposed expedited processing for EOS so that students can get decisions quickly; approving extensions in multi-year increments; and providing a 30-day grace period after an extension denial so a student can depart in an orderly fashion. Another alternative proposal to the rule included deploying an AI system with predictive analytics capabilities and integration with security databases for comprehensive threat assessment coupled with improved stakeholder communication to include real time compliance alerts to school officials and a mobile application with real time status updates and compliance reminders for students. That same commenter proposed streamlining information management systems through the creation of unified portals for immigration status updates to eliminate duplicate reporting requirements. Lastly, another commenter recommended all educational institutions hosting students and exchange visitors utilize E-Verify because this would remove potential employment avenues for workers without authorization.

Response: DHS appreciates the commenters' proposals for SEVIS improvements, and these comments offer valuable information for any future enhancements. But DHS believes that the provisions in the rule can be implemented in SEVIS and are sufficient and adequate to provide the

²¹⁹ DHS, *Extending the F-1 Form I-20* (last updated May 19, 2025), <https://studyinthestates.dhs.gov/sevis-help-hub/student-records/manage-program-dates-registration-and-course-load/extending-the-f-1>.

²²⁰ *Entry/Exit Overstay Report Fiscal Year 2024*, supra note 123.

additional protections and mechanisms needed to exercise oversight and enhance the integrity of these nonimmigrant programs. DHS seeks to address vulnerabilities in the current program, which have resulted in fraud, abuse, and national security threats, and it is for these reasons that DHS is making these specific changes in this rule.

Notably, DHS has been working with different agency components to ensure that all information related to SEVIS records is accurate and up to date. DHS has conducted a thorough review of all government system functionalities to document the modifications necessary to ensure the system's stability and compliance with the regulations and to address the commenters' concerns. DHS has been actively engaged in identifying, updating and planning the changes needed to implement this rule, including form updates, training, and the shifting of resources to accommodate this rule. DHS agency components are modifying interfaces to make sure that all relevant data related to the regulation is available. As further system modifications for SEVIS are implemented, SEVIS users will be updated via Broadcast Messages and Release Planning Guides once the changes have occurred. If a discrepancy in SEVIS data occurs, DHS should be notified through the SEVP Response Center immediately so that the necessary steps can be taken to correct the discrepancy and ensure the accuracy of the students' SEVIS record.

DHS acknowledges that the changes and updates in SEVIS could increase departmental responsibilities and resource needs. At this time, however, DHS believes the current resource allocations for SEVIS operations and maintenance are sufficient and will continue to work with partner agencies to maintain data accuracy and reliability. Moreover, DHS will continue to ensure that all relevant data, including accurate I-94 information, is available. The changes in SEVIS will provide schools and programs with tools to identify and manage students and exchange visitors needing extensions of stay. To be clear, the rule does not transfer tracking responsibilities from SEVIS to USCIS or CBP; SEVIS remains the primary system for tracking F and J nonimmigrants. USCIS will take on a greater role in adjudicating EOS and vetting compliance, and CBP will continue to vet arriving nonimmigrants utilizing the information in SEVIS. The information CBP utilizes to inspect if the alien is admissible, is the same information that is contained in SEVIS as part of the

student's record. When CBP inspects a student who traveled outside of the United States, CBP may issue a new I-94 reflecting the completion date of the studies/program plus 30 days; or in the case of an alien who meets the requirements of 22 CFR 41.112(d) (automatic visa revalidation), CBP will update the I-94 record to reflect the completion date of studies plus 30 days. CBP is not expected to increase workload due to nonimmigrants choosing to travel, as the inspection of returning F and J nonimmigrants is part of the current CBP inspectional workload and as nonimmigrants may not want to incur travel costs associated with this option.

DHS recognizes that ROs and DSOs play an integral role in the management of nonimmigrant students and exchange visitors. For this reason, DHS has anticipated the need for school and sponsor officials to see data pertaining to nonimmigrants' period of lawful admission. SEVIS will be modified to display the AUD associated with a Form I-94 on SEVIS records. Additionally, the system will provide school and sponsor officials with tools to aid in the management of nonimmigrant periods of lawful admission, including specific alert lists of nonimmigrants with upcoming AUD expirations. *CBP.gov* has guidance for correcting the I-94.²²¹

While DSOs play a key role in managing nonimmigrant students, DHS declines to allow DSOs, ROs, and SEVP-certified schools to adjudicate extensions of stay (as opposed to extension of programs, which they will continue to do). DHS maintains that USCIS officers are best positioned to determine eligibility for status extensions, as they have the necessary training, background checks, and security clearances before being authorized to adjudicate EOS applications. Only immigration officers can adjudicate EOS applications and make legal determinations about status and admissibility.

Lastly, with respect to E-Verify, DHS considered but ultimately decided not to require all educational institutions hosting students and exchange visitors to use E-Verify in this rule. DHS believes that the provisions of this rule are sufficient to accomplish the intended goals of the rule. Furthermore, it is outside the scope of this rulemaking to incorporate the implementation of E-Verify.

Comments: A commenter expressed concern about Form I-94 data integration with SEVIS, explaining

²²¹ CBP, *I-94 Official website—Help*, <https://i94.cbp.dhs.gov/help> (last visited Feb. 19, 2026).

DSOs and AROs would need real-time visibility to accurate information since compliance would depend on Form I-94 end dates. Commenters questioned the quality of data, explaining that SEVIS is document-centric while the ADIS is person-centric, creating challenges in data gathering. They warned that if only SEVIS is consulted for compliance data, and if status changes are not properly reflected in the system, incomplete or incorrect data might be considered in decision-making.

Response: DHS clarifies that the I-94 end date derives from the SEVIS Form I-20 plus the 30-day departure period. The I-94 will transition from “D/S” to a fixed end date. SEVIS notifies CBP of any changes to the student's status. The connection between ADIS/I-94 and SEVIS supports near real-time data transmission and ensures consistency across traveler status and student program status.

Comments: Commenters stated that USCIS currently has over 11 million pending applications²²² with delays reaching up to 18 months.²²³ Regarding the new EOS requirements in the rule, one commenter stated that it would not make sense for USCIS to take on more work when it cannot handle its current caseload.²²⁴ One commenter noted that there are already extensive delays from USCIS for I-17 updates, OPT applications, and more, and the proposed rule would only increase wait times. Specifically, one commenter added that there would be an “avalanche” of new filings, and, even if there were 500,000 new filings, there could be \$200 million in extra costs annually due to staff and overhead. Another stated that the proposed rule would require approximately 2,400 additional adjudication officers to handle 1.2 million annual extension applications, and with training, infrastructure, and quality assurance, the costs would likely approach \$2.3 billion over ten years.

Response: While the rule may increase USCIS processing times, DHS believes the benefits of increased oversight outweigh these concerns.

²²² Commenters referenced Rahman, B. and Goodling, D., *US Immigration Backlog Hits All-Time High*, Newsweek (July 8, 2025), <https://www.newsweek.com/us-immigration-backlog-hits-all-time-high-2095846>; National Association of Foreign Student Advisers, *Duration of Status Explainer*, *supra* note 136.

²²³ Commenters referenced *Duration of Status Explainer*, *supra* note 136.

²²⁴ The commenter referenced Kanno-Youngs, Z. and Aleaziz, H., *ICE Set to Vastly Expand Its Reach with New Funds*, New York Times (July 12, 2025), <https://www.nytimes.com/2025/07/12/us/politics/ice-expansion-concerns.html>.

Requiring EOS applications will improve consistency across nonimmigrant categories, strengthen oversight, and enhance enforcement of immigration laws, including statutory inadmissibility grounds related to unlawful presence. USCIS will continue to monitor its resource allocations and make adjustments as appropriate.

M. Addressing Change of Status and Program Duration

1. Changing Classifications

Comments: Commenters also requested clearer guidance or explanations about the proposed processes. Commenters said that the proposed rule does not explain or address how time spent in a different nonimmigrant status, before changing to F or J nonimmigrant status, would be treated or impacted by the proposed rule. A commenter also asked how time enrolled in F-1 status would impact a nonimmigrant student's options if they spent time in F status for a portion of their academic program but then moved to a different status before completion of their program. An example was given where an undergraduate student beginning a bachelor's degree as a freshman in H-4 status then later changing to F-1 status during their junior year, and posed the questions, "are they immediately eligible to change major or transfer schools since it is not their first year of the academic program or are they subject to the restriction since it is their first year in F-1 status? How does time enrolled in F-1 or J-1 status impact a student's options if they are only in F/J status for a portion of their academic program and they are in a different status by the time they graduate?" The commenter also stated that the proposed rule does not address if or how the Form I-515A admission process would change.

Response: DHS appreciates the commenters' concerns and notes that if an individual was previously in the United States under another nonimmigrant classification (e.g., B-2 visitor, H-4 dependent) and then changes status to F or J, the individual may be admitted for up to the length of their program listed on the Form I-20 or Form DS-2019, or successor form, not to exceed a period of 4 years plus 30 days for departure. If the individual is an F-1 student at any level below the graduate degree level, unless an exception is authorized by SEVP for extenuating circumstances, the individual is eligible to change major or transfer schools only after they have completed their first academic year of a program of study in F-1 status at the

school that initially issued their Form I-20 or successor form. An F-1 student's program of study is considered to begin on the program start date listed on their Form I-20, even if the student has been continuously enrolled under another visa classification. If they change from F or J to another status before completing their program, just as under the D/S system, the universities, program sponsors, and, in the case of J-1s, DoS will need to decide whether the nonimmigrant can continue in the program based on the new status acquired. For example, if an F-1 or J-1 nonimmigrant converts to an H-1B, all F-1 or J-1 activities must cease. However, if they convert to a legal permanent resident based on marriage to a U.S. citizen, studies at a university can continue, but specific DoS sponsored programs may need to cease because of their specific cultural exchange requirements. Just as is the current practice, these cases will be decided on an individual basis given very specific and individualized facts. DHS does not anticipate a change in the issuance and processing of the Form I-515A, "Notice to Student or Exchange Visitor". Currently, CBP has the discretion to issue Form I-515A and temporarily admit a F, M, J nonimmigrant if the nonimmigrant is missing documentation to establish eligibility for admission under section 101(a)(15) of the INA. If a Form I-515A has been issued, SEVP will continue to work with CBP to verify the student or exchange visitor eligibility for full admission, which is the period necessary to complete the course of study indicated on the Form I-20, or successor form, not to exceed a period of 4 years, plus 30 days.

2. Transfer Processes, SEVIS Records, and Campus Reassignments

Comments: Commenters noted that the proposed rule did not adequately address the transfer-in and transfer-out processes that students and exchange visitors must follow when moving between institutions and request clarification on how transfers between campuses within the same institution would be handled. Commenters are particularly concerned about when campuses operate under different SEVIS school codes despite sharing the same governance structure. Specifically, commenters reported student athletes can transfer during an allotted time during the winter and spring period if in good academic standing but international students would not be able to transfer and compete like their domestic counterparts if this rule is implemented. Commenters questioned

whether student movement between campuses would constitute a disallowed "program change" and sought guidance on SEVIS code considerations, state-line moves, I-20 updates, reporting timelines, and EOS requirements.

Several questions were raised about SEVP and SEVIS records, including whether students could depart the United States and return with a new SEVIS identification to pursue a program at a lateral or lower educational level, whether students with foreign master's degrees would be barred from obtaining one in the United States, and whether the limits on lateral and reverse matriculation were lifetime limits. Commenters also expressed concern about the reference to transfer procedures for change of education level procedures, noting that the SEVIS processes for transferring records between schools and updating records with education level changes are fundamentally different.

One commenter remarked that the concept of an "educational objective" covering majors, programs, and degree levels is new to DHS and expressed concern about implementation challenges if SEVIS systems cannot accommodate these changes. Another commenter stated the need for a clear definition of "repeated changes" to facilitate appropriate advising and consistent application of the rule by DSOs, suggesting it be defined as a specific number of changes within a specific timeframe. Additionally, commenters requested clarification on existing provisions that make F-1 students ineligible to change programs or transfer schools when not pursuing a full course of study, as well as whether a single term of academic probation would render a student ineligible for an extension.

Response: DHS outlines the transfer procedures in new 8 CFR 214.2(f)(8)(ii), which largely remains consistent with existing processes and the proposal in the NPRM. Changes were made to the proposed language for clarity. DHS does not consider movements between campuses, that is, between instructional sites listed under a singular Form I-17 petition, to constitute a transfer or change in educational objective for the purposes of this rule. Transfers between campuses on the same Form I-17 will be reclassified as campus reassignments.

Within SEVIS, DHS plans to introduce functionality that will allow students to be reassigned from one campus to another within a certified Form I-17. However, this functionality will not permit reassignments between schools with separate Forms I-17. As these modifications are implemented,

SEVIS users will be updated, as needed, via Broadcast Messages and Release Planning Guides once the changes have occurred.

These provisions are intended to address concerns regarding students repeatedly enrolling in the same program of study to maintain F–1 status. DHS does not believe these provisions impose lifetime restrictions or outright prohibitions. Instead, they provide DHS officials with the discretion to determine that an F–1 student is not maintaining status or is ineligible for admission in F–1 status if the student enrolls in a program at the same or lower educational level without a valid cause.

DHS recognizes commenters' concerns about international student athletes transferring. The primary purpose of an international student athlete is to successfully complete one's academic program. Student athletes are subject to the same rules that govern all F–1 students. Flexibility does remain within the updated transfer process once an F–1 student in good standing has completed one academic year of a program of study at the school that issued their I–20. Undergraduate students seeking to transfer to another school or change their educational objectives during their first year of study still retain flexibility in having their cases reviewed by DHS, which may then authorize the change in educational objective or school transfer if an exception is warranted.

DHS disagrees with the concept that using educational objectives to address the type of school, program of study, and degree levels are new. Federal regulations, 8 CFR 214.2(f)(6), require students to make progress towards a completion of their "educational or professional" objective, which DHS has always interpreted to be the program information, including school location, major, and educational level, on the student's Form I–20.

Regarding implementation challenges in SEVIS, DHS has identified the necessary changes that will be needed to accommodate the provisions of this rule. For up to two years from the effective date of this rule, DHS may suspend the implementation of new 8 CFR 214.2(f)(5)(ii)(A) through (C), in its discretion, if it determines that implementation is infeasible for any reason.

Under new 8 CFR 214.2(f)(7)(i)(C)(2)(i), an EOS may be granted under certain situations, but delays including, but not limited to, those caused by academic probation or suspension or a student's repeated inability or unwillingness to complete

his or her course of study are not acceptable reasons for a program extension.

3. Classification of Instructional Programs (CIP) Code Updates and Graduate Program Changes

Comments: Commenters expressed significant concern about how updates to CIP codes would be handled under the proposed restrictions. They questioned whether non-substantive CIP updates would trigger a barred "program change," require an EOS filing, or jeopardize a student's legal status. One commenter described a scenario where an institutional CIP code update would require DSOs to receive permission from SEVP for all bachelor's students and require master's and Ph.D. students to depart the United States and reapply for admission with updated I–20 forms, characterizing this as unnecessarily burdensome.

Commenters suggested alternative approaches, recommending that DHS focus on specific CIP codes in sensitive knowledge areas rather than imposing blanket restrictions. They argued that graduate studies are typically highly specialized, making drastic program changes unlikely, and that measures could be implemented to review significant changes at the graduate level. Commenters warned that the proposal would unnecessarily prohibit minor shifts in focus for non-sensitive areas and noted that existing measures, such as National Security Presidential Memorandum-33, already protect sensitive knowledge from foreign government interference.

Response: DHS developed SEVIS to accommodate the designation of a program of study by identifying its corresponding CIP code on Form I–20. DSOs must select the appropriate CIP code associated with the student's major. If the curriculum aligns with more than one CIP code, the CIP code that most closely matches the program's content should be selected.

If a school updates a CIP code to a currently approved program of study on the school's Form I–17, DHS will collaborate with the university to update the records of all affected students. DHS does not consider such updates to constitute a change in educational objectives. Furthermore, DHS believes that restrictions on changes at the graduate level support the goals of National Security Presidential Memorandum-33, which aims to protect U.S. research from foreign exploitation.

4. Recommendations and Alternatives

Comments: Commenters presented various recommendations such as continue D/S "as is" to setting limits on transfers and programmatic changes or DHS does not move forward with implementing the restriction as proposed. Commenters suggested DHS find a balance between concerns about student educational progress and the legitimate need of certain F–1 students to complete additional courses of study, implement "reasonable" limits on academic changes such as one transfer within the United States, one change of major, and one change of degree level rather than strict prohibitions, and DHS to provide more flexibility for students to change educational programs if the program is listed on an institution's I–17 and advance notice is provided to SEVP for monitoring purposes.

Commenters suggested that DHS require all school transfers or changes in educational programs at the same or lower level be reviewed by SEVP or permit graduate students to change majors or concentrations with DSO approval. Commenters also suggested allowing transfers for specific reasons similar to reduced course load or economic hardship eligibility criteria, limiting the number of transfers per academic level, permitting reduced course loads and transfers for students who discover they have been placed in the wrong level, requiring minimum enrollment periods before transfer eligibility, and exempting ordinary in-program progress and same-degree level transfers from EOS requirements when DSOs certify continued full-time study.

Commenters proposed numerical limitations on lateral or reverse matriculations, such as allowing students to change majors once within a degree level, setting a lifetime limit of completing two programs at each educational level, allowing one extra lateral and reverse matriculation for each student, or implementing the proposed 2020 approach for numerical limits.

Others suggested specific exceptions for educational pathways, such as adopting clear carve-outs for recognized bona fide pathways backed by market practice or licensure, including JD to LL.M. specialization and executive or professional Master of Business Administration (MBA) programs. Finally, one commenter suggested prohibiting CPT and OPT authorization for students pursuing a second degree at the same level rather than an outright prohibition on second degrees.

Response: DHS appreciates commenters' suggestions on alternative

limits to academic changes; however, DHS believes that these restrictions ensure that foreign students studying in the United States are bona fide and pursuing legitimate academic goals. If DHS determines later on these provisions are infeasible, DHS will delay or suspend these provisions by publication of a notice on the **Federal Register** and an announcement on SEVP's website at <https://www.studyinthestates.dhs.gov> (or successor uniform resource locator).

DHS appreciates various recommendations provided by commenters regarding proposed restrictions on school transfers and changes in educational objectives for F-1 students. The intent of these restrictions is to address concerns related to fraud, abuse, and national security risks, including "pay-to-stay" schemes and misrepresentation of academic intent. These measures are designed to ensure that F-1 students maintain genuine academic progress and do not use repeated transfers or program changes to unduly extend their stay in the United States.

DHS recognizes the importance of supporting legitimate educational pathways and acknowledges the need for flexibility in certain circumstances, such as recognized bona fide educational tracks, graduate program specializations, and market-driven licensure requirements. DHS will provide updated guidance to clarify the application of these restrictions, particularly for graduate programs and specialized educational pathways.

Regarding the proposal to prohibit CPT and OPT authorization for students pursuing a second degree at the same educational level, DHS does not believe this approach will help mitigate potential abuse this rule seeks to prevent. F-1 students are already permitted 12 months of OPT at each educational level.

Comments: Commenters called for DHS to look at alternatives previously recommended by the GAO. A commenter noted that GAO had never called for ending D/S to manage the risk of fraud.²²⁵ Commenters noted a GAO report²²⁶ which found redundancies between USCIS adjudications and SEVIS and recommended enhanced training for DSOs. One commenter also looked to GAO reports²²⁷ in conjunction with the NAFSA

conference in May 2025²²⁸ to recommend training for DSOs and ARO; formalizing training between DHS and DoS; sending out email blasts or biannual webinars; and revitalizing the SEVIS II project.²²⁹ Another commenter called for targeted enforcement for sensitive fields due to a 2022 report from GAO which called for tweaks to SEVIS due to tech risks.

Response: DHS acknowledges that GAO has not recommended ending D/S as a means to manage fraud risk and has provided other alternatives, as discussed by commenters. DHS always takes GAO's recommendations to heart and has, over the years, considered their recommendations and implemented many of their suggestions whether directly in the SEVIS system or through policy. However, in addition to all of those changes, DHS has also chosen to address concerns about fraud, abuse, and national security for F, J, and I nonimmigrants with this final rule for the reasons articulated herein.

Comments: Commenters called for DHS to strengthen SEVIS enforcement and compliance audits at schools. One commenter called for D/S to stay in place for Ph.D. and long-duration programs, but for DHS to apply fixed terms to short-term programs or high-risk categories. On the other hand, another commenter proposed enhanced vetting for students beginning a Ph.D. in a sensitive field, who are funded by the federal government, or who are applying for post-graduation work authorization. The commenter proffered that this would "ensur[e] a thorough review that prevents technological theft, without harming the educational process." Another called for an automatic screening process once a DSO submits an extension or program transfer request in SEVIS, and for administrative agencies to review if there is a suspicious or irregular request, such as frequent extensions or uncommon program transfers.

Commenters also called for the government to use its resources on alternatives focused on alleviating risk factors. One commenter called for "a risk-based, data-driven approach—using SEVIS analytics to flag outlier patterns (e.g., abnormal same-level program hopping, excessive language-training tenure, late terminations, unusually low completion rates)—[which] would

direct site visits, out-of-cycle reviews, and sanctions to the small minority of institutions that generate most compliance concerns. Graduated remedies, such as mandatory corrective action plans, temporary limits on issuing new I-20/DS-2019s, DSO/RO retraining, and, where warranted, withdrawal of certification, would fix the problem at its source." Another commenter called for "implementing algorithmic risk assessment tools that flag unusual pattern deviations, mandatory biennial compliance certifications for institutions, and streamlined digital extension processes for legitimate program extensions." A commenter recommended establishing a "risk-stratified monitoring system" that would enhance certainty for students at institutions with strong compliance record, implement blockchain-based continuous verification systems like the e-Residency program in Estonia, and create streamlined pathways that automatically update based on a program's accreditation and an individual's academic progress.

Other commenters suggested automatic extensions for high performer students who meet GPA and progress benchmarks. One commenter also looked to an alternative that would focus specifically on fields of study where students in non-sensitive fields would keep the same D/S framework, while critical STEM research fields would have mandated, "enhanced" check-ins with their university DSOs.

One commenter called for a solution where admission would align with "school-approved I-20 or DS-2019 extension[s] so that people are not forced into travel or separate DHS filings solely because a project timeline shifted." The commenter further advocated for guaranteed processing times, "[r]outine timing adjustments for bona fide cases [which] should carry low or no fees and receive deference to prior approvals when the underlying eligibility has not changed," and standardizing grace periods and travel flexibility to avoid travel during exam windows, field seasons, or newsroom deadlines.

Several commenters opined on the creation of certain pathways or programs for students or schools. Commenters supported creating a streamlined lawful permanent resident pathway for graduates in fields where there is a critical shortage, including in STEM. Another called for expedited processing tracks for STEM fields and critical areas identified by the Department of Labor. One commenter called for "trusted institution"

²²⁵ The commenter referenced GAO-19-297, *supra* note 73 and GAO 23-106114, *supra* note 83.

²²⁶ Commenters referenced GAO-19-297, *supra* note 73.

²²⁷ Commenters referenced GAO-19-297, *supra* note 73; GAO 23-106114, *supra* note 83.

²²⁸ The commenter referenced sessions offered at this NAFSA conference. No written source was cited.

²²⁹ The commenter referenced ICE, *IT Program Assessment ICE- Student & Exchange Visitor Information System II (SEVIS II) Program* (2010), <https://www.dhs.gov/xlibrary/assets/mgmt/itpa-ice-sevisii2010.pdf>.

pathways for universities who have a history of excellent compliance.

For research specifically, one commenter called for the government to create formal partnerships with major research funding agencies, and the formation of a “Research Excellence Track” for students which would have advanced vetting protocols for sensitive fields. For STEM research, one commenter advocated for a new program that would allow D/S for STEM fields that exceeded four years, “create digital-first extension processes to reduce administrative burden, and develop outcome-based metrics focusing on program completion rather than arbitrary time limits.” Commenters also called for reciprocal agreements with partner countries so that researchers could travel across borders to enhance the position of the United States in academia.

Some commenters also proposed solutions for more targeted issues. One commenter called for a solution that would focus specifically on countries that had high overstay rates. Another commenter called for a limit to the number of program extensions, such as one or two times, before a student would be required to apply to USCIS. A commenter advocated for a regional approach where there would be “enhanced data sharing between SEVIS, state workforce agencies, and regional economic development organizations.” A commenter also looked to financial issues and promoted a plan where credits from recent work authorization fees would be applied to EOS requests, fees would be reduced due to hardship and would be tied to graduate assistant stipends, and EOS and work authorization fees would be combined so that individuals are not charged twice for related benefits.

Response: DHS thanks the commenters for all of the suggestions and possible solutions to the national security and fraud issues raised in the NPRM. Though none of them could replace a federal immigration officer periodically reviewing whether a nonimmigrant is maintaining status, DHS has taken note of these suggestions for possible enhancements in the future. The existing D/S framework allows F and J nonimmigrants to remain in the United States for as long as they maintain their status, without a fixed end date. DHS found this system vulnerable to abuse, difficult to monitor, and challenging for enforcement, as it does not require regular review of status or timely updates to records. While SEVIS and school officials (DSOs/ROs) play a key role in monitoring compliance, DHS determined that

relying exclusively on these mechanisms does not provide adequate federal oversight or control. There are limitations in data accuracy, reporting timeliness, and the ability to detect long-term overstays or status violations.

Proposals to allow longer initial stays or more flexible extensions were considered but rejected because they would not sufficiently address concerns about program integrity, national security, and the ability to prevent overstays. DHS considered increasing enforcement of existing rules without changing the underlying structure. However, this approach was deemed insufficient due to resource constraints and the inherent limitations of the D/S model, which lacks clear triggers for enforcement action. DHS concluded that clear, finite periods of authorized stay are necessary for effective management.

DHS determined that alternatives such as maintaining D/S, relying solely on SEVIS/school oversight, allowing more flexibility, or increasing enforcement without rule change are insufficient because they do not adequately address concerns about compliance, national security, and program integrity. The rule aims to establish clear, enforceable limits to improve oversight and reduce abuse.

N. I Nonimmigrants

1. Support

Comments: A commenter endorsed the proposed changes regarding I nonimmigrants, stating that clearer definitions and stricter documentation requirements would ensure that I nonimmigrants are engaged in legitimate journalistic activities. I visa reform is necessary to prevent misuse of the visa category according to this commenter.

Response: DHS agrees that the finalized changes to the I nonimmigrant classification are necessary to prevent misuse and ensure that I nonimmigrants are engaged in legitimate journalistic activities.

2. Purpose and Need

Comments: Commenters stated that the NPRM did not cite any evidence that I-nonimmigrants pose a risk to national security and assert that the government did not provide other reasons or interests to support this change for I-nonimmigrants. Another commenter stated the only reason DHS gives for asserting that the term is appropriate is that it mirrors the automatic extension provided to I visa-holders whose current visa would otherwise expire because they intend to change mediums or employers. The commenter adds that it

is illogical to think that the 240-day time intended for the government to determine whether an applicant is eligible for a visa is also enough time for the applicant to complete the activities the visa is intended to support. Citing 85 FR 27646, the commenter adds that the proposal is also inconsistent with the Department’s previous view that visa terms of less than a year, coupled with the specter of non-renewal, can amount to “hostile measures targeting a free press” because of their disruptive effect on journalists’ work.

Response: With respect to I nonimmigrant visas, DHS recognizes the lack of public data cited in the proposed rule regarding fraud and overstays specific to I nonimmigrants. DHS notes that internal exit data show that the vast majority of I nonimmigrants stay for less than 240 days.²³⁰ Therefore, for the I visa, this is an appropriate maximum timeframe. However, DHS disagrees with the general premise of these comments. The vulnerabilities generally associated with the D/S admission are not unique to F and J nonimmigrant classifications, and the lack of public data for the I nonimmigrant classification does not mean that the vulnerabilities are absent for that classification. As explained in the preamble of the NPRM and in this final rule, one of the goals of this proposed rule is to strengthen vetting and information collection and help immigration officers ensure that the I nonimmigrants are, and will be, engaged in activities that are permissible under INA 101(a)(15)(I), and do not pose national security issues (in addition to the F and J nonimmigrant classifications). As previously mentioned, DHS believes that admitting aliens temporarily in the United States for a fixed period will encourage aliens to maintain lawful status and prevent or reduce instances in which nonimmigrants unlawfully remain in the United States after their activities or assignments end. Through the EOS process, this rule takes both a proactive approach to prevent violations as well as a reactive approach to detect any ongoing violations.

3. Concerns and Practical Challenges of the 240-Day Limit

Comments: Several commenters strongly opposed the proposed 240-day admission period for I visa holders. A commenter thought the 240 days was arbitrary compared to the new length of

²³⁰ DHS data shows that 94.6 percent of I’s with confirmed exit data stay less than 240 days. Based on DHS’s analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

stay for students, which was based on the duration of a course of study. Other commenters stated that the proposed timeframe is inadequate for foreign journalists to effectively perform their duties. Commenters emphasized that foreign correspondents typically receive assignments in the United States lasting 3-to-5 years, and that the 3-to-4-year time frame allows I nonimmigrants to develop expertise, build source relationships, and gain cultural understanding necessary for quality reporting. Commenters reported a 240-day timeframe, therefore, is inadequate for covering long-term journalistic projects and events, including presidential election cycles, congressional sessions, extended sports seasons, investigative reporting, and ongoing coverage of evolving current events. Commenters noted that the proposed time period would create uncertainty, disrupt international travel, increase the risk of coverage interruption, and impair journalists' ability to develop deep knowledge and trusted networks. Commenters stated the proposed period of admission is not enough time for the applicant to complete the activities the visa is intended to support.

Other commenters noted that fixed admission periods introduce uncertainty that will discourage participation in the United States. Commenters also stated there is a lack of evidence demonstrating a security risk, overstays, or misuse of the I visa under the D/S framework and, instead, there is strong oversight of I visa holders, with visas being linked to a named journalist and their employer. It was stated this oversight is stronger than when the I visa was first introduced.

Commenters stated that the proposed rule would create substantial administrative burdens for foreign journalists and their employers. The commenters described concerns about the frequency of extension requests, repetitive documentation requirements, and risks associated with serial filings. One commenter estimated that more frequent I visa renewals would increase operational and travel costs by approximately 700 percent over a 5-year period, creating what they characterized as an unreasonable financial burden.²³¹ Additionally, another commenter noted that it is currently taking USCIS Service Center Operations more than 6.5 months to adjudicate 80 percent of EOS requests.²³² A commenter stated if an

employer is not ready to immediately file an EOS, the lengthy processing times at USCIS could still result in a gap in work authorization, even with the automatic extension.

Similarly, commenters highlighted numerous practical difficulties that the 240-day period would create for foreign journalists and their families. The commenters described that the 240-day period was too short to secure standard 12-month housing leases, arrange health insurance, develop professional resources, and obtain press credentials at institutions like the U.S. Capitol, and that it would create complications for obtaining and maintaining driver's licenses tied to visa status, disruptions to children's education, obstacles for accompanying spouses seeking employment, and overall instability to family members and dependents. One commenter noted that the proposed changes, if finalized, would limit the ability of international news organizations to recruit highly qualified journalists for assignment to the United States as many experienced journalists may be unable or unwilling to accept such a major change for a short period of time with no guarantee of extension. One commenter noted that, according to the Pew Research Center (2024), over 63 percent of Americans say foreign news coverage is important for democracy.²³³ Another commenter expressed concern that the rule would weaken the ability of foreign correspondence to work in the United States, causing harm to the operations of international broadcasters and limiting international audience's from accessing independent reporting about the United States.

Commenters also expressed concern that requiring frequent visa renewals would increase reliance on foreign intelligence, which they described as potentially politically motivated or inaccurate, leading to wrongful visa denials. They said the proposal to require thousands of experienced international journalists to submit and receive approval for visas is unrealistic, noting that the existing visa process already suffers from faulty foreign intelligence and incorrect automated flags that significantly delay applications.

A commenter proposed a two-year period of admission for I nonimmigrants, either universally or by reciprocity, noting the existence of a reciprocity-based two-year admission framework for treaty investors (E-2).

Response: DHS welcomes foreign journalists and is confident that the

changes made by this rule balance journalistic needs with DHS's need for regularly determined points for verifying that a journalist maintains his or her status. As noted in the proposed rule, admitting I nonimmigrants for D/S affords them different treatment from most other nonimmigrants who are admitted for a specified period of time. As explained in the NPRM, DHS is adopting an established timeframe to which I nonimmigrants are already accustomed if they switch employers while on assignment in the United States.²³⁴ While the commenters assert that the 240-day time frame is challenging and insufficient for many foreign correspondents to complete their assignments, DHS notes that internal exit data show that the vast majority of I nonimmigrants stay for less than 240 days.²³⁵ Of those few I nonimmigrants who seek to complete longer assignments, they may apply for extensions as needed, to remain beyond 240 days (90 days for those presenting passports from the PRC, except for Hong Kong SAR or Macau SAR passport holders). For those who are assigned to a foreign news bureau's U.S. office for extended periods, other visas, such as the L-1 visa for managers and specialists, may be appropriate so long as the eligibility requirements for that category are met for that particular alien.

Once an I nonimmigrant has timely filed an EOS, he or she may continue to work for the same employer for up to 240 days under 8 CFR 274a.12(b)(20) while the EOS is pending and is not required to leave the United States while the EOS is pending. As such, nonimmigrants will have their initial admission period, which is up to 90 or 240 days, and another 90 or 240 days if they timely file an EOS with USCIS and maintain lawful status (with the 90 days being applied to those presenting passports from the PRC, except for Hong Kong SAR or Macau SAR passport holders). *See* new 8 CFR 214.2(i)(5)(iii) and 8 CFR 274a.12(b)(20). DHS also notes, however, that should the journalist choose to travel outside the United States, he or she may be admitted by CBP, if admissible, for a period of time necessary to complete the planned activities or assignments consistent with the I classification, up to a 240-day period (or 90-day period for those presenting passports from the PRC, other than a Hong Kong SAR

²³⁴ *See* 90 FR at 42086 (Aug. 28, 2025).

²³⁵ DHS data shows that 94.6 percent of I's with confirmed exit data stay less than 240 days. Based on DHS's analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

²³¹ The commenter did not provide a source.

²³² The commenter referenced USCIS, *Case Processing Times*, <https://egov.uscis.gov/processing-times/>.

²³³ The commenter did not elaborate on their citation to the Pew Research Center.

passport or Macau SAR passport) in that manner. DHS does not expect that the maximum 90- or 240-day admission period will deter or discourage foreign correspondents from coming to work in the United States. If an EOS application remains pending at the end of this 90- or 240-day period, the I nonimmigrant alien, whose status has expired, may remain in the United States, but not work, so long as the EOS application is pending, he or she has timely filed a subsequent EOS request to remain beyond the period requested in the preceding request, and he or she does not otherwise violate the terms of his or her authorized period of stay. *See* new 8 CFR 214.2(i)(5)(i)(C) and new 8 CFR 214.2(i)(5)(iii)(B). The I nonimmigrant alien, however, must cease working until their initial EOS application is approved. *See* new 8 CFR 214.2(i)(5)(i)(C). USCIS will deny the EOS application if the alien did not cease working after the 240-day period and before the EOS request was approved. *See* new 8 CFR 214.2(i)(5)(i)(C).

DHS recognizes this rule could increase the need for I nonimmigrants to file EOS requests and may increase USCIS processing times. But, as outlined in other sections herein, such as Secs. III.C.4 and IV.G.1.c.(1), DHS believes the benefits of increased DHS contact with these nonimmigrants outweigh these burdens and processing time considerations. USCIS is fee funded and can make adjustments as appropriate. DHS also notes allowing an I nonimmigrant to continue working while both his or her initial and second EOS applications are still pending may be problematic, especially if the initial I extension request is denied, because that would mean that someone who was ineligible as an I nonimmigrant was able to continue working beyond the period when his or her initial EOS request is pending because of the adjudication timeframes and the nonimmigrant's ability to continue filing EOS requests.

4. International Impacts and Reciprocity

Comments: Commenters stated that the shortening of the visa term and the conditioning of extensions on DHS review of “the content that the foreign information media representative is covering in the United States” raises concerns about lack of justification and the creation of instability within the international journalistic community. Commenters also stated that the proposed rule could undermine whether accurate information about the United States is both delivered to international audiences through foreign journalists and communicated in audiences' own

language. Commenters stated that the proposed rule could create an information vacuum that could be filled with narratives from rival nations and adversaries. A commenter stated that the proposed rule could skew reporting by limiting stories reported by foreign journalists to large cities, such as New York City or Los Angeles, and thus ignore reporting on the realities of rural and small towns in America.

Another commenter stated that journalists play important roles during major events such as elections, the Olympic games, or national emergencies. One commenter specifically noted that the proposed regulation could undermine transparency during the U.S. congressional elections in 2026 and presidential election in 2028. According to the commenter, if foreign correspondents cannot reliably maintain their assignments, election transparency suffers. The commenter said this risk is especially acute when independent verification from international outlets is needed to counter misinformation.

Commenters mentioned that international investors, policymakers, and business leaders rely on accurate foreign press coverage of U.S. markets and government policy. Commenters stated that foreign media coverage builds confidence and supports investment flows to the United States, contributes to the country's global identity, and extends the reach of American companies and interests. They explained that by spending years, not months, on the ground, journalists gain the deep knowledge, trusted networks, and contextual immersion needed to explain America to global audiences. Another commenter explained that foreign journalists can give Americans insights into other countries. Commenters remarked that the United States has long benefited from hosting robust foreign media coverage, which enhances transparency, reinforces American values, and encourages foreign investment and tourism.

Commenters also note that foreign correspondents contribute to mutual understanding and exchange and that foreign correspondents and their families contribute economically to the United States by paying rent, purchasing goods, traveling domestically, and enrolling children in extracurricular activities. Commenters also remarked that foreign bureaus create jobs for U.S. citizens and permanent residents, including editors, producers, researchers, translators, and technical staff.

A commenter noted that many overseas desks in the United States are responsible for covering the whole hemisphere including Canada, Latin America, and the Caribbean. Another commenter noted that the proposed rule would prevent journalists from staying in the United States for a substantial period of time, hampering their ability to develop or deploy journalists with specific expertise to the U.S. Commenters stated that the United States has always stood for openness, freedom of expression, and a strong, independent press. They expressed concern that restricting international media access would risk undermining that legacy because it emulates countries where press freedom is near extinct. A commenter wrote that reducing press freedom could harm the U.S. economy because of the correlation between press freedom and systemic security of a country's banks. Another wrote that it could harm investigative journalism and cultural coverage of the United States. Commenters expressed concern that curtailing foreign media would risk replacing coverage with narratives from rival nations and offshore sources. Another commenter wrote that authoritarian systems use visas to silence criticism and dissent.

A large U.S. media outlet and several other commenters raised concerns that the proposed rule is likely to prompt foreign governments to reciprocate with their own visa restrictions. The commenters stated that the United States admits foreign journalists on “a basis of reciprocity” (*see* 8 U.S.C. 1101(a)(15)(I)), and that should other nations respond by shortening visa periods, American journalists would find themselves under closer scrutiny by foreign agencies as they face repeated visa renewals. According to these commenters, they also become more susceptible to arbitrary visa denials or denials driven by a foreign government's unhappiness with critical coverage, and other nations cannot be expected to disregard what the United States is doing and quietly accept the inconveniences being visited upon their own journalists working here. Commenters cited specific examples²³⁶ where restrictive U.S. visa policies had previously triggered retaliatory measures by authoritarian governments, including visa denials and expulsions of

²³⁶ *See, e.g.,* Grevy Gotfredsen, S., *Entry Denied*, Colum. J. Rev. (Apr. 10, 2025), https://www.cjr.org/the_media_today/entry-denied-us-border-customs-device-unlock-search-journalists-detain.php (noting 55 instances of journalists stopped at the border since 2017, including instances where reporters were questioned by border authorities over their work).

U.S. journalists in countries like China and Russia. They warned that imposing burdensome visa procedures on foreign journalists would likely provoke similar responses, potentially endangering the safety and work of American media professionals overseas.

Other commenters also referenced the language in 8 U.S.C. 1101(a)(15)(I) and remarked that DHS previously resolved to shorten the stays available to Chinese journalists because of China's use of short visa terms to suppress independent journalism in the PRC. Commenters urged DHS to focus on the operational realities and mutual benefits of a robust foreign media presence, rather than relying on visa reciprocity as the primary justification for admission periods. These commenters also stated that if a reciprocity-based framework is considered, it should be applied in a manner that does not disadvantage media organizations. A commenter stated that the proposed rule undermines the principle of journalistic reciprocity, whereby countries rely on foreign reports to cover global affairs. One commenter addressed the 90-day admission limit for Chinese nationals, arguing it raises equal protection questions under the Fifth Amendment's Due Process clause, noting that courts have previously reversed nationality-based policies due to the policies lacking sufficient justification.

Commenters expressed that changes to the I nonimmigrant provisions would have a potential chilling effect on U.S. and foreign media correspondents or organizations, or the flow or quality of information disseminated.

Response: DHS does not expect that the rule will deter or discourage foreign correspondents from coming to work in the United States and does not anticipate that foreign media organizations or governments will react to the rule with reciprocal, retaliatory actions against U.S. news correspondents or interests. Furthermore, DHS does not have data, and cannot draw on any relevant historical precedence, to quantify or monetize the rule's potential chilling effect on U.S. and foreign media correspondents or organizations or the flow or quality of information disseminated. Accordingly, DHS has not modified the discussion of impacts on I nonimmigrants in this final rule. As mentioned throughout the rule, I nonimmigrants will be able to apply for EOS should their work last longer than the initial admission period. In addition, this rule does not raise an equal protection issue for I nonimmigrants as requiring a fixed period of time of stay in the United

States is not only applicable to all I nonimmigrants, but also to the vast majority of other nonimmigrants who are in the United States. The rule also does not target Chinese nationals as DHS is not changing the 90-day admission limitation for certain Chinese nationals but merely removing the Secretary's flexibility to change this limitation through **Federal Register** notice. See Sec. IV.P.2.e of this rule below for further discussion.

5. Challenges for Freelance and Self-Employed Journalists

Comments: A commenter highlighted challenges for freelance and self-employed journalists, including bloggers, remarking that the proposed rule lacked clarity on how such individuals could establish the home office requirement while simultaneously demonstrating affiliation with a foreign media organization operating abroad. A commenter stated that additional fees and compliance costs for extensions of status (\$555 per application including biometrics) will push smaller outlets and freelance reporters out of the market. This disadvantages independent media and leaves coverage dominated by the largest corporate outlets—shrinking the diversity of viewpoints available.

Commenters stated that requiring a journalist to be a representative of a foreign media organization will disproportionately harm independent journalists from repressive countries like Iran, Venezuela, and Russia, who are unlikely to have a formal relationship with a media organization in their home country and more likely to face repression if expelled from the United States.

Response: DHS does not believe that the rule will have an impact on freelance and self-employed journalists, including bloggers because I visa applicants have always had to demonstrate that the foreign media organization that the alien represents has a home office in a foreign country and that the home office will continue to operate in the foreign country while the alien is in the United States. This is not a new concept based on this rule. Even prior to this rule, for purpose of the I visa application, the DoS Foreign Affairs Manual (FAM) has provided that self-employed information media representatives must have a home office in another country and that freelance information media workers must have a contract with an organization that has a home office abroad.²³⁷

²³⁷ See 9 FAM 402.11–11, *Self-employed and Freelance Media Representatives*, <https://fam.state.gov/FAM/09FAM/09FAM040211.html> (last updated Sept. 22, 2021).

The FAM clarifies that if the home office abroad will cease to function or greatly limit its operations after the applicant is in the United States, the applicant would not qualify for the I visa, as the applicant would not be able to demonstrate the required ties to an organization that has a home office abroad.²³⁸ While there may be procedural administrative differences between agencies, this DHS rule does not deviate from how DoS interprets and applies the I visa classification requirements for self-employed and freelance media representatives, including bloggers, as outlined in the FAM.²³⁹ As explained in the preamble, this rule has adopted USCIS and DoS' historical interpretation of a foreign media organization. The rule clarifies the long-standing practice that the alien be a representative of a media organization with a home office in a foreign country by codifying what is considered a foreign media organization when seeking qualification as an I nonimmigrant.²⁴⁰ For additional information on DHS response to general deterrence, burden, and cost issues please see the complete Final Regulatory Impact Analysis available in the docket for this rulemaking.

6. Requests for Alternative I Nonimmigrant Admission and Extension Periods

Comments: To combat concerns and challenges noted in this rule for I nonimmigrants, commenters suggested several alternative admission and extension periods for DHS to consider. Commenters requested that DHS maintain the current D/S framework for I visa holders or, at minimum, provide a fixed admission period of multiple years. One commenter suggested, as an alternative, that I nonimmigrants be vetted more thoroughly before arriving in the United States, with their visa being revoked if later found to be posing a legitimate threat to national security. A commenter recommended that short-term event-based journalists could be distinguished from bureau correspondents, thereby allowing

fam.state.gov/FAM/09FAM/09FAM040211.html (last updated Sept. 22, 2021).

²³⁸ See 9 FAM 402.11–6, *Home Office Abroad Required*, <https://fam.state.gov/FAM/09FAM/09FAM040211.html> (last updated Sept. 22, 2021).

²³⁹ See 9 FAM 402.11–10, *New Media—Blogging and Other Electronic Media Platforms* (last updated Sept. 22, 2021) and 9 FAM 402.11–11, *supra* note 237.

²⁴⁰ See generally USCIS Policy Manual, Vol. 2, Part K, Chap. 2, *Eligibility*, <https://www.uscis.gov/policy-manual/volume-2-part-k-chapter-2> (last visited Feb. 4, 2026); see also 22 CFR 41.52; 9 FAM 402.11–3(a)(1), <https://fam.state.gov/FAM/09FAM/09FAM040211.html> (last updated Sept. 22, 2021).

different admission periods. Two other commenters stated there should be 2-year admission periods for bureau correspondents. Multiple commenters requested that DHS adopt a 2-year initial admission period for I visa nonimmigrants and their dependents. These commenters also requested that opportunities for extensions of stay be available in 2-year increments, and that DHS provide clarification on the granting of multiple extensions without an overall maximum length, subject to continued eligibility and compliance with I-classification requirements.

Another set of commenters specifically requested a 4-year fixed admission period with the possibility to extend for up to 1 year, for I nonimmigrants and their dependents. Furthermore, one commenter suggested that DHS offer two distinct admission durations for I visas: 240 days for short-term assignments, with extensions available; and 4 years for correspondents and long-term missions, with extensions available. Other commenters requested that DHS, in coordination with the DoS, authorize I nonimmigrant admission with a validity period of up to 5 years where permitted by reciprocity schedules, consistent with INA 101(a)(15)(I) and existing reciprocity practices for other nonimmigrant categories. A commenter stated that this would reduce consular backlogs while maintaining regular DHS checks and oversight.

A commenter recommended that I-visa admissions should be limited to 6-to-12-month periods, with no opportunities for automatic renewal. The commenter also stated that any extensions should require justification and full vetting of the individual. Another commenter recommended DHS implement expedited journalist-specific extensions with decisions issued within 30 days. The same commenter also suggested capping fees for media representatives to ensure access regardless of the media outlet size. Additionally, the commenter sought measures to protect journalists from retaliatory denials with transparent criteria for the extension decisions.

Response: DHS acknowledges commenters' concerns about the rule's potential impact on I nonimmigrants but does not expect that the rule will adversely impact I visa holders or applicants, nor domestic and foreign media organizations, in the manner suggested by commenters. This rule is being issued, among other reasons, to align the treatment of affected I nonimmigrants with the vast majority of nonimmigrant classifications, who are admitted for a fixed time period. DHS

declines to adopt the commenter limitation noted above, as well as the expansion suggestions to increase the length of I admission or a cap on fees. Adopting the limitation and expansion suggestions would be rigid, not based on available data, and could potentially allow more than the period of time necessary to complete the planned activities or assignments consistent with the I classification, not to exceed 240 days, except for those aliens as described in paragraph (i)(3)(ii) whose admission may not exceed 90 days.²⁴¹ As explained elsewhere in this rule, DHS will not adopt the alternative admission or extension durations for I nonimmigrants as the vast majority of I visa holders stay for less than 240 days.²⁴² Those who need to stay for several years may consider other visa categories that may better align with their job requirements if they meet that category's eligibility requirements and their jobs also include management of the foreign media organization's U.S. bureau or if they are specializing on one type of news story such as the U.S. election cycle. DHS is reviewing the possibility for adding EOS to premium processing, but for now, nonimmigrants can request expedited review as discussed elsewhere in this rule.

7. Suggestions From Foreign Media Organizations and International Stakeholders

Comments: A commenter provided several suggestions for DHS pertaining to the rule and I nonimmigrants, including (1) giving full consideration to public comments by Japanese foreign media organizations and the Japan National Tourism Organization (JNTO), (2) considering recommendations to ensure a stable and predictable residence in the United States for Japanese media representatives, (3) granting dependent family members I visa classification on the same terms and conditions as the principal applicant, and (4) establishing channels of communication with DoS to follow up on these considerations.

Response: As an initial matter, DHS has carefully reviewed and considered all public comments received for this rule, whether from individuals or entities, including the recommendations from the Embassy of Japan and other organizations listed within the comment. DHS has communicated with DoS on this rulemaking and will continue to communicate with them, as

needed or deemed appropriate, to ensure effective implementation of the rule. While DHS appreciates different approaches and recommendations for the I nonimmigrant classification, DHS believes that the 240-day period is not only sufficient to cover most assignments²⁴³ but is also an appropriate interval for the U.S. government to ensure that the alien remains eligible as an I nonimmigrant for the reasons explained above and throughout this preamble. Given the countless number of foreign media organizations from all over the world, DHS is unable to accommodate the requests of specific entities seeking longer admission periods for specific nationals from certain foreign media organizations. DHS also notes that dependents of the principal I nonimmigrant classification will, if admissible, receive the same admission period as the principal; this has always been the case. Extensions of stay for I dependents will not exceed the authorized admission period of the principal I representative of foreign information media.

O. CBP Operational and Training Burdens

1. Concerns About Increased Responsibilities and System Complexity

Comments: Commenters raised concerns about the increased responsibilities placed on CBP, including the need for system upgrades and officer training, and the potential for operational inefficiencies under the proposed rule. Many commenters stated that the rule could cause confusion for CBP officers as it provided no clear explanation about how CBP and/or the alien would decide applicable scenarios. Other commenters stated the rule does not sufficiently address training needs for CBP officers, which they said could potentially overwhelm ports and divert attention from genuine security threats.

A commenter remarked that the proposed rule would materially alter CBP's role by requiring officers to assign fixed expiration dates based on a review of the student's program information, institutional accreditation, OPT or STEM OPT end dates, and, in some cases, country-specific factors. A commenter noted technical issues, inaccuracies, and delays with Form I-94 systems, stating that more decision-making and varying admissions end dates for F and J nonimmigrants would increase the impact of technical issues and delays if schools, program sponsors,

²⁴¹ See new 8 CFR 214.2(i)(3)(i) and (ii).

²⁴² DHS's analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

²⁴³ DHS data, *supra* note 174.

and nonimmigrants themselves are unclear about their admissions end date. Commenters stated that adding this complexity to CBP decisions would lengthen inspection times, introduce inconsistencies and errors, and likely increase the number of nonimmigrants who must visit CBP Deferred Inspection offices. One commenter with 20 years of experience as an ARO and DSO stated that the proposed rule could exacerbate inconsistencies as more individualized decision-making is required for each nonimmigrant. A different commenter stated that CBP is not trained or prepared to assume these adjudicatory responsibilities and that erroneous decisions could have severe consequences for foreign students' ability to study or pursue a career in the United States.

Similarly, another commenter said that DHS has not adequately assessed the negative impacts of the proposed rule on CBP. They recommended that DHS consider less burdensome alternatives and transparently address the costs CBP would incur to implement and uphold the proposed regulatory changes. Specifically, a commenter noted that the proposal does not address the impact on EOS adjudication procedures at ports of entry.

Response: DHS appreciates commenters' concerns about training of CBP officers. DHS is committed to conducting all necessary trainings across its components in order to implement this rule. DHS is also updating computer processing systems to address the elimination of D/S. CBP has prepared training to give officers the information necessary to implement the changes for the fixed period of admission for F and J nonimmigrants. This will complement the existing training on the processing of these individuals.

Presently, CBP provides training for all Officers and Agents on non-immigrant classes of admission and on various visa categories at their respective basic training academy. CBP Officers who are involved with inspecting applicants for admission at a POE receive additional and continual training on the various classes of admission based on the different visa categories and to correctly enter the class of admission into the primary processing system.

The rule states that F and J nonimmigrants will be admitted until the completion date provided by the DSO/ARO in SEVIS, not to exceed four years, plus a departure period of 30 days. The rule further states that I nonimmigrants may be admitted for up to 240 days (except for an I

nonimmigrant submitting a passport from the PRC, except Hong Kong SAR and Macau SAR, who can be admitted for up to 90 days) or until the activities or assignments consistent with the I classification are completed, whichever are shorter. Other nonimmigrant classes of admission have variable expiration dates, such as H-1B and L-1, where there is a petition expiration date which on subsequent admission is less than the maximum period of admission. CBP officers are well versed in assigning fixed periods of admissions and doing so in the F, J, and I categories should pose no problems.

2. Clarification on Extension Process and CBP Discretion

Comments: A commenter stated that the explanation of the extension process as it pertains to international travel is vague, noting a lack of clarity regarding whether students and exchange visitors could extend their status by traveling internationally and then re-entering the United States. A commenter requested additional guidance on whether F and J nonimmigrants would be permitted to extend their status expiration date through international travel after the transition period. While another commenter stated the rule does not clarify if travel and re-entry would be an alternative to filing an EOS, so this ambiguity creates uncertainty for students, institutions, and adjudicating officers.

Commenters also expressed concern about granting discretion to CBP to determine admission periods while an EOS is pending, reasoning that this could create room for inter-agency miscommunication that might negatively impact nonimmigrants' status upon reentry. Commenters stated that such inter-agency gaps could result in premature admission expirations or erroneous abandonment or cancellation of EOS applications, potentially creating additional financial burdens and status concerns for nonimmigrants.

Response: POE extensions with CBP and EOS applications with USCIS are both available to aliens, and it will be the choice of each alien to decide if it is more convenient to travel abroad or to apply for EOS through USCIS. DHS believes both the NPRM and the final rule have explained these two options thoroughly, but to reiterate, both are distinct methods of obtaining a new AUD and new I-94. It is ultimately the alien's choice as to which method to choose.

If an EOS application is filed with USCIS, the F, J, or I nonimmigrant must timely file and demonstrate their eligibility for the EOS. USCIS will

determine if it will extend the student's or visitor's stay based on the evidence available at the time of adjudication of a timely filed EOS application. The eligibility requirements are designed to help ensure that those applying for EOS are bona fide students, exchange visitors, or media representatives as required by statute, which include maintaining the proper amount of coursework, not working for other employers while not authorized to work by either DoS or USCIS, and not committing any crimes while in the United States. A denial of EOS will require the alien to leave the country immediately. If approved, USCIS will issue the student a paper Form I-94. That paper I-94 becomes the student's new legal document showing their extension.

If an F, J, or I nonimmigrant chooses to travel abroad, then CBP will make this decision after the nonimmigrant applies for admission with CBP at a POE, and the I-94 will be available electronically. Elsewhere in this rule DHS discusses the implications of traveling abroad while an EOS is pending with USCIS. Please see the discussion in the EOS section in IV.G.5 above. The rule is intended to provide flexibility while ensuring oversight and compliance with immigration laws.

Regardless of whether the nonimmigrant seeks an extension via an EOS with USCIS or at a POE with CBP, the nonimmigrant is entitled to an adjudication or determination of their request and both USCIS and CBP will have the same discretion and will look at the same factors for determining eligibility. They will also both use the program end date that is listed on the paperwork presented to the immigration officer to determine the AUD. And, because CBP and USCIS systems, along with DoS and SEVIS, are coordinated, there should be no miscommunication between government agencies.

3. Automatic Extension of Visa Validity at POE for Contiguous Travel: Concerns About Changing "Shall" to "May" and Automatic Revalidation

Comments: Multiple commenters stated opposition to changing the language from "shall" to "may" in the visa revalidation provisions, remarking that this change would introduce uncertainty, undermine reliance interests of students and schools, and undermine a long-standing benefit for nonimmigrants returning from brief contiguous travel. Commenters expressed concerns about various provisions related to automatic extension of visa validity at POEs for contiguous travel. A commenter

specifically expressed opposition to the requirements proposed in the NPRM for F and J nonimmigrants seeking admission, including after travel abroad, and to the NPRM's proposal to update the cross-reference and clarify the standards for admission in the automatic extension visa validity provisions that cover F and J nonimmigrants applying at a POE after an absence not exceeding 30 days solely in a contiguous territory or adjacent islands.

Commenters stated that clarification regarding automatic revalidation of visas would be helpful for advising students and scholars who might need to travel when the final rule is published. Another commenter noted that the automatic revalidation of visas interplay should be clarified so as to not harm pending EOS applications.

Commenters stated that DHS should maintain the predictability of the "30-day rule" for short-term travel to contiguous territories and adjacent islands and that DHS did not provide adequate justification for removing this benefit. Commenters stated that F and J nonimmigrants have historically been able to travel to neighboring countries for periods under 30 days without renewing their visa stamps, whether for personal reasons during approved breaks or for academic or professional reasons. A commenter stated that CBP should be re-evaluating a new admission window at each entry, thereby allowing a valid alternative that allows maintenance of status by existing DoS and CBP verification procedures, rather than costly and lengthy USCIS petitions. Another commenter stated that a better approach is to maintain the "shall" standard, while clarifying that discretion applies only when a status violation or inadmissibility ground is found.

Response: DHS appreciates the concerns but maintains that the change from "shall" to "may" is appropriate. This change in the admission language relating to extension of visa validity removes ambiguity, clarifying that CBP always maintains discretion to determine whether to admit an alien and for the period of admission. See new 8 CFR 214.1(b). CBP officers must always assess admissibility and compliance with status on a case-by-case basis and cannot be required to admit or readmit an individual who is inadmissible or otherwise ineligible for the requested classification.

DHS recognizes commenters' concerns that moving from "shall" to "may" could be perceived as reducing predictability or undermining reliance interests. However, even under prior

language, admission and readmission have always been subject to inspection and admissibility determinations under the INA. CBP has always retained the discretion to deny admission where a ground of inadmissibility or other ineligibility applies. The revised language more accurately reflects this longstanding legal framework and does not, by itself, change the substantive eligibility criteria for automatic revalidation. Likewise, this rule does not require F or J nonimmigrants to file an EOS solely because they undertook a brief trip that would otherwise qualify for automatic revalidation under DoS regulations, nor does it alter the basic structure of relying on DoS and CBP verification procedures at the POE.

DHS appreciates the suggestions to maintain a mandatory "shall" standard and to limit CBP discretion only to cases involving status violations or grounds of inadmissibility. DHS declines to adopt these recommendations because they are inconsistent with the statutory requirement that each applicant for admission be subject to inspection and found admissible, and because DHS must preserve the ability of CBP officers to address fraud, abuse, or national security concerns at the time of entry or reentry. DHS also declines to create a separate, DHS-only revalidation regime that would supplant DoS existing framework.

DHS recognizes that F and J nonimmigrants, as well as schools and program sponsors, have long relied on DoS's automatic revalidation framework for short-term travel to contiguous territories and adjacent islands, including trips of 30 days or less, and that predictability in this area is important for planning personal, academic, and professional travel. This rule does not change the underlying DoS regulation governing automatic revalidation, and DHS is not eliminating the ability of F, J, and M nonimmigrants to seek readmission after brief contiguous territory travel consistent with 22 CFR 41.112(d), nor is DHS creating new numerical or calendar day limits beyond those already reflected in existing DoS and CBP practice. Instead of having to get a new visa, CBP may admit the nonimmigrant, whose visa validity is automatically extended by operation of DoS regulations. See 22 CFR 41.112(d). DHS does not believe it is necessary to require a nonimmigrant to obtain a new visa under these circumstances.

Several commenters asked how automatic revalidation would interact with pending EOS applications and expressed concern that short-term travel could inadvertently harm a pending

EOS. As discussed elsewhere in this preamble, under new 8 CFR 214.1(c)(8), if an F or J nonimmigrant timely files an EOS request and departs the United States while that EOS is pending, USCIS will not consider the EOS request abandoned if, upon return, the previously authorized period of admission has not expired and the individual seeks admission for the balance of the previously authorized period. If the individual instead departs and seeks admission with an updated Form I-20 or DS-2019 reflecting a program end date beyond the previously authorized period of admission, the EOS request may be deemed abandoned. Importantly, USCIS will not consider corresponding employment authorization applications abandoned solely due to such travel. These provisions apply regardless of whether the individual seeks readmission with the benefit of DoS's automatic revalidation rules or with a new visa and are intended to mitigate the risk that brief necessary travel, including to contiguous territories, will unfairly disrupt an appropriately filed EOS.

Finally, DHS agrees that clear guidance regarding the interplay of automatic revalidation, fixed admission periods, and pending EOS applications is important for students, exchange visitors, and schools. DHS will continue to evaluate the need for additional public guidance or updates to existing resources to help DSO's and RO's advise F and J nonimmigrants who may need to travel while maintaining status or while an EOS is pending.

P. Legal Authority, Background, and Purpose

1. Legal Authority

a. Proposed Rule Exceeds Statutory Authority and Congressional Intent

Comments: Many commenters expressed concerns about DHS's statutory and legal authority to implement the proposed rule, stating that the proposed rule does not align with congressional intent and the intent of the INA. DHS does not have a clear Congressional mandate or authority to implement the rule changes, DHS has exceeded its delegated authority, the proposed rule is arbitrary and capricious, and legally unsound. One commenter expanded on that stating that the policy is a violation of personal freedoms. Several commenters stated that DHS is not authorized to arbitrarily redefine terms or determine an arbitrary length of admission, and this proposed rule is an overreach. A commenter stated that the proposed rule cited statutory authority that confers the

power to administer and enforce upon the U.S. Attorney General rather than DHS, as such, neither DHS nor ICE have authority to change the program, citing 8 U.S.C. 1103(a)(1) (2024), 8 U.S.C. 1372(a)(1) (2024), and 8 U.S.C. 1372(a)(1) (2024). Another commenter remarked that the discretion given to immigration officers by the proposed rule violates the checks and balances established by *Marbury v. Madison*, 5 U.S. 137 (1803). A commenter, while expressing opposition to the proposed restrictions on changes in educational objectives, remarked that blanket bans are arbitrary and have been struck down in court, such as in *Judulang v. Holder*, 565 U.S. 42 (2011). A commenter stated that the proposed rule is vulnerable to judicial reversal, citing *Batalla Vidal v. Wolf*, 501 F.Supp.3d 117 (2020), as an example of a court striking down similar immigration regulations. Similarly, a commenter stated that courts have repeatedly struck down agency rules that attempt to override statutory design without Congressional authorization, citing *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000), and argued that this rule risks being struck down as well.

Response: DHS addresses the comments regarding the Secretary's legal authority in the legal authority discussion of the proposed rule.²⁴⁴ The legal basis for this final rule is grounded in the Secretary of Homeland Security's broad authority to administer and enforce the nation's immigration laws. Section 102 of the Homeland Security Act of 2002 (HSA) (Pub. L. 107–296, 116 Stat. 2135), 6 U.S.C. 112, and section 103(a)(1) and (3) of the INA, 8 U.S.C. 1103(a)(1), (3), charge the Secretary with the administration and enforcement of the immigration and naturalization laws of the United States. Notably, HSA transferred certain authorities and responsibilities from the Attorney General to the Secretary of Homeland Security, as the Act established DHS and reassigned functions related to immigration and other areas to the Secretary of Homeland Security. Section 214(a) of the INA, 8 U.S.C. 1184(a), gives the Secretary the authority to prescribe, by regulation, the time and conditions of admission of any alien as a nonimmigrant, including F, J, and I nonimmigrant aliens. *See also* 6 U.S.C. 271(a)(3), (b) (describing certain USCIS functions and authorities, including USCIS' authority to establish national immigration services policies and priorities and adjudicate benefits applications) and 6 U.S.C. 252(a)(4) (describing ICE's authority to collect

information relating to foreign students and exchange program participants and to use such information to carry out its enforcement functions). Further, Section 402(4) of the HSA, 6 U.S.C. 202(4), expressly authorizes the Secretary, consistent with 6 U.S.C. 236 (the DoS's statutory authority concerning visa issuance and refusal), to establish and administer rules governing the granting of visas or other forms of permission to enter the United States to individuals who are not U.S. citizens or lawful permanent residents.

DHS rejects the characterization of this rule as government overreach and a violation of personal freedoms. DHS has authority to change the time and conditions related to nonimmigrants, provided that it adequately explains the basis for these changes and follows the appropriate processes as it has done in the proposed rule. *See FCC v. Fox Television Stations, Inc.*, 556 U.S. 502 (2009). DHS is within its powers to promulgate this rule and the legal authorities for this change. DHS disagrees with the commenters that assert that the rule does not align with the intent of the INA and that the administrative burdens are counter to the intent of the INA to provide an academic exchange. DHS disagrees with the commenter that the rule disrupts the checks and balances of *Marbury v. Madison* because nothing in the rule prevents a noncitizen from seeking judicial review of an immigration officer's final action. Furthermore, *Judulang v. Holder* and *Batalla Vidal v. Wolf* are distinguishable and inapplicable here. As further discussed below, DHS also disagrees that this rule is arbitrary and capricious or legally unsound.

b. Rationale for D/S Framework and Congressional Intent

Comments: Several commenters discussed the rationale behind the adoption of the D/S framework and that it was introduced to save resources, reduce administrative burdens, allow for schools to monitor students effectively, accommodate the variable timelines of academic and research programs, and increase efficiency whereas DHS has failed to demonstrate why the proposed rule is necessary, reasonable, or constituent with statutory objectives. Several commenters noted that SEVIS was specifically established through the IIRIRA and expanded under the USA PATRIOT Act following the September 11, 2001, attacks to provide statutory tools for real-time information, continuous reporting, and continuous monitoring about foreign students and scholars, which is an existing tool for

oversight and monitoring. Another commenter reported SEVIS already allows DHS to prevent and identify fraud and abuse of F and J nonimmigrants through its collection and delivery of information to DHS. The commenter further stated DHS could request information and documents not submitted in SEVIS from institutions, who are required to retain information during the student's enrollment and for three years after. Several commenters noted that the creation of SEVP and SEVIS by Congress did not indicate any intention to replace the D/S program and that SEVIS already allows the ongoing tracking of nonimmigrant students. A commenter said the proposed rule represents “a gross and purposeful misrepresentation of the intent behind student visas.

Another commenter stated that biometric collection and interview requirements exceed regulatory authority without specific Congressional authorization, particularly given significant liberty interests and discriminatory potential. The commenter stated the rule transforms cooperative educational relationships into enforcement mechanisms, abandoning successful academic immigration governance.

Response: DHS disagrees with commenters who assert that Congress, in creating SEVP and SEVIS, did not specifically mention a disapproval of the D/S framework and therefore, it should not be eliminated. As noted in the proposed rule, in response to the events of September 11, 2001, the Patriot Act mandated a full implementation and expansion of foreign student monitoring.²⁴⁵ Additionally, a Homeland Security Presidential Directive titled, Combating Terrorism Through Immigration Policies, directed that a program be developed to track the status of foreign students and also mandated that the government develop guidelines that may include limited duration of student status.²⁴⁶ Further, the 9/11 Commission, created through an act of Congress, also expressed concern in the need to track foreign students and implement more controls on student visas.²⁴⁷ Based on these mandates and statutory authorities, including 8 U.S.C. 1372, SEVP formed SEVIS to address national security needs. The regulatory changes in this rule further address and take into consideration previous mandates as

²⁴⁵ *See Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)*, Public Law 107–56, Section 416.

²⁴⁶ *See HSPD–2*, *supra* note 17.

²⁴⁷ *The 9/11 Commission report*, *supra* note 18.

²⁴⁴ *See* 90 FR at 42074 (Aug. 28, 2025).

well as laws passed by Congress to equip our nation with better means to detect and combat fraud, abuse, and noncompliance associated with nonimmigrant students. DHS acknowledges that the agency possesses statutory tools to ensure continuous reporting for foreign students and concluded that this final rule is necessary to provide additional tools to ensure the integrity of nonimmigrant student programs, including fraud detection and national security protections.

DHS also disagrees with the commenter who asserts that the proposed rule was “a gross and purposeful misrepresentation of the intent behind student visas.” The rule does not change the intent behind student visas. The main purpose of the rule is to effectively enforce compliance with the statutory inadmissibility grounds related to unlawful presence and to mitigate the risks found in the D/S framework. The change to a fixed period of stay does not impact a nonimmigrant student’s ability to pursue and complete an education in the United States.

DHS recognizes the importance of safeguarding individual liberty interests and is committed to upholding privacy and civil rights protections. The authority to collect biometrics and conduct interviews is grounded in existing statutory and regulatory provisions, including those enacted by Congress to ensure the integrity of the U.S. immigration system.²⁴⁸ These measures are intended to enhance identity verification, prevent fraud, and protect national security, while maintaining procedural fairness. DHS is committed to minimizing any adverse consequences and will continue to work with educational institutions to support their vital role in international education.

c. Statutory Basis, Academic Program Regulation, and Congressional Intent

Comments: Commenters argued that the proposed rule introduces constraints lacking statutory basis and contradicts decades of regulatory practice, stating INA Section 101(a)(15)(F) defines F–1 students as bona fide nonimmigrants pursuing a full course of study, and it does not restrict students from pursuing multiple degrees at the same level. A commenter stated that when the Immigration and Naturalization Service adopted D/S in 1979, it was introduced

to save resources and allow for schools to monitor students effectively. One commenter noted that congress has not imposed fixed admission terms instead authorizing admissions “for the purpose” of pursuing a course of study, cultural exchange or media activity and that since Congress spoke in broad terms, agencies should not narrow access through restrictive rulemaking without clear statutory intent (*see INS v. Cardoza-Fonseca*, 480 U.S. 421 (1987), emphasizing that deference is limited where Congress has expressed intent). Several commenters noted that while INA section 214(a) provides DHS the broad discretion to determine stays, extensions of admissions, along with the “time and conditions of admission,” it does not support removing the longstanding D/S framework without clear congressional directive.²⁴⁹ One commenter expanded on that suggesting that the proposed rule imposes duplicative requirements on already well-regulated groups and instead, focusing on higher-risk categories would be consistent with statutory intent. Commenters reasoned that Congress did not authorize DHS to regulate the specifics of academic programs pursued by F–1 students, concluding that decisions regarding changes in degree programs should remain within the academic discretion of students and their schools. Several commenters stated the congressional intent in creating the F–1, J–1, and I visa categories was to promote academic, educational, journalistic, and cultural exchange and the proposed rule undermines that intent.

Response: As for the commenters who asserted that this final rule introduces a constraint that lacks a statutory basis, Section 101(a)(15)(F) of the INA, 8 U.S.C. 1101(a)(15)(F) does not explicitly authorize students to pursue multiple degrees at the same level under the same admission period. Students can change their educational objectives after their first year of study if they pursue a degree below the graduate level. DHS balanced the interests of the students against preventing fraud and abuse and has determined this approach provides flexibility for students while still upholding the goals of the rule change in preventing fraud and abuse. DHS has seen situations where students exploit the F–1 visa system to stay in the United States for the longest duration possible. DHS has identified students who change their major numerous times without demonstrating a legitimate academic need. Some of these students will

concurrently participate in unauthorized paid labor. DHS believes this type of fraud and abuse will be curtailed with restrictions on changes in degrees. For F nonimmigrants wishing to remain beyond their authorized period of admission, they will need to apply for an EOS or to depart and reenter the United States through other lawful means.

DHS disagrees with the comment that this rule is regulating the specifics of the academic programs pursued by F–1 students. DHS in this rule is clarifying the time requirements and conditions for admission to ensure aliens’ purpose in seeking admission as nonimmigrants remains consistent, while eliminating fraud, abuse, and noncompliance with the statutory requirements. This includes maintaining status in accordance with the original basis on which their admission to the United States was authorized. This rule does not direct schools in how they offer courses of study, operate their classrooms, or academic programs.

DHS agrees with the comment that the November 22, 1978, final rule²⁵⁰ that amended the regulations to admit F–1 students for a D/S, was designed to permit more efficient use of resources.²⁵¹ However, DHS also notes that the legacy INS subsequently amended admission periods for F–1 students which at times included elimination of the D/S framework. Specifically, on January 23, 1981, D/S was eliminated for all nonimmigrant students.²⁵² As noted in the final rule, the implementation of the D/S framework served to ease administrative workload for the legacy INS and educational institutions but resulted “in questionable control over foreign students and has contributed to problems in record keeping.”²⁵³ With the proposed rule, DHS is revisiting again and amending the regulations regarding the D/S framework to address and deter fraud, exploitation, and abuse in connection with the D/S framework.

DHS disagrees with the commenters who assert that DHS already has the statutory tools to ensure compliance and that Congress, in creating SEVP and SEVIS, did not specifically mention a disapproval of the D/S framework and therefore, it should not be eliminated. DHS notes that any EOS application will be adjudicated by USCIS and USCIS will continue to monitor its resource allocations and make adjustments as appropriate.

²⁴⁸ See HSA (Pub. L. 107–296, 116 Stat. 2135); 6 U.S.C. 112; 6 U.S.C. 202; INA sec. 103, 8 U.S.C. 1103; INA sec. 235, 8 U.S.C. 1225; 8 CFR 103.2(b)(9); 8 CFR 103.16; 8 CFR 235.3(b); and 8 CFR 264.1.

²⁴⁹ A commenter referenced *Util. Air Regulatory Grp. v. EPA*, 573 U.S. 302 (2014).

²⁵⁰ See 43 FR 54618 (Nov. 22, 1978).

²⁵¹ See 43 FR 32306 (July 26, 1978).

²⁵² See 46 FR 7267 (Jan. 23, 1981).

²⁵³ *Id.*

DHS appreciates commenters' concerns regarding statutory authority, congressional intent, and the longstanding use of the D/S framework for F-1, J-1, and I nonimmigrants. DHS respectfully disagrees that the rule exceeds statutory authority or undermines congressional intent for the reasons outlined in sec. IV.P.1.a above, titled *Proposed Rule Exceeds Statutory Authority and Congressional Intent*, and within the Legal Authority section in sec. III.A While Congress has authorized admission "for the purpose" of pursuing a course of study, cultural exchange, or media activity, it has not mandated the D/S framework or prohibited DHS from adopting fixed admission periods. The D/S framework is a regulatory construct, not a statutory requirement.

DHS recognizes the historical reliance on D/S, and it has carefully considered the impact of this rule. DHS has included provisions within the rule to minimize disruption and maintain flexibility for bona fide students, exchange visitors, and media representatives. DHS maintains the periodic review of nonimmigrant status imposed by this rule through fixed periods of admission and EOS processes is appropriate to ensure compliance with U.S. immigration laws, deter fraud and abuse, and to protect program integrity.

DHS also notes that the rule does not impose duplicative requirements but rather aligns the oversight of F, J, and I nonimmigrants with other nonimmigrant categories that are subject to fixed admission periods and periodic review. DHS believes this approach is consistent with its statutory authority and consistent with the goals of this rulemaking.

d. Chevron, Major Questions Doctrine, and Legislative History

Comments: Several commenters mentioned *Chevron U.S.A. Inc. v. Natural Resources Defense Council*, 467 U.S. 837 (1984) in that Congress has not mandated the elimination of the D/S framework and the legislative history suggests Congress contemplated flexible admission periods tied to program completion. While one commenter cited *West Virginia v. EPA*, arguing that federal agencies lack authority to decide major questions with significant economic and political impact without clear congressional authorization, and claimed the proposed rule would fall under this major questions doctrine due to its substantial financial impact. One commenter wrote that no judicial decision has questioned the statutory basis for D/S admissions and that *Matter of Yamazato*, 25 I&N Dec. 581 (BIA

2011) (*sic*) acknowledged D/S as an established framework serving legitimate administrative purpose.

Response: DHS disagrees that this rule implicates the major questions doctrine. The U.S. Supreme Court has made clear that the major questions doctrine is reserved for extraordinary cases involving "agencies asserting highly consequential power beyond what Congress could reasonably be understood to have granted."²⁵⁴ This is not such an extraordinary case in which Congressional intent is unclear. Here, DHS is acting within its statutory authority to provide clear guidelines and a fixed time period for a specific class of nonimmigrant admission to the United States, including the ability to request to extend their stay. Additionally, this change is limited in scope, and the impact is not comparable to other government actions that courts determined implicate the major questions doctrine.²⁵⁵

DHS notes that the comment invoking *Chevron, U.S. Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984) is moot because *Chevron* was overruled by *Loper Bright Enterprises v. Raimondo*, 603 U.S. 396 (2024). Additionally, the commenter argues that legislative history demonstrates implicit Congressional approval of a D/S framework; however, the commenter did not include any specific legislative history it relied on. DHS believes the changes are consistent with Congressional intent and have reviewed the legislative history in preparation for this rulemaking. DHS could not identify the case mentioned by commenter of *Matter of Yamazato* and is therefore unable to respond to that particular comment.

2. Legal Concerns Under the APA and Due Process

a. Comment Period Is Insufficient and Lacks Advance Notice

Comments: Commenters expressed concerns that the comment period was insufficient and that the rule lacked appropriate advance notice. Many commenters emphasized that the 30-day (*sic*) comment period was inadequate for a rule of such complexity and significance, and some said it violates the requirements in the APA. Many commenters requested an extension of the comment period to a minimum of 60

days, with some suggesting 90 or 120 days would be more appropriate. Some of the reasons for this additional time, referenced by commenters, include the rule's complexity, impact, controversial nature, and change to longstanding policy; the longer comment period for SEVIS and USCIS forms, which suggested to the commenter that the more substantial proposed rule warranted at least the same duration; the publication of the NPRM while institutions and communities beginning their academic years, which commenters said was one of the busiest times of year for higher institutions; and Executive Orders 12866 and 14219. Commenters said E.O. 12866 directs agencies to provide at least 60 days for public comment on significant regulatory actions, and some commenters reported E.O. 14219 instructs that "[a]gencies shall continue to follow the processes set out in [E.O.] 12866 for submitting regulations for review by OIRA." Commenters noted DHS's acknowledgement in the NPRM that this proposed rule is a "significant regulatory action" that is "economically significant" under E.O. 12866. One commenter generally expressed concern that the proposed rule is excessively complex, making meaningful engagement and comprehension difficult.

Commenters emphasized that the 30-day period did not allow sufficient time to gather necessary data, including for Freedom of Information Act requests, analyze the rule's effects, and consult with specialists. Commenters stated that meaningful public comments required time to collect accurate information on student program completion timelines, extension needs, and transfer statistics, as well as to assess administrative, financial, and operational impacts. One commenter expressed concern that the short public comment period gave the impression that DHS was trying to avoid transparency and public scrutiny by rushing the rulemaking process. Additionally, commenters stated that the timing of the rule's publication at the beginning of the academic year was particularly problematic for higher education institutions, as it coincided with one of their busiest periods when they were managing new student arrivals and fulfilling federal reporting requirements.

Finally, commenters noted the lack of advance notice about the rule, pointing out that it was absent from the Unified Agenda until September 4, 2025, one week after its publication, despite the Regulatory Flexibility Act (RFA) requiring agencies to publish

²⁵⁴ See *W. Virginia v. EPA*, 597 U.S. 697, 724, (2022).

²⁵⁵ See *Id.* (restructuring the American energy market by shifting electricity generation away from coal and toward cleaner energy sources); *Dep't of Education v. Brown*, 600 U.S. 551 (2023) (cancelling hundreds of billions of dollars in federal student loan debt).

semiannual regulatory agendas describing planned regulatory actions.

Response: The APA does not mandate a specific minimum duration for public comments, and DHS fully complied with the legal requirements for providing notice to seek input from the general public in accordance with the APA.²⁵⁶ DHS recognizes this is a significant rule and that E.O. 12866 encourages agencies to provide “not less than 60 days” for public comment on significant regulatory actions, but E.O. 12866 does not impose this as a binding requirement. Here, DHS provided a 32-day comment period, which balances the need for stakeholder input with the urgency of implementing the rule. DHS received robust public participation, as is evidenced by the nearly 22,000 public comments received addressing a wide range of issues including technical, economic, and operational impacts. This demonstrates stakeholders were able to analyze the rule and provide thoughtful feedback within the allowed timeframe. Furthermore, comments on the information collection described in the Paperwork Reduction Act (PRA) section were due by October 27, 2025—61 days after publication. DHS strongly rejects the assertion that the 32-day comment period was intended to avoid transparency or public scrutiny and that the timing of the proposed rule was problematic given the start of the academic year. DHS received numerous detailed comments from stakeholders including higher education institutions and students. DHS remains committed to an open and transparent rulemaking process and has carefully reviewed all comments received to ensure that stakeholder concerns are fully considered.

DHS acknowledges that some commenters requested an extension of the comment period to 60, 90, or even 120 days due to the timing, complexity, and significance of the rule, however, the commenters generally did not explain what additional issues they would raise during a longer comment period. The volume of comments—as well as their breadth—reflects an ample consideration of issues during the comment period. DHS acknowledges that some commenters expressed challenges related to gathering data, consulting specialists, and engaging with other stakeholders. DHS notes that many commenters were able to provide detailed, evidence-based feedback including potential impacts, proposed alternatives, and specific concerns regarding implementation. As previously mentioned, given the volume

of detailed comments, the 32-day comment period on the NPRM and 61-day comment period on the PRA was sufficient for meaningful public input and DHS appreciates the feedback it received. DHS acknowledges the comparison made by commenters between the 61-day comment period for SEVIS and USCIS form changes and the 32-day period for this rule. However, DHS notes that the PRA requires a 60-day comment period for information collection requests related to forms.

While some commenters noted that the rulemaking appeared in the Unified Agenda shortly after the NPRM published, DHS complied with applicable requirements under the RFA, particularly 5 U.S.C. 602(d). The NPRM was published in the **Federal Register** ensuring public access, transparency, and that the comment period provided sufficient opportunity for stakeholders to respond. DHS complied with applicable requirements under the RFA and E.O. 12866.

b. Administrative Procedure Act Concerns

Comments: Commenters argued the proposed rule violates the APA by being arbitrary and capricious, citing *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983), which requires agencies to provide reasoned explanations connecting facts to policy choices. Commenters stated the NPRM failed to meet this standard by overstating security benefits while understating economic costs, ignoring successful existing oversight approaches, and proposing solutions insufficiently targeted to the identified problems. Commenters claimed the proposed rule would create arbitrary categories, disproportionate burdens, and categorical restrictions on all visa holders to address limited abuses. A commenter said that DHS’s “suspected in-country overstay” data is an upper-bound proxy that can overcount actual violations, with recent DHS reports showing suspected F/M/J in-country overstay at approximately 2.45 percent in FY 2024, which they characterized as far from a systemic crisis. Commenters said the rule fails to consider less restrictive alternatives, such as tiered caps by degree level, longer caps, graduated oversight for extended-stay students, enhanced institutional accountability, technology-based monitoring, and risk-based screening. A commenter opined that failure to evaluate these alternative regulatory models could expose the final rule to legal vulnerability under the APA.

Some commenters suggested stakeholder engagement to identify

evidence-based targeted solutions, ensure compliance and preserve flexibility. One commenter noted that E.O. 12866 also directs each agency to “explore and, where appropriate, use consensual mechanisms for developing regulation, including negotiated rulemaking.”

One commenter raised concerns about potential regulatory takings, stating that foreign students have substantial financial investments in U.S. education that could be rendered worthless by arbitrary rule changes. The commenter cited *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393 (1922), to argue that government action constitutes a taking when it goes “too far” in restricting property rights.

Commenters noted the rule revives a rule which was withdrawn in 2021 without addressing prior objections or providing new justification, despite overwhelming opposition to the previous proposal.

Response: DHS disagrees that the rulemaking is arbitrary and capricious. The NPRM details the need for changes to the F, J, and I classifications, specifically to alleviate fraud and abuse, enhance national security, improve program integrity and oversight, reduce overstays, and provide clarity for stakeholders regarding authorized period of stay and extension processes. The rule is reasonably related to the objective advanced and is not arbitrary or capricious.

DHS acknowledges concerns about whether the proposed solution is appropriate. Replacing D/S with a fixed admission period is necessary to increase oversight, deter fraud, and address national security risks. The 2024 CBP Entry Exit Overstay Report shows that student and exchange visitors, excluding those from Canada and Mexico, had a suspected in-country overstay rate of 2.84 percent in FY 2023, which is more than double the general suspected overstay rate, further justifying the need for more effective monitoring.²⁵⁷ Fixed admission periods provide clear end dates, facilitate identification and deterrence of overstays, and ensure nonimmigrants who remain beyond their authorized period begin accruing unlawful presence.

DHS recognizes the alternatives posed by commenters and has considered alternatives to the requirements adopted in this final rule. DHS determined the selected approach is appropriate to address program integrity and national security concerns. While the proposed

²⁵⁶ See 5 U.S.C. 553.

²⁵⁷ See Entry/Exit Overstay Report, FY 2024, *supra* note 123.

rule does not adopt measures such as tiered caps, extended durations, or technology-based monitoring, DHS believes the rule strikes an appropriate balance between flexibility for students and the need for oversight. DHS appreciates the suggestions for stakeholder engagement and will continue to consider public input in the rulemaking process, consistent with E.O. 12866 and the APA.

The *Pennsylvania Coal Co. v. Mahon*, cited by the commenter, does not apply here. That case involved a regulatory taking of property rights. The constitution does not provide property rights to higher education. Additionally, this final rule does not take away any nonimmigrant's current visa. As explained elsewhere in this rule, the transition rules provide adequate notice and extensive lead time for nonimmigrants with a current F, J, or I visa to complete their work in the United States. The final rule also permits F, J, and I nonimmigrants to apply for an EOS, if they choose to pursue that route.

DHS acknowledges the publication of a similar NPRM in 2020, the significant public feedback received on that NPRM, and the withdrawal of that NPRM in 2021. Since then, DHS has reviewed current policy, executive orders, and operational needs, and has updated its justifications in this rulemaking. The current proposal is tailored to address vulnerabilities in the immigration system, protect program integrity, and enhance oversight, while balancing the interests of stakeholders.

c. Change in Position and Reliance Interests

Comments: Commenters stated that DHS failed to consider the significant reliance interests of students, scholars, universities, and sponsors who have depended on the D/S framework for decades, with some commenters citing *DHS v. Regents of the University of California*, 140 S. Ct. 1891 (2020). Commenters wrote that universities and students have structured programs, admissions, finances, and research around D/S, and one described the NPRM's discussion of alternatives to preserve these interests as cursory relative to the scale of disruption the rule would cause. Several commenters said the proposed rule marks a significant change from long established regulatory practices and due to that change, DHS must provide a reasoned explanation for its decision when departing from longstanding policy and account for reliance interests noting that the shift is broad and does not show that D/S is failing and that the reliance

interests of current F–1s, Js, employers, schools that planned budgets and staffing under a D/S framework were not fully addressed.

Response: DHS recognizes that students, their families, and educational institutions have structured their academic, professional, and personal plans based on the longstanding D/S policy. DHS has carefully considered the reliance interests of F, J, and I visa holders, as well as those universities, sponsors, and employers who have structured programs and operations around the D/S framework. While DHS recognizes that some may prefer the D/S model, and this rule represents a change from longstanding practice, DHS has provided a reasoned explanation for this policy shift, consistent with Supreme Court precedent.

DHS has considered alternatives, including a 2-year admission period and maintaining the status quo, but determined that the fixed periods established in this rule best balance oversight with the structure of post-secondary education, exchange visitors, and foreign media. DHS evaluated less restrictive alternatives and stakeholder suggestions but concluded that the fixed-period approach is the most effective and appropriate solution to enhance oversight, program integrity, and national security.

The rule provides adequate notice and a transition period to minimize disruption, allowing affected individuals to complete their work or apply for an EOS, which is similar to other nonimmigrant categories, and clear guidance for students and school officials. These measures are intended to provide affected individuals and institutions with sufficient time and flexibility to adjust to the new requirements. DHS believes this approach balances reliance interests with the need to address vulnerabilities in the current system.

d. Due Process Concerns

Comments: Several commenters expressed procedural concerns that the proposed rule would violate principles of due process. Commenters cited *Mathews v. Eldridge*, 424 U.S. 319 (1976), to argue that foreign students possess constitutionally protected procedural due process rights and that the risk of erroneous deprivation of an interested individual while safeguards are weak. Commenters also cited *Landon v. Plasencia*, 459 U.S. 21 (1982), to argue that foreign students have constitutionally protected procedural due process rights associated with their immigration status. Several commenters expressed concern at the serious risk of

losing lawful status without meaningful procedural safeguards or an opportunity to contest the decision or seek reconsideration. Several commenters noted that USCIS denials are discretionary and offer no right to appeal, increasing uncertainty and risk of being in an unlawful status, arbitrary decisions, and forced departures if USCIS delays processing. A commenter stated that the elimination of the ability to appeal extensions not only has implications for students' lives, but also poses issues related to procedural fairness, the APA, and due process. Several commenters wrote that the proposed rule would limit academic mobility without procedural safeguards and deprive students of due process and equal protection including deprivation of life, liberty, and property under the Fifth Amendment, as well as their freedom to pursue education. One commenter stated the I-visa restrictions targeting the PRC lacks narrow tailoring and would be a nationality-based distinction that lacks compelling evidence. Another commenter noted that while noncitizens lack an absolute right to enter or remain in the U.S., the fixed admissions combined with restrictions on pursuing additional degrees raise due process and equal protection concerns also noting that in *Yick Wo. v. Hopkins*, 118 U.S. 356 (1886), the Supreme Court recognized that discriminatory enforcement against noncitizens violated equal protection and *Plyler v. Doe* (1982) confirmed that noncitizens in the U.S. cannot be denied public education. One commenter stated that the proposed 2-year cap for nationals of countries with high overstay rates or limited diplomatic cooperation creates a nationality-based classification raising equal protection concerns under *Yick Wo. v. Hopkins*. Another commenter noted that the rule treats F, J and I visa holders differently than comparable nonimmigrant categories such as H–1B or L–1 workers and that this differential treatment lacks a compelling government interest and disproportionately harms students, researchers, and journalists engaged in lawful activities raising equal protection concerns. Referencing due process issues, several commenters described fundamental rights that could be harmed under the proposed rule that could deprive an individual of life, liberty, or property. Several commenters noted that currently D/S lawful presence is tied to lawful behavior offering stability and predictability whereas a fixed time period would expose compliant individuals to premature removal violating the

principle that the government action must be fair, rational, and consistent with due process. One commenter noted the approach that presuming all foreign students are potential security risks constitutes collective punishment and vague references to “national security” is not a legally sufficient basis for imposing sweeping burdens that will harm stakeholders undermining fairness and due process.

Response: DHS appreciates commentors’ concerns regarding the rule’s impact on substantive and procedural due process rights. There is no federal constitutional right to higher education or practical training opportunities. Additionally, in the event an F, J, or I nonimmigrant decides to extend their related program activities, such as education or the engagement in authorized post completion practical training beyond 4-years, there is a process to apply for an EOS. DHS understands that applications are time sensitive. However, DHS does not believe that additional safeguards are needed in this rule and disagrees with the commenter’s assertion that USCIS decisions are arbitrary. In the event that there is a denial of extension, USCIS has in place a process to reopen or reconsider the denial. This rule does not change that process.

Furthermore, DHS disagrees with the commenter that the “elimination” of appeals of extensions denials raises issues of procedural fairness, the APA, and due process. The regulations that existed prior to the implementation of this final rule,²⁵⁸ provided that the denial of an extension or amendment of stay request may not be appealed. This is not a new concept, and the same standards have been applicable for EOS applications in most of the other nonimmigrant categories.

DHS also disagrees with comments about a 2-year cap for nationals of countries with high overstay rates or limited diplomatic cooperation, as this is not part of the proposed rule or the final rule. Further, as it relates to I fixed admission period relating to the PRC, the changes in this rule are consistent with 8 CFR 214.2(i)(1)(ii) (2025), in which the implementing published rulemakings explained the rationale as to why passport holders of the PRC (other than a Hong Kong SAR or a Macau SAR passport) were admitted for a fixed period of stay.²⁵⁹

With specific time caps and additional program requirements, immigration authorities will have an

effective mechanism to implement appropriate oversight to reduce fraud and abuse. The rule change sets clear and defined expectations for program of study completion for the universities and nonimmigrant students. Nonimmigrant students will be able to rely on a definitive end date and be able to plan accordingly to complete the program within the timeframe or apply for an extension of status. DHS disagrees with the comment that imposing fixed-term limits on F nonimmigrant students, as well as J or I visa holders, will treat such classifications differently than other nonimmigrant categories such as H-1B or L-1 workers or disproportionately harm them. In fact, the rule harmonizes the F, J, and I classifications with the H-1B and L-1 classification as both the H-1B and L-1 classifications have fixed-term limits. *See generally* 8 CFR 214.2(h); 8 CFR 214.2(l). Moreover, a definitive end date will reduce potential fraud and abuse as discussed within this final rule. For F nonimmigrant students, DHS believes any reliance by the nonimmigrant student on interests such as economic freedom and familial relationships is misplaced. Under the rule, the express language presented to applicants throughout the process of applying for admission to the United States will clearly delineate a conclusive time limit on the nonimmigrant student’s ability to remain in the United States at the conclusion of their program of study or authorized post-completion practical training. DHS also notes that visa applications can be denied for a variety of reasons, such as if a nonimmigrant student is unable to establish familial ties in their home country or assets or lacks a specific intent to return to their home country upon the conclusion of their program of study.²⁶⁰ DHS interests and policy concerns, to include national security and the prevention of visa abuse, outweigh any reliance interests by the nonimmigrant. Increased oversight and stricter compliance will reduce national security risks and deter utilization of visas for purposes other than education as well as reduce the number of nonimmigrant overstays.

Regarding the comments on substantive due process, the proposed changes are sufficiently related to DHS’s objective of preventing fraud, abuse, and noncompliance of applicable statutory requirements because they ensure that F, J, and I nonimmigrants do not remain in the United States indefinitely. DHS

disagrees with the assertion the U.S. does not have a compelling interest in establishing specific conditions for nonimmigrants based on their intended purpose for entering the U.S. such as H-1B or L-1 compared to F, J, and I applicants for admission. DHS has a compelling government interest to obtain timely and accurate information about the activities these aliens have engaged in and plan to engage in during their temporary stay in the United States.

As to the comments asserting that the final rule interferes with constitutionally protected rights, such as equal protection, due process and the right to pursue higher education, the Department disagrees that the cases the commenter cited support these assertions. *Yick Wo. v. Hopkins* is inapplicable and distinguishable here because that case dealt with general regulation of local commerce and the Court held that the government’s enforcement policy was intended to drive out Chinese-owned small businesses. This final rule regulates certain nonimmigrant aliens specifically and they are intended to strengthen the integrity of the nonimmigrant classifications while enhancing national security. Similarly, the constitution does not provide a right to a higher education and *Plyler v. Doe* is distinguishable and inapplicable in this context because that case involved immigrant students who had been denied a free public education in violation of the equal protection clause.²⁶¹ DHS considered the proposed regulation in light of *Mathews v. Eldridge*, 424 U.S. 319 (1976), which discusses in part the balance of an individual’s due process rights regarding a property interest and the risk of erroneous deprivation against the government’s interests. Congress gave DHS the authority to regulate the time and conditions of admission of any F, J, and I nonimmigrants to accomplish the purposes identified in the statutory visa immigrant categories. Assuming that *Mathews v. Eldridge* even applies in this case, the governmental interest to prevent and reduce issues of fraud, abuse, and national security threats outweighs any individual interest in a potentially indefinite entry.

e. Equal Protection Concerns

Comments: Describing equal protection concerns, many commenters expressed opposition to the proposed

²⁵⁸ See 8 CFR 214.1(c)(7) (2025).

²⁵⁹ See generally 85 FR 27645 (May 11, 2020); 87 FR 61959 (Oct. 13, 2022).

²⁶⁰ See USCIS Policy Manual, Vol. 2, Part F, Chap. 2—*Eligibility Requirements*, <https://www.uscis.gov/policy-manual/volume-2-part-f-chapter-2> (last visited Feb. 4, 2026).

²⁶¹ See *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 35 (1973) (holding that public education is not a fundamental right protected by the constitution).

rule. For example, a commenter stated that Federal actions must comply with equal protection principles, writing that categorical restrictions on program changes would harm students following the proposed rule by limiting academic mobility without providing individualized findings on immigration status. A commenter noted that courts have long recognized that the federal government is also subject to equal protection principles under the Fifth Amendment's Due Process Clause as established in *Bolling v. Sharpe*, 347 U.S. 497 (1954). Several commenters raised equal protection concerns about the differential treatment of graduate and undergraduate students in the proposed rule creating arbitrary classifications and lacking any legitimate government purpose, and about the arbitrary burdens imposed on F, J, and I categories of nonimmigrants without trying to individualize risks. One commenter expressed concern that the 4-year fixed admission period could violate equal protection principles by "treating identical student conduct (maintaining lawful status) differently based solely on program duration." Several commenters noted the disparate impact of the proposed rule on protected classes, including indirect gender discrimination in educational access, socioeconomic barriers created by the financial impact of multiple extension applications, and religious or cultural barriers for students from countries with different academic calendars or cultural obligations disproportionately burdened by fixed-period requirements. A commenter stated that the 90-day admission limit for Chinese nationals creates questions of equal protection under the Due Process Clause of the Fifth Amendment. The commenter remarked that in the past courts reversed policies where classifications were based on nationality without sufficient justification. Another commenter stated that students from certain countries may face disproportionate burdens due to adjudication backlogs or discriminatory scrutiny, raising Equal Protection Clause concerns under the Fifth Amendment, and cited to *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995).

Response: DHS appreciates the feedback and clarifies that the rule is designed to comply with federal law, including equal protection principles, by applying its provisions uniformly to all nonimmigrants in F, J, and I status, without regard to gender, religion, socioeconomic status, or cultural background. Further, the rule provides various mechanisms of changing

educational objectives and transferring to SEVP-certified schools, so long as the nonimmigrant meets various requirements (such as maintaining status, completing an academic year—absent extenuating circumstances, and not being on academic probation or suspension). These provisions are designed to support academic mobility while maintaining compliance with immigration laws.

DHS disagrees with the commenters that state that the rule's distinction between graduate and undergraduate students would violate principles of equal protection. Congress gave DHS the authority to set appropriate conditions on nonimmigrants to accomplish the purposes identified in the statutory nonimmigrant visa categories. The F-1 student classification, as defined by INA sec. 101(a)(15)(F), encompasses aliens seeking to enter the United States as a bona fide student to pursue a course of study at, including but not limited to, colleges, universities, academic high schools, or elementary schools. DHS recognizes that bona fide students, upon or nearing completion of their initial course of study, may reasonably elect to pursue higher levels of education. Conversely, movement within the same education level after completion of a program raises significant concerns over whether an F-1 nonimmigrant intends to simply prolong their stay in the United States. DHS believes that F-1 students with legitimate academic goals will be able to foresee their academic trajectory before or during the school application process, especially on the graduate level where students should already know their goal for attending graduate school. This rule allows a graduate student to apply to a program with two concurrent degrees, such as a J.D./M.B.A., but does not allow a graduate student to change direction mid-stream or to seek a second degree at the same level after entering a program. Years of experience have shown DHS that, of F-1 students who seek a degree at the same or lower level after entering an academic program, a significant number do so to prolong their stay in the United States.

The rule therefore serves DHS's legitimate purpose in setting conditions to accommodate bona fide students who come to the United States temporarily to pursue and ultimately complete a full course of study, while restricting aliens seeking to improperly rely on the F-1 student classification in order to remain in the United States indefinitely or for nefarious reasons. Even if the commenters were correct that the rule has a disparate impact on students at different levels of study, DHS finds it

would not violate the Fifth Amendment's equal protection guarantee because the rule does not involve a suspect classification or burden any fundamental right.²⁶²

DHS disagrees with the commenters that state that the proposed rule's imposition of a 4-year maximum admission period for F-1 nonimmigrants violates equal protection principles. The proposed rule applies the same calculation of authorized stay to all F-1 nonimmigrants.

DHS recognizes the importance of ensuring that the rule does not create unintended disparate impacts on protected classes. The rule's provisions are carefully tailored to achieve legitimate government objectives, such as preventing visa abuse and ensuring compliance with immigration laws, while minimizing burdens on nonimmigrants. For example, the rule provides automatic extensions of stay and employment authorization for up to 240 days while applications are pending, reducing the financial burden associated with filing multiple extension applications. The rule also includes grace periods and flexibility for program changes and extensions of stay to accommodate nonimmigrants facing extenuating circumstances, while also allowing extensions of stay for compelling academic or medical reasons or circumstances beyond the student's control. These various provisions ensure that the rule is applied fairly and equitably.

In addition, DHS does not believe that this rule raises an equal protection issue, nor that it targets Chinese nationals or any other particular groups. Indeed, section 101(a)(15)(I) of the INA establishing the I nonimmigrant classification for representatives of foreign information media requires that such a visa or status be provided "upon a basis of reciprocity." Further, section 214(a)(1) of the INA provides the Secretary of Homeland Security (Secretary) broad authority to administer and enforce the immigration and naturalization laws of the United States and prescribe regulations specifying the period of admission, as well as any conditions, for the admission of nonimmigrants to the

²⁶² See *Heller v. Doe*, 509 U.S. 312, 319 (1993) (holding that "a classification neither involving fundamental rights nor proceeding along suspect lines is accorded a strong presumption of validity"); *DeSousa v. Reno*, 190 F.3d 175, 184 (3d Cir. 1999) ("[D]isparate treatment of different groups of aliens triggers only rational basis review under equal protection doctrine. Under this minimal standard of review, a classification is accorded 'a strong presumption of validity' and the government has no obligation to produce evidence to sustain its rationality." (internal citations omitted)).

United States. *See* INA sec. 103(a)(1), 214(a)(1). Given the Secretary's authority to promulgate rules specifying the periods of admission and the statutory requirement to take into account reciprocity for the I nonimmigrant classification, this rule establishes a fixed period of up to 90-days, with the possibility of additional 90-days upon filing EOS applications. *See* new 8 CFR 214.2(i)(3)(ii), (5)(iii). While reciprocity is one factor that the Secretary takes into account for establishing the admission period for I nonimmigrants, the Secretary may also consider additional factors including, input from the DoS, and such other factors as may affect the U.S. interest.

f. Human Rights

Comments: Some commenters raised human rights concerns, arguing that the rule is contrary to the Universal Declaration of Human Rights (UDHR); including Articles 13, 19, and 26; and undermines fairness and respect for human dignity. One commenter said the rule impedes equal access to higher education by creating administrative and financial barriers for foreign students, referencing UDHR Article 26 as recognizing education as a human right. The commenters also said UDHR Article 13 guarantees the right to freedom of movement, which the commenter said is curtailed by repeated extensions by students and scholars under the threat of status termination. Other commenters referenced UDHR Article 19, which guarantees the right "to seek, receive and impart information . . . regardless of frontiers." Commenters stated the rule undermines compliance for I-visa holders.

A commenter also expressed concern that the proposed rule violates the United States' commitments as a party to the International Covenant on Civil and Political Rights (ICCPR), stating arbitrary limits on internal media representatives violates the commitment in ICCPR Article 19, which protects freedom of expression and the right "to seek, receive and impart information and ideas of all kinds."

Commenters remarked that previous court cases including *Medellín v. Texas* and *Murray v. Schooner Charming Betsy* affirm that the United States is obligated to uphold ratified treaties, or at a minimum, interpret statutes consistently with international law to avoid conflicts.

Response: DHS recognizes the importance of human rights and international treaty obligations, including Articles 13, 19, and 26 of the UDHR and Article 19 of ICCPR. DHS does not intend to undermine these

commitments. The rule is designed to ensure the integrity of the F, J, and I nonimmigrant programs and national security while also supporting education, the free flow of information, and cultural exchange. DHS believes the rule is consistent with U.S. law and international obligations, as it does not prohibit access to education, freedom of movement, or freedom of expression for qualified applicants. The rule continues to provide opportunities for foreign students and media representatives to study, work, and share information in the United States, subject to statutory and regulatory requirements.

g. Additional Legal Concerns Related to F-Visas and Students

Comments: Several commenters said that the proposed rule undermines the statutory and regulatory scheme related to F-Visas. A commenter explained that 8 U.S.C. 1101(a)(15)(F)(i), requires an foreign student be "qualified to pursue a full course of study" and enter the country "solely for the purpose of pursuing such a course of study" at a qualifying college, university, or other academic institution indicating that Congressional intent is for students to complete their academic programs rather than be subject to external time limitations. A commenter also referenced the INA's instruction that schools should report termination of enrollment, reasoning this supports the argument that F visa admissions should be governed by participation in academic programs rather than external time constraints. A commenter asserted that the administrative burdens the proposed rule would place on students and schools attempting to fulfill course of study requirements would be counter to the intent of the INA to support academic exchange.

Commenters raised concerns about academic program changes stating the INA does not restrict students from pursuing multiple degrees at the same level and that categorical prohibitions on graduate program changes, first-year transfers, and same- or lower-level study bear little relation to the discrete fraud risks, will harm students, and exceeds the statutory authority. Several commenters mentioned the Higher Education Act of 1965, as amended (20 U.S.C. 1001 *et seq.*) and it was stated that there is a broad Congressional policy of promoting access to higher education and nothing suggests that access to another degree should be denied to qualified students simply because they already hold a master's degree. Commenters recommended a narrower approach to prohibit

duplicative or substantially similar degrees at the same level.

Several commenters expressed concerns about interference with constitutionally protected interests, including academic freedom, educational rights to pursue higher education without government interference, association rights to maintain family relationships, and the right to economic freedom to complete educational and employment programs. Supreme Court cases, such as *Sweezy v. New Hampshire*, 354 U.S. 234 (1957), and *Keyishian v. Board of Regents*, 385 U.S. 589 (1967), were referenced. Commenters emphasized that universities possess constitutional rights to determine academic program structures and student progression requirements and suggested that federal restrictions on program flexibility interfere with institutional academic freedom and are government overreach. A commenter also noted that graduate research involves constitutionally protected expression, and restrictions on program changes may force students to abandon research projects. Another commenter stated the proposed rule is against the constitutional principles that the U.S. was founded on including the freedom to seek knowledge.

Several commenters noted that the rule could conflict with Title VI of the Civil Rights Act which prohibits nationality-based discrimination in federally funded programs, as it treats nonimmigrants as "potential fraudsters" and U.S. citizens as "legitimate learners." Several commenters stated the proposed rule is not tied to a narrowly tailored legitimate government interest and therefore is discrimination based on national origin including restricting academic freedoms of F-1 students compared to their U.S. counterparts.

A commenter asserted that DHS might be required to consult with the Department of Education (ED) and expressed concern that the rulemaking process did not show evidence of consultation, including regarding curricular calendars. The commenter further questioned whether the rulemaking process included coordination with State and local agencies, referencing 6 U.S.C. 112 (c)(1) (2024).

A commenter expressed that visa restrictions and uncertainty created by the proposed rule would conflict with the U.S. policy affirmed in the 2021 Joint Statement of Principles by the DoS and Education of encouraging foreign students and undermine longstanding policy goals to streamline immigration compliance.

Response: DHS appreciates the wide range of comments regarding the statutory, regulatory, and policy implications of the proposed rule related to F-visas. DHS recognizes commenters' concern about Congressional intent under 8 U.S.C. 1101(a)(15)(F)(i), including the expectation that foreign students be able to complete their academic programs, and the role of institutional reporting in maintaining compliance. DHS reiterates that the rule does not prohibit a nonimmigrant student from finishing a course of study or create an external time constraint for completing a program; rather, it provides clarification on the parameters for maintaining status and provides mechanisms for extensions of stay for students who require additional time to complete their programs.

DHS recognizes the concerns about administrative burdens imposed on students and schools, believing that these burdens are counter to the intent of the INA to support academic exchange. DHS reiterates that this rule is designed to align F, J, and I nonimmigrant classifications with other nonimmigrant categories that are admitted for fixed periods, while still providing opportunities for extensions and continued study where warranted. DHS will provide guidance to institutions and students to support compliance and minimize disruption.

DHS also appreciates commenters' concerns regarding academic program changes and the ability of students to pursue multiple degrees at the same educational level. DHS recognizes that the INA does not explicitly prohibit students from enrolling in more than one degree program at the same level, and that the Higher Education Act reflects a broad Congressional policy of promoting access to higher education. In developing this rule, DHS sought to balance the need for program integrity and fraud prevention with the importance of academic flexibility and opportunity. DHS determined that certain limitations on repeated or duplicative degree programs are necessary to deter abuse of the nonimmigrant student visa process, while ensuring that qualified students can continue to pursue legitimate academic goals. The rule is not intended to deny access to higher education for qualified students, but rather to prevent misuse of student status for purposes unrelated to bona fide study.

DHS appreciates commenters' concerns regarding academic freedom, association, and economic rights, and notes the Supreme Court cases referenced. DHS respectfully disagrees

that the rule violates constitutional principles or interferes with academic freedom. Recognizing the role of educational institutions as an integral part of the Federal Government's national security responsibility of monitoring foreign students studying in the United States, Congress authorized DHS to regulate and oversee educational institutions certified by SEVP to enroll nonimmigrant students.²⁶³ Further, 8 U.S.C. 1184(a)(1) provides broad discretion to DHS over time and condition requirements for nonimmigrant students. SEVP certified schools, their programs of study, and nonimmigrant students, have long been subject to administrative requirements based on these Congressional mandates. DHS believes the rule's changes impacting programs of study and nonimmigrant student transfers are consistent with this statutory authority and in line with the existing administrative burden on nonimmigrant students and SEVP certified schools. The rule does not dictate academic program content or structure, nor does it restrict universities' ability to determine academic programs or students' pursuit of knowledge. Additionally, the rule does not interfere with a right to maintain family relationships, as family members are free to maintain their relationships with F, J, and I nonimmigrants, regardless of their status.

DHS acknowledges the comment on Title VI of the Civil Rights Act's prohibition on discrimination applies to recipients of federal funds. However, that prohibition against discrimination does not prevent DHS from setting out these eligibility requirements for F, J, and I nonimmigrant visas, which (1) apply uniformly to all nonimmigrants in F, J, and I status, without regard to gender, religion, socioeconomic status, or cultural background; and (2) are intended to eliminate fraud, abuse and noncompliance with INA 101(a)(15)(F)(i). DHS believes that any Title VI challenges would be restricted to universities. It is incumbent upon the universities to address non-discrimination during their enrollment process and abide by the requirements as laid out in Title VI.

The commenter cited 8 U.S.C. 1101(a)(15)(F)(1) for the requirement to consult with the ED. The requirement to consult with the ED under 8 U.S.C. 1101(a)(15)(F)(1) relates to consultation about whether to approve an institution of higher education; however, DHS did consult with the ED prior to the publication of the NPRM and the final

rule. Additionally, 6 U.S.C. 112(c)(1)'s requirement to coordinate with State and local agencies through DHS's Office of State and Local Coordination does not apply to rulemaking affecting the SEVP program.

DHS disagrees with the comment that the final rule would be in conflict with the 2021 Joint Statement of Principles. While DHS was not a party to the Joint Statement to DoS and ED, the Joint Statement is merely aspirational and not binding legal authority. The Joint Statement states, "We propose the following principles to guide our approach to international education," and includes a series of aspirational principles to guide the DoS and ED in their approach to international education. Additionally, the Joint Statement is not in conflict with this final rule as this final rule adds clarity and parameters for nonimmigrant students. This final rule also aligns with the President's Executive orders on immigration and national security. *See, e.g.,* E.O. 14161, Protecting the United States from Foreign Terrorists and Other National Security and Public Threats (Jan. 20, 2025). This rule creates certainty setting a fixed period of entry and lowers opportunities for fraud and abuse thereby ensuring that the classifications are used for the purpose it was intended by Congress.

DHS has outlined its legal authority for proceeding with this final rule within the NPRM and throughout this final rule, including in the comment responses included above under "Proposed Rule Exceeds Statutory Authority and Congressional Intent." DHS has carefully considered the statutory, regulatory, constitutional, and policy issues raised by commenters and has sought to ensure that the final rule supports program integrity, compliance, the continued success of foreign students and academic institutions in the United States.

h. Additional Legal Concerns Related to J-Visas and Exchange Visitors

Comments: Commenters raised concerns about DHS potentially overstepping into DoS territory regarding the J-1 Exchange Visitor Program. A commenter questioned why DHS was creating burdensome regulations for a DoS-administered program, suggesting this would increase bureaucracy, create inefficiencies, and convey hostility toward exchange visitors, undermining the program's purpose. The commenter stated that individual program objectives should not be arbitrarily cut by 20 percent without clear and compelling justification and represented an

²⁶³ See 8 U.S.C. 1372 and 1762.

unnecessary encroachment into DoS jurisdiction. Commenters suggested the proposed rule might violate international treaties and agreements, including the Fulbright-Hays Act, as J-1 exchange restrictions could undermine the statutory purposes of promoting international educational exchange. Other commenters wrote that the proposed restrictions on J-1 visitors would impact U.S. interests and undermine immigration policy goals. They emphasized that the proposed J-1 restrictions would jeopardize intellectual exchange that fuels innovation and strengthens diplomatic ties.

Response: DHS appreciates commenters concerns about J visas. DHS outlined the rationale for amending regulations for the J-1 Exchange Visitor Program within the NPRM. This includes providing better oversight and accountability, preventing fraud and abuse, obtaining alignment with other nonimmigrant categories, national security, program integrity, and obtaining clarity about the authorized period of stay and process for requesting additional time, reducing confusion and administrative burden.

DoS is responsible for the designation, oversight, and management of the J-1 Exchange Visitor Program. DoS sets the program objectives, approves sponsors, and establishes requirements for participation, including the issuance of Form DS-2019. While DoS manages the program content and sponsor relationship, DHS is responsible for admitting J-1 nonimmigrants, setting the conditions of their stay, and adjudicating requests for extensions or change of status. DHS's authority to set admission periods and conditions is found in INA 214(a) (8 U.S.C. 1184(a)), which grants DHS discretion over time and conditions of admission for all nonimmigrants. DHS coordinates with DoS to ensure program integrity and compliance.

DHS notes that the proposed rule does not alter the DoS' authority to designate and oversee exchange visitor programs, nor does it change the eligibility criteria or program objectives established under the Fulbright-Hays Act or related agreements. The rule is intended to enhance oversight and program integrity by establishing clear admission periods and procedures for extensions of stay, consistent with DHS's statutory authority under the INA.

DHS has carefully considered the statutory and policy objectives of international exchange programs in drafting the final rule and believes the changes are consistent with U.S. obligations and commitments. DHS

remains committed to supporting international educational exchange and will continue to coordinate with the DoS to ensure the continued success of the J-1 Exchange Visitor Program.

i. Additional Legal Concerns Related to I-Visas and Foreign Information Media

Comments: Many commenters expressed opposition to the proposed rule based on constitutional concerns including First Amendment protections for freedom of speech and press. They argued that the changes could lead to censorship, viewpoint discrimination, denied visas based on retaliatory grounds, self-censorship, and a chilling effect on speech—practices previously struck down by the courts. Commenters cited several Supreme Court cases, including *Near v. Minnesota*, 283 U.S. 697 (1931), *New York Times Co. v. United States*, 403 U.S. 713 (1971), *Miami Herald v. Tornillo*, 418 U.S. 241 (1974), and *Branzburg v. Hayes*, 408 U.S. 665, 707–08 (1972) to support their position that the rule would conflict with established protections against government regulation of press content and source confidentiality.

Commenters expressed concern that granting broad discretion to immigration officers without clear standards could normalize content-based evaluations, chilling investigative reporting and limiting critical coverage. Another commenter stated that by forcing foreign journalists to reapply frequently to extend an I nonimmigrant's stay, the proposed rule creates serious risks that visas could be denied in retaliation for unfavorable reporting, thereby placing government officials in a position to punish journalists for exercising their First Amendment rights. Commenters urged DHS to adopt safeguards to protect journalistic independence, fairness, and constitutional principles. This includes eliminating content-based review requirements, promptly expunging information gained about an applicant's reporting, providing protections for source confidentiality, offering a transparent appeals process, and the right to continue work during an appeal, and providing safeguards respecting press freedom principles.

One commenter expressed concerns that the proposed rule is an unconstitutional attempt to chill research, academic freedom, and social media engagement. Commenters stated that the proposed reduction of I visa durations and increased bureaucratic hurdles improperly expand federal oversight over the work of foreign journalists and are threats to cultural exchange, understanding U.S. society, and the depth of reporting on American

life and research. Commenters also noted that these changes could violate treaty obligations that encourage education and journalistic mobility. Commenters cautioned that the rule could damage the United States' global reputation as a defender of press freedom, reduce public access to independent international journalism, undermine transparency in elections, and shrink the diversity of viewpoints.

Others noted that the rule could disproportionately harm independent journalists from repressive countries, who may not have a formal relationship with their country's media and face repression.

One commenter suggested that the proposed rule would impact freedom of association rights protected by the National Labor Relations Act under 29 U.S.C. 157.

Commenters expressed that foreign journalists could also face issues surrounding the First Amendment. While referencing a law review article,²⁶⁴ one commenter stated that in the past, the Supreme Court had allowed the Federal Government to “target immigrants for deportation based on political activities because of their immigration status.” Furthermore, in looking to *Citizens United v. FEC*, 558 U.S. 310 (2010), the commenter noted how the First Amendment can be curtailed based on an individual's identity, and that, while there are decisions that protect immigrant's freedom of speech, it is unclear if this might be changed in the future.

Response: DHS acknowledges that First Amendment rights apply to aliens lawfully in the United States.²⁶⁵ DHS appreciates the commenters' concerns and takes seriously the First Amendment concerns surrounding any review of journalistic information. DHS does not intend for the rule to chill speech, encourage censorship, or result in viewpoint discrimination. As described in the proposed rule and consistent with current practice, DHS will review content solely to confirm that the foreign information media representative is engaging in bona fide journalism as required under 8 U.S.C. 1101(a)(15)(I). This review is not intended to assess the substance, viewpoint, or subject matter of the reporting, but rather to distinguish journalistic work, as required under the INA for this category from

²⁶⁴ The commenter referenced Kagan, M., *When Immigrants Speak: The Precarious Status of Non-Citizen Speech under the First Amendment*, 57 Boston College Law Review 1237 (2016).

²⁶⁵ See generally *Kwong Hai Chew v. Colding*, 344 U.S. 590, 596 n.5 (1953) (quoting *Bridges v. Wixon*, 326 U.S. 161 (1945)).

entertainment or promotional activities. Since these standards are already applied throughout the Federal Government, DHS does not anticipate that the changes in this rule will represent a significant departure from current processing and therefore does not believe the rule will hinder the free expression of First Amendment rights.

DHS immigration officers are trained to adjudicate EOS applications in accordance with policy, regulations, and applicable law. Officers do not have unfettered discretion to deny applications arbitrarily or in retaliation for unfavorable reporting. Assertions that the rule would permit punitive denials are speculative and unfounded.

DHS appreciates commenters' recommendations for additional safeguards. The rule does not impose content-based review requirements beyond what is necessary to confirm journalistic status, and it is not intended to restrict academic or research endeavors, nor is it intended to chill academic freedom or social media engagement. Protections for source confidentiality remain in place, consistent with Supreme Court precedent. While appeals are not available for Form I-539 denials, applicants may file motions to reopen or reconsider, and denial notices will continue to provide specific reasons for denial, except for classified information, as required by regulation.

DHS notes that an alien seeking I classification must demonstrate that he or she has foreign information media assignments, projects, and work to continue staying in the United States, and DHS believes that the 240-day period is not only sufficient to cover most assignments²⁶⁶ but is also an appropriate interval for the U.S. government to ensure that the alien remains eligible as an I nonimmigrant. DHS acknowledges the suggestion to distinguish between short-term event-based journalists and bureau correspondence regarding admission periods but declines to adopt different standards for different types of I visa holders. The rule does not limit the number of extension requests and thus EOS requests may be pursued by those I nonimmigrants who want additional time in the United States for their I visa activities.

DHS also appreciates and acknowledges concerns about the impact to independent journalists, the global reputation of the United States as a defender of press freedom, the importance of international journalism, and the importance of diverse

viewpoints. DHS remains committed to supporting transparency and the free flow of information and does not anticipate the rule to negatively impact these values.

DHS has considered comments regarding freedom of association under the National Labor Relations Act. The rule does not alter or restrict the rights of nonimmigrants to associate for lawful purposes. DHS is aware of the legal precedents cited by commenters and will continue to ensure that all actions are consistent with Supreme Court decisions and applicable law.

j. Support for Proposed Rule and Alignment With Statutory Intent

Comments: Several commenters stated that the D/S framework undermines Congress's intent in enacting the 3- and 10-year bars to admission found in INA secs. 212(a)(9)(B)(i) and (C)(i)(I), reasoning that D/S makes it difficult for DHS to determine when unlawful presence begins, and frustrating the enforcement of these statutory bars. Another commenter noted that the proposed rule redefines the accrual of unlawful presence. A commenter wrote that admitted nonimmigrant students generally do not file paperwork with USCIS and thus only begin accruing unlawful presence when detected, referencing backlog statistics of almost 3.8 million cases and extended waits in immigration courts nationwide. The commenter concluded that Congress intended a "bright-line" system in which unlawful presence starts when the authorized stay ends, and that D/S does not align with this intent and expressed support for repealing D/S regulations.

Response: DHS appreciates the support for eliminating D/S and acknowledges commenter's concern that a D/S framework makes it difficult for DHS to determine when unlawful presence begins in certain circumstances. Nonimmigrants admitted for D/S generally do not accrue unlawful presence as provided under INA 212(a)(9)(B) and (C), 8 U.S.C. 1182(a)(9)(B) and (C), unless there is a finding by an immigration officer that the nonimmigrant violated their status in the course of adjudicating an immigration benefit, or when an immigration judge orders the nonimmigrant, excluded, deported, or removed.²⁶⁷ Since nonimmigrant students are currently admitted for D/S, they generally do not file with USCIS subsequent applications or petitions such as an EOS and, therefore,

immigration officers do not generally have the opportunity to determine whether the nonimmigrant student has violated their status. Further, even if DHS has supporting documents demonstrating a violation of status and issues a Notice to Appear to the nonimmigrant student, it can take months or years before his or her case is heard by an immigration judge and a decision is made on whether there is a violation of status, which at that point unlawful presence begins to accrue.²⁶⁸ With the transition from the D/S framework to a fixed period, once a period of authorized stay is finished, unlawful presence begins to accrue similar to other nonimmigrant categories. Accordingly, the rule places nonimmigrants subject to the rule on equal footing with other categories of nonimmigrant aliens whose cases are reviewed for compliance, rather than giving them an unwarranted advantage.

3. Severability

Comments: Commenters expressed concern with the inclusion of a severability clause. For example, commenters remarked that severability could result in incoherent or partially adapted provisions, reasoning that many of the proposed rule's provisions are interconnected. A commenter stated that the inclusion of a severability clause "signals the rule's overreach" across various sectors such as education, research, healthcare, culture, and media. The commenter noted that narrow problems like enhanced SEVIS analytics, risk-based reviews, and reuse of existing biometrics, could be addressed with targeted fixes, as opposed to a sweeping overhaul, to avert heavy costs. Commenters said that fragmentary implementation could cause confusion for students, schools, and DHS officers, suggesting any future revisions be republished as a unified package and put out for notice and comment. Additionally, a commenter said that adoption of severed provisions could cause compliance issues.

Response: DHS acknowledges the commenters' concerns regarding the inclusion of a severability clause in the proposed rule. The purpose of the severability clause is to ensure that, in the event a specific provision of the rule is invalidated or otherwise unenforceable due to legal challenge, the remaining provisions can continue to operate independently to the extent possible. This approach is consistent

²⁶⁶ DHS data, *supra* note 174.

²⁶⁷ See USCIS Memorandum, *supra* note 72.

²⁶⁸ See Executive Office For Immigration Review, *Adjudication Statistics* (July 31, 2025), <https://www.justice.gov/eoir/media/1344791/dl?inline> (indicating 3,797,662 pending cases as of the third quarter in 2025).

with standard rulemaking practices and is intended to preserve the functionality of the rule while minimizing disruption. DHS disagrees that compliance issues or confusion will result from the inclusion of a severability clause. In fact, the severability clause protects from significant changes to the regulation in the event a provision is rendered inoperable. DHS intends for the provisions of each new regulatory amendment to function sensibly independent of other provisions. The provisions finalized in this rule are intended to enhance program integrity and compliance, consistent with DHS's statutory authority and practices for other nonimmigrant categories. Although the provisions collectively will strengthen the overall integrity of the exchange visitor program and provide clearer compliance requirements, they each operate independently to serve this purpose as well. For example, the requirement for nonimmigrant aliens to file an EOS after the end of an approved course of study is independent from the prohibition on F-1 students at the graduate level from changing educational objectives. Similarly, providing F-1 students 30 days to depart is independent from the restriction against any F-1 student who has completed a program at one educational level from participating in a program at the same or lower educational level. To protect DHS's goals for this rule, DHS added regulatory text stating that the provisions be severable so that, if necessary, the regulations may continue to function even if a provision is rendered inoperable. Future revisions to the regulations which require notice and comment rulemaking will be published in the **Federal Register**.

4. Privacy Concerns

Comment: A commenter indicated that the proposed rule raises significant privacy and civil liberties concerns. The commenter explained that frequent re-vetting and more frequent submissions of personal, academic, medical, and financial data expand the volume of sensitive information collected and retained by government systems. Without strict limits on collection, use, retention, and sharing, the commenter warned about the increase in risks of misuse, data breaches, and "mission creep"—normalizing intrusive monitoring tied to immigration status rather than tailoring oversight to demonstrable risk.

Response: DHS appreciates the commenter's concerns regarding privacy and civil liberties. As with most other nonimmigrant visa categories that

require EOS, DHS is committed to protecting the privacy and civil liberties of individuals whose information is collected and maintained. All information collected under this rule will be handled in accordance with applicable federal privacy laws, including the Privacy Act of 1974, and DHS policies governing the collection, use, retention, and sharing of personally identifiable information (PII).²⁶⁹

Oversight mechanisms are in place to prevent misuse and unauthorized access. DHS implements strict safeguards to limit access to sensitive data, minimize the volume of information collected to what is necessary for the stated purpose, and ensure that information is retained only as long as required by law and mission need. DHS also conducts regular Privacy Impact Assessments (PIAs) and System of Records Notices (SORNs) to evaluate and mitigate risks associated with data collection and retention.²⁷⁰ DHS limits monitoring and vetting activities to those individuals and circumstances where there is a legal requirement or need, in compliance with applicable regulations and statutes, such as the biometrics requirements under this rule. DHS continually reviews its processes to ensure that oversight is tailored and proportionate, and that privacy and civil liberties are protected.

Q. Regulatory Impact Analysis (RIA) (E.O. 12866, 13563)

1. Methodology

Comments: Commenters expressed significant concerns about the Regulatory Impact Analysis (RIA) methodology, arguing that DHS substantially underestimated the proposed rule's economic impact and failed to adequately disclose true costs. One commenter wrote that the analysis relied heavily on speculative qualitative assessments rather than concrete data, potentially rendering the rule non-compliant with Executive Orders 12866 and 13563. Multiple commenters stated that the RIA quantified only a limited portion of costs while excluding major categories, such as administrative burdens on educational institutions, opportunity costs from reallocating DHS personnel, and long-term reputational harm to U.S. higher education.

Response: DHS acknowledges that not all costs of the rule are quantified in the

regulatory impact analysis. According to Circular A-4 guidance on regulatory impact analyses, when a regulation's impact is difficult to quantify, economists are required to complete the analysis by describing these impacts qualitatively.²⁷¹ Therefore, for costs of this rule which DHS is unable to effectively quantify, DHS elects to describe these impacts qualitatively.

DHS requested comments and data on the quantified burdens in the NPRM. Based on public comments, DHS's added additional time burdens to the RIA. For example, DHS included additional advising time burdens during the transition period. To the extent possible, DHS incorporated burdens into the quantified cost estimates.

Comments: Multiple commenters highlighted broader economic consequences, beyond those acknowledged in the analysis, including reduced foreign student enrollment, lost tuition revenue, decreased consumer spending, and diminished tax income. The commenters also highlighted concerns about downstream impacts such as labor market disruptions, reduced access for underrepresented students, innovation decline, and damage to U.S. higher education competitiveness. One commenter stressed the need for an assessment of impacts on the highly skilled workforce, including in critical sectors such as AI, energy, life sciences, and healthcare.

Response: DHS acknowledges the economic contribution of foreign students and exchange visitors through tuition and regional spending, as well as contributions to research, innovation, and teaching. DHS anticipates the economic benefits to municipalities, educational institutions, and firms whose businesses rely on foreign students and exchange visitors to continue. DHS acknowledges that the rule may adversely affect U.S. competitiveness in the international market for nonimmigrant students and exchange visitors by imposing an additional burden on foreign students and exchange visitors who need to file EOS requests. However, DHS expects the quality of U.S. education systems to remain high and international demand for U.S. education to continue.

Any reduction in enrollment has the potential to reduce the economic benefits that foreign students and exchange visitors offer, and to potentially disrupt labor markets that rely on foreign students and exchange

²⁶⁹ See, e.g., ICE, *DHS/ICE/PIA-001 Student and Exchange Visitor Program (SEVP)* (last updated Nov. 30, 2023), <https://www.dhs.gov/publication/dhsicepia-001-student-exchange-visitor-information-system-sevis>.

²⁷⁰ See ICE, Office of Information Governance and Privacy, <https://www.ice.gov/management-administration/privacy> (last visited Feb. 20, 2026).

²⁷¹ OMB, *Circular A-4: Methods for Treating Non-Monetized Benefits and Costs* (Sept. 17, 2003), https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/.

visitor labor. DHS expects the United States to remain a popular, competitive, and attractive place for foreign students and exchange visitors to pursue their program of interest. Accordingly, DHS does not intend for the rule to impact the quality of educational experience offered in the United States. DHS has decided to discuss this impact qualitatively due to the speculative nature of the magnitude of the decrease in enrollment and any associated reduction in revenue.

Additionally, DHS notes that the F, J, and I visa categories are not intended to address U.S. labor markets for the high skilled workforce. This rule does not impact the H-1B or O-1 visa categories.

Comments: One commenter stated that DHS significantly underestimated the number of students who would require extensions under the proposed rule. The commenter referenced their own institution's data showing that on average 71 percent of graduating seniors either apply for OPT or request transfers to graduate programs and stated that these figures are far higher than DHS's estimate that only 13 percent of F-1 students would be affected. Commenters also critiqued incorrect DHS assumptions regarding J-1 exchange visitors, explaining that program sponsors routinely issue DS-2019s for only a year at a time based on annual reappointment cycles, rather than for the maximum period allowed. The commenters stated this practice follows regulatory requirements that J-1 sponsors only issue DS-2019s for the length of exchange activity and duration of adequate funding, which often align with annual appointment cycles.

Another commenter criticized DHS's reliance on outdated data, noting that the analysis used SEVP data from 2016 to 2018, which they considered too old to project future impacts accurately.

Response: DHS acknowledges that the NPRM utilized data from 2016 through 2018. The Regulatory Impact Analysis has been updated to include data from 2016, 2018, 2020, 2022, 2023 and 2024 to provide a more accurate model of the number of EOS requests. The annualized cost estimates from the NPRM to the final rule increased from \$390.3 to \$443.1 million when discounted at 3 percent, and \$392.4 to \$448.6 million when discounted at 7 percent.

The regulatory impact analysis shows 1,470,059 F-1 students may be affected by this rule. This number is a 3-year average from 2022–2024, and DHS acknowledges that some schools may be more affected than others by this rule.

DHS recognizes that J-1 program sponsors issue DS-2019s for only a year

at a time for certain programs. DHS will provide guidance to officers admitting J-1 nonimmigrants to refer to Box 4 on their DS-2019 in order to get the full program length, up to four years, for the admitted non-immigrant's I-94, which will reduce the need for the annual reappointment cycle that the commenter cites. This allows categories with longer programs (extending beyond 4 years), such as alien physicians, professors, or research scholars, to only require an EOS after the initial 4 years, and other categories to only require an EOS when needed as discussed in this rule. This will limit the number of EOS requests from J-1 nonimmigrants while still providing the necessary oversight the rule seeks to provide. This change was applied to the RIA estimate of the number of EOS requests for J nonimmigrants.

Comments: Many commenters recommended that DHS conduct a comprehensive impact analysis before finalizing the proposed rule. They emphasized the need to fully assess operational, economic, opportunity, and equity implications, stressing that any future rulemaking should include a robust cost-benefit analysis comparing multiple regulatory alternatives and involve meaningful consultation with affected economic sectors.

Response: DHS conducted a regulatory impact analysis to fully consider the potential impacts of the final rule in accordance with Circular A-4 best practices.²⁷² In this RIA, DHS considered the impacts of the rule on affected parties, including F, J, and I nonimmigrants, DSOs and ROs, and government agencies such as DHS and DoS. DHS also considered a variety of alternatives to the rule, as explained in the published NPRM, but concluded that eliminating the D/S framework and switching to fixed time periods for F, J, and I nonimmigrants was ultimately the most effective method of addressing intertwined national security, fraud, and overstay concerns.

2. Costs

a. General Comments on Costs Considered

Comments: Commenters stated that the proposed rule would be costly, citing DHS's own estimate of annualized costs ranging from \$390.3 million to \$392.4 million, affecting both U.S. and non-U.S. parties. Commenters wrote that U.S. parties would face between \$86.3 million and \$88.1 million yearly, with the vast majority attributed to DSOs and AROs. A few commenters

pointed out that DSOs would have to undergo additional training and adaptation to familiarize themselves with the new regulations, and that this compliance cost is estimated to reach \$93.3 million across the sector in year one, according to NAFSA.²⁷³ Commenters challenged DHS's cost estimates as substantially understated, with some offering alternative calculations. One commenter estimated annual costs between \$7.4 billion and \$12.4 billion, including \$2.3 billion in direct costs, and up to \$10 billion in lost economic activity from reduced student enrollment. Another commenter cited projections from an economist and the Institute for Progress suggesting the elimination of D/S could cost the United States between \$72 billion and \$145 billion over 10 years, significantly higher than DHS's estimate of \$3.3 billion.

Commenters expressed concerns about the financial impact of the proposed rule on educational institutions, arguing that DHS's implementation cost estimates were too low. Community colleges, 2+2 transfer programs, and smaller colleges in rural areas were identified as particularly vulnerable. Commenters warned English language schools could see severe impacts, including revenue decreases and potential closures. One commenter estimated that the loss of students deterred by the EOS requirement would cost their English language learning program \$1 million annually. Commenters also warned of broader economic consequences, including reduced U.S. competitiveness and negative impacts on local economies.

Response: DHS has updated its regulatory impact analysis to use data from 2016, 2018, 2020, 2022, 2023 and 2024, and finds annualized costs of \$443.1 million to \$448.6 million when discounted at 3 and 7 percent respectively. These updated cost figures result from data updates and updating the EOS cost model for event specific data, changes in burden estimates for rule familiarization, and new guidance on the adjudication of for DS-2019 for J visa holders. DHS disagrees with the larger impacts proposed, as they assume large enrollment impacts as a result of the rule. It is unknown how many current students will choose not to continue their enrollment at a U.S. educational institution. This rule's main regulatory burden to nonimmigrants is to fill out an EOS request and pay a small fee, relative to the overall cost of attendance, but the rule will allow them

²⁷³ Commenters referenced *Duration of Status Explainer*, see *supra* note 136.

²⁷² *Id.*

to continue with their educational activities in the country upon completion of this requirement and continued compliance with the terms of the nonimmigrant's visa. While some foreign students may choose not to enroll as a result of this rule, DHS expects that U.S. educational institutions will continue to attract other students who are not dissuaded by the requirements of this rule due to the high quality and opportunities at these institutions. U.S. universities and colleges may be able to fill any vacancies left by foreign students who choose not to enroll with other qualified applicants, whether from other countries or domestically, which could reduce the overall impact on enrollment numbers. DHS is unable to quantify enrollment impacts due to uncertainty factors (see Appendix A in the Regulatory Impact Analysis) as a result of the increase in quantified costs due to this rule.

Comments: A commenter recommended that DHS study the projected private sector economic impacts and provide additional research on the alleged security threats posed by overstays. Multiple commenters recommended that DHS reperform its cost-benefit analysis to reflect the larger scale impacts that the proposed rule fails to recognize.

Response: In the regulatory impact analysis for this rule, DHS does consider the larger scale impacts of this rule, including its impacts on the private sector. DHS understands that the elimination of D/S has the potential to reduce nonimmigrant student enrollment and participation of exchange visitor and foreign media representatives due to additional costs and other burdens associated with extensions of the admission period. However, DHS does not intend for this rule to cause substantial reductions in student enrollment, as DHS maintains that there are a wide range of benefits from pursuing an academic program in the United States that may outweigh the impacts from the admission for a fixed period. Additionally, nonimmigrants, if needed, can extend their stay if they meet the EOS eligibility requirements. This rule does not prevent nonimmigrants from filing an EOS request. Because DHS does not expect substantial reductions in student enrollment, DHS does not expect this rule to have major downstream impacts on the municipalities, educational institutions, and firms whose businesses rely on foreign students, foreign media representatives, and exchange visitors.

DHS acknowledges that not all costs of the rule are quantified in the

regulatory impact analysis and there is uncertainty regarding enrollment impacts. According to Circular A–4 guidance on regulatory impact analyses, when a regulation's impact is difficult to quantify, economists are required to complete the analysis by describing these impacts qualitatively. Therefore, for costs of this rule which DHS is unable to effectively quantify, such as the potential burden for DHS and nonimmigrants associated with government requests for additional information or in-person interviews, or the potential reduction in enrollment of nonimmigrant students and exchange visitors and subsequent revenue effects on sponsoring institutions, DHS elects to describe these impacts qualitatively and describes uncertainties regarding enrollment impacts. See the Regulatory Impact Analysis, "Costs" and Appendix A of the RIA sections available in the docket for this rulemaking.

As far as studying the overstays to determine the risks they pose, the record has been clear for many years. Any nonimmigrant who overstays any class of visa is unlawfully present in the United States and presents a risk to national security. Once an F–1 visa holder completes their program and is no longer tracked by DSOs at SEVP-certified institutions, DHS no longer has accurate data on their location or activities through the SEVIS database. The United States has had several incidents in which individuals overstayed their visa and went on to commit terrorist acts, including several of the 9/11 attackers and Mohamed Soliman who violently attacked U.S. citizens in Boulder, Colorado in 2025.²⁷⁴

b. Costs to Nonimmigrants, Aliens, and Their Support Systems

(1) Costs for EOS Filings

Comments: Multiple commenters stated that the proposed rule would impose significant costs on foreign students from EOS filings (e.g., fees, biometrics). One commenter expressed concern that DHS provided little supporting data for the EOS filing costs to foreign students and exchange visitors, specifically individual cost breakdown. Another commenter stated that the expense of filing an EOS adds to an already considerable list of fees that foreign students pay to come to the United States and maintain their status,

including the SEVIS I–901 fee (\$350), nonimmigrant visa application fee (\$185), visa integrity fee (\$250), and (if applicable) fees associated with OPT and STEM OPT.

Commenters stated that, under the proposed rule, many foreign students are likely to incur costs for at least one EOS application, with many needing to file multiple EOS applications due to changes in academic level or participation in OPT. One of these commenters referenced a common educational path, Bachelor's degree, OPT, Master's degree, OPT, and STEM OPT, which would require four separate EOS filings with USCIS and an approximate cost of \$1,680.

Response: DHS acknowledges that EOS filings will incur costs to nonimmigrants. Table 16, Applicant Unit Costs for Filing an EOS with USCIS of the final Regulatory Impact Analysis calculates the various costs that could be assumed for an EOS request. These costs include assistance and differences in submission type. These costs would only be incurred if the nonimmigrant files an EOS request and would not be concurrent with fees such as the Visa Application Fee.

DHS acknowledges that some nonimmigrants will incur multiple EOS requests. These costs are not expected to occur in a single instance and would be dispersed across multiple years according to the nonimmigrant's program. The Regulatory Impact Analysis does model nonimmigrants who would apply for multiple EOS requests across the 10-year timeframe, which make up the estimate for the number of EOS requests per year.

DHS expects foreign students to consider the cost of extending their status in the context of the overall cost of their program, which may include expenses such as tuition, textbooks, room and board, and discretionary expenses. Because the cost of status extension is small, relative to the overall cost of attendance, DHS does not expect this added cost to impose a significant change in burden for foreign students.

Comments: Commenters stated that the proposed rule fails to account for the costs associated with foreign students and exchange visitors obtaining legal representation. They emphasized that DSOs and ROs are not authorized to provide legal advice, meaning that many foreign students and exchange visitors would need to hire legal counsel to ensure proper completion of filings. Commenters provided alternative cost estimates for legal support when filing an EOS, ranging from \$750 to \$3,000. One of these commenters argued that the EOS filing costs could create

²⁷⁴ See *The 9/11 Commission Report*, supra note 18; see also Spagat, E., *The Associated Press, What we Know About the Visa Obtained by Egyptian Man who Injured a Dozen People in Colorado* (Jun. 4, 2025), <https://apnews.com/article/immigration-visas-soliman-colorado-attack-81f44b98365adc01b1ff418a1885a1c6>.

financial barriers to program completion, specifically referencing doctoral students, who typically earn \$30,000 annually.

Response: DHS acknowledges that nonimmigrants may require legal help in completing the EOS request. This cost is accounted for in the Regulatory Impact Analysis of the NPRM as an average cost of \$490, according to the Supporting Statement of Form I-539. As not all nonimmigrants will require legal support, this cost is only applied to 24.5 percent²⁷⁵ of the nonimmigrants expected to file an EOS request and require additional assistance.

Comments: One commenter criticized the cost analysis for the biometrics appointments required as part of the EOS process. The commenter specifically noted (1) the use of a “50 mile round-trip” without any analysis of the geographic distribution of ASCs in relation to universities (particularly for rural institutions) and (2) the assumption of universal car ownership, ignoring students who rely on public transportation, rideshare services, or who may need to arrange overnight accommodations due to the distance. These oversights, the commenter stated, result in a systematic underestimation of actual costs, which are likely to far exceed DHS’s projections. Another commenter stated that biometrics appointments pose a substantial challenge for the majority of foreign students, who frequently lack access to personal transportation.

Response: DHS disagrees that the cost analysis for the biometrics is underestimated and does not expect this burden to be a significant deterrent to most foreign students. DHS acknowledges that nonimmigrants will incur different travel costs based on location and availability of transportation; they were included in the regulatory impact analysis of the NPRM. The usage of 50 miles is an average distance and is not the same experience for all nonimmigrants. Some will incur small costs due to proximity and low-cost transportation, and others will incur higher costs. This figure is meant to provide an average per nonimmigrant but will not be the specific cost for all nonimmigrants.

(2) Obtaining an EOS at a POE

Comments: One commenter remarked that, given the financial burden and uncertainty associated with international travel, exiting and

reentering the United States at a POE would not be a viable alternative to filing Form I-539 with USCIS for extending status. The commenter also stated that F-1 and J-1 visa holders, particularly individuals holding single-entry visas, may need to obtain a new visa stamp to travel abroad and reenter the country to extend their period of admission. This may force individuals to remain outside the United States for an extended period of time and impose significant personal cost and risk.

Response: DHS acknowledges that travelling outside of the United States and re-entering may not be the preferred option for all impacted visa holders. The exact proportion of eligible nonimmigrants who will choose to re-enter through a POE is unknown, but in the regulatory impact analysis for the NPRM and Final Rule, DHS assumes that, while requesting an EOS at a POE is an option, many nonimmigrants wishing to remain in the country will file an EOS and remain in country instead of incurring costs due to travel and reentry. The regulatory impact analysis also assesses how the impacts would change if nonimmigrants sought extensions while traveling through a POE instead of filing the I-539 or I-539A form.

(3) Unquantifiable and Intangible Costs

Comments: One commenter stated that DHS does not acknowledge the unquantifiable and intangible costs associated with the uncertainty of applying for a new period of admission. These include (1) the lack of published adjudication data for Form I-539 to inform the likelihood of EOS denial under the proposed rule, (2) current processing time issues at the USCIS California Service Center, which reports an average of 4.5 months for changes to F-1 or J-1 status and 3.5 months for extensions, and (3) the inability of applicants to depart the United States after filing an EOS application for fear of abandoning the application and losing their money.

Response: DHS acknowledges that a denial of EOS may cause an interruption in a student’s studies. However, any such denial would be warranted due to an applicant’s lack of eligibility for an EOS (*i.e.*, the student is placed on academic probation or suspension, repeatedly fails classes, failed to maintain their nonimmigrant status, or has a criminal history).

DHS acknowledges backlogs in the processing of EOS applications have occurred due to various factors not related to this rulemaking. DHS believes that factors contributing to this backlog will not be present when more

significant influx of EOS applications resulting from this final rule are anticipated to be filed with USCIS. USCIS, as a fee funded agency, may set fees to support the additional workload associated with adjudication of cases subject to section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4). USCIS conducts comprehensive fee studies on a biennial basis to assess whether its fee schedule adequately accounts for the full cost of naturalization and adjudication services. This assessment necessarily takes into account the projected volume of filings and the level of effort necessary to adjudicate various immigration benefit requests.²⁷⁶ USCIS will allocate appropriate levels of resources to ensure the adjudication of EOS continues in a timely fashion. Due to the expected growth of fees paid for the I-539 form, USCIS will have more resources to allocate to meet the demand.

Students will be aware of their allowed length of stay as well as the end date for their length of stay. Students who do not wish to leave the country while filing for an EOS are able to plan their travel ahead of time based on that information.

c. Costs to the Government

(1) Costs to USCIS

Comments: Multiple commenters emphasized that the Federal Government would need substantial resources to manage the increased volume of visa renewal and immigration extension applications. One commenter stated that the proposed rule does not clearly indicate whether application fees or other revenue sources would be sufficient to offset these additional costs.

Response: DHS does not expect an unreasonable burden to USCIS, the agency responsible for Form I-539, from the adjudication of EOS requests. USCIS is a fee-funded agency and established fees for the EOS applications to support the workload associated with adjudication of cases. USCIS conducts comprehensive fee studies on a biennial

²⁷⁵ Based on Supporting Statement for Form I-539 values, 24.5 percent of F-1, J-1, and I applicants (70% paper applicants * 35% requiring outside assistance = 24.5%) will incur these costs.

²⁷⁶ USCIS published a rule to change its fee schedule. See *USCIS Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*, 85 FR 46788 (Aug. 3, 2020), corrected by *USCIS Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*, 85 FR 49941 (Aug. 17, 2020) (Fee Rule). The U.S. District Court for the Northern District of California has preliminarily enjoined DHS from implementing or enforcing any part of the Fee Rule. *Immigration Legal Resource Center et al., v. Wolf, et al.*, Case No. 20-cv-05883-JSW (N.D. Cal. Sept. 29, 2020). While the Fee Rule is enjoined, USCIS will continue to accept USCIS forms with the current editions and current fees and use the regulations and guidance currently in place to adjudicate applications and petitions.

basis to assess whether its fee schedule adequately accounts for the agency's full costs. Additionally, the regulatory impact analysis for this rule qualitatively assesses how USCIS requests for additional information or in-person interviews may impose additional costs on USCIS.

Comments: Multiple commenters stated that DHS failed to quantify the economic and operational impact of the proposed rule on USCIS, despite the agency potentially needing to process hundreds of thousands of additional EOS applications. Without evidence, these comments stated that USCIS currently lacks the necessary systems, staffing, training, information technology (IT) infrastructure, and integration capabilities to manage such an increase in application volume efficiently. One commenter highlighted that USCIS is already facing significant resource constraints and processing delays, particularly after the recent loss of experienced personnel due to government downsizing and added that further workload increases without adequate resources would likely strain the agency and lead to longer processing times. Another commenter recommended that DHS fully assess the potential impact of the proposed rule on application processing times across all Federal agencies, particularly those responsible for employment-based applications.

Response: DHS agrees with commenters that there will be an increase in fee-paying volumes of EOS applications received by USCIS following the effective date of the final rule as those nonimmigrants who are required to file EOS begin to do so and acknowledges this in the NPRM. However, DHS notes that the most significant increase in the volume of EOS applications will not materialize until 4 years after the effective date of this rule. This will allow time for DHS to shift resources as needed and as appropriate to ensure that the larger increased volumes are integrated into existing workflows. Several commenters noted and DHS has acknowledged backlogs in the processing of EOS applications. DHS believes that, given that 80 percent of Form I-539 adjudications for F, M, and J aliens are completed in three months,²⁷⁷ factors contributing to this backlog will not be present when the EOS applications resulting from this final rule are anticipated to be filed with USCIS. The fees collected with the increase in

applications will result in additional resources for USCIS to use to mitigate the impact on the processing queue. The funds can be used to allocate appropriate resources to ensure adjudication of the I-539 in a timely manner. This will lessen the impact on processing times for applications with USCIS.

DHS acknowledges that not all costs of the rule are quantified in the regulatory impact analysis. According to Circular A-4 guidance on regulatory impact analyses, when a regulation's impact is difficult to quantify, economists are required to complete the analysis by describing these impacts qualitatively. Therefore, for costs of this rule which DHS is unable to effectively quantify, DHS elects to describe these impacts qualitatively. These impacts include system upgrades, training and adaptation for the federal government, among others. DHS did quantify the costs of filing EOS requests on the nonimmigrant population, the educational institutions and sponsors assisting the nonimmigrants, and overall familiarization and adaptation costs. These were quantified using available data regarding population sizes, burden estimates, and wage rates.

(2) Costs to CBP

Comments: A commenter states that while DHS acknowledges that CBP will require new training, updated procedures and system upgrades, it fails to provide a cost estimate for these changes. Another commenter stated that DHS had not adequately assessed the significant impacts on CBP, including (1) training for CBP officers on new systems and procedures and (2) necessary upgrades to systems and procedures. A commenter stated that CBP training expenses for new admission procedures are standard government costs that can be calculated using established per-employee methodologies.

Response: DHS acknowledges that this rule will require efforts to update systems and train officers. However, these system updates will not incur additional costs, as the updates for SEVIS are part of regular software updates and incorporated within the budget allocations into current financial and resource allocations for SEVIS operations and maintenance. Furthermore, ADIS does not require any additional costs for new software updates as a direct result of the D/S rule. Training costs are similarly expected and incorporated within the overall training budget allocations and incur no additional cost to the U.S. taxpayer. The training for compliance

with the rule will be part of regular training and training budgets and cannot be separated as a distinct cost.

(3) Costs to DoS

Comments: Multiple commenters stated that DHS does not account for additional costs or budgets. These commenters remarked that the proposed rule would likely increase DoS responsibilities, considering the newly implemented screening and vetting procedures for F and J nonimmigrants, which now require in-person interviews for nearly all nonimmigrant visa renewal applicants. One commenter highlighted that changes to the interview waiver policy could result in an increase in visa interview volume. One other commenter recommended DHS consider the impact that the proposed rule would have on consular operations worldwide.

Response: DHS disagrees that this rule imposes additional burden on DoS which are not accounted for in the regulatory impact analysis. This rule does not increase DoS responsibilities or require changes to vetting procedures. Changes to screening and vetting procedures required by other regulatory or policy changes are not a burden of this rule and so are not assessed in the RIA.

(4) Costs to Other Federal and State Agencies

Comments: One commenter stated that the Social Security Administration and the Internal Revenue Service use Form I-94 for business purposes and would require system updates and additional employee training as a result of the proposed rule. This commenter also stated that State-level processes that rely on Federal systems, such as driver's license and state ID issuances, were not considered in the cost or impact of the rulemaking.

Response: DHS acknowledges that this rule will change the filing process of the I-94 at a POE for nonimmigrants affected by this rule. However, the I-94 form will not change, as the end date will be replaced with a hard date, no longer than 4 years after entry, instead of the D/S indicator. Agencies who use the I-94, such as the Social Security Administration, Department of Motor Vehicles, and the Internal Revenue Service, should receive notification of these changes. Agencies will be aware so that there is no confusion and understand that D/S is no longer used for this population of nonimmigrants.

DHS recognizes various state laws related to driver's licenses for aliens but does not have authority to adjust these state laws. DHS acknowledges that

²⁷⁷ DHS, USCIS, *Case Processing Times*, <https://egov.uscis.gov/processing-times/> (last accessed Feb. 23, 2026).

indirect impacts, such as more frequent license renewals, could occur as a result of how states utilize the I-94 form.

However, many other visa types utilize fixed duration on the I-94 form, so this adjustment should not be significant.

d. Costs to Schools, Programs, Program Sponsors, and Small Entities

(1) Increased Costs for Rule Familiarization and Adaptation

Comments: Multiple commenters stated that the DHS cost estimate for DSO/RO rule familiarization and adaptation in the first year after the rule takes effect is significantly understated. Using DHS's 67-hour estimate, one commenter estimated rule familiarization and adaptation costs for their institution of \$180,000. Commenters stated that the 67 hours of training would be the minimum, as DSOs and ROs would need to assume additional duties, such as outreach work for students, exchange visitors, and staff regarding the changes, updates to case management and batch processing systems, additional counseling, updates to all relevant guidance and processes, and other duties which could require near constant attention for 1 to 2 years. Commenters noted that there would be additional burden to DSOs who must advise their current F-1 students of the new rule. Another commenter stated that the rule's restrictions, if implemented, would require an overhaul of all materials in English, French, Spanish and Mandarin, adding administrative burden while decreasing income. Another commenter stated that the proposed rule does not consider the new and ongoing training that institutions will have to develop and implement for multiple academic departments and administrative entities involved in supporting foreign students. Commenters stated they had already spent over 50 hours analyzing the information in the proposal, running out of time, before comments were due.

Response: In response to comments providing alternative estimates for DSO/RO labor burden from the rulemaking, DHS has revised the rule familiarization and adaptation burden estimate to the median value the public comments provided of 135 hours—this includes the time required to create and modify training materials. Additionally, DHS has also added in a 1 hour per current F nonimmigrant advising burden to account for the first year of costs estimated, to provide an accurate accounting of the burden to DSOs when transitioning from D/S to a fixed length of stay. This increase is reflected in the updated cost numbers, and includes any

additional training or materials created due to this rule. *See* the Regulatory Impact Analysis, "Rule Familiarization and Adaptation: F and J Sponsors", available in the docket for this rulemaking.

Comments: One commenter highlighted concerns for labor organizations representing visa holders, writing that they would face increased costs to educate members about the changes, organize trainings, produce materials, and assist with extension processes.

Response: DHS recognizes that some organizations such as labor organizations may choose to update materials as a result of this rule. However, this rule does not obligate those changes. Should a labor organization choose to offer assistance with EOS applications for foreign students, DHS cannot account for that cost or time burden in the RIA since it is not required by the rule.

(2) Annual Administrative Burden for Sponsors

Comments: Commenters expressed concern about the administrative burden the proposed rule would impose on DSOs, particularly regarding the increased volume of EOS applications they would be required to process. One commenter stated that the time burden estimated in the RIA for DSOs was significantly underestimated, particularly considering that students typically file EOS applications simultaneously each year due to the academic calendar and standardized I-20 end dates. Multiple commenters estimated their institutions' EOS processing costs under the rule using DHS's cost and time projections. This estimate amounted to hundreds of thousands of dollars in costs and additional full-time equivalent (FTE) staff needs to meet the burden. Other commenters estimated overall annual costs resulting from the rule, ranging from \$767,000 to \$1.3 million.

Response: DHS acknowledges that the new process for an EOS may increase the burden for DSOs and acknowledges that there may be seasonal variation in the number of EOS requests DSOs will need to process. However, similar to employment reporting, the DSO is only required to input accurate information in SEVIS and provide the updated I-20 to the foreign student. Beyond that, it is the foreign student's responsibility to apply for the extension with an updated I-20 to USCIS using the I-539 form. Based on best professional judgment, SEVP continues to estimate that DSOs/ROs would require an average of 3 hours per EOS request for (1) reviewing the

foreign student's or exchange visitor's EOS request form (1 hour), (2) updating the SEVIS record and tracking EOS requests (1 hour), and (3) advising the foreign student or exchange visitor about the extension process and the requirements to file an EOS with USCIS (1 hour). Should a DSO offer additional assistance with EOS applications for their foreign students as part of their offered services, DHS cannot account for that cost or time burden in the RIA since it is not required by the rule.

(3) Impacts on University Staffing

Comments: Commenters expressed concern that the proposed rule would require institutions to hire additional staff to manage the increased administrative workload. One commenter estimated that first-year costs for staffing, training, and systems development would total approximately \$250,000 for their university. Another commenter projected the need to hire at least two FTEs, at a minimum cost of \$80,000, to meet the demands of the proposed reporting requirements. A commenter specifically remarked that the rule would require Oklahoma State University to hire four additional full-time immigration compliance staff and implement new tracking systems costing approximately \$500,000 initially, based on their preliminary analysis. Another commenter stated that DHS failed to account for impacts of the proposed rule on university staff beyond the foreign student office. This commenter further stated that these impacts include rule familiarization, training, and procedure updates for (1) payroll staff needing to perform I-9 reverification more frequently, (2) staff charged with verifying legal presence, (3) academic advisors, who may be asked to write support letters for extensions, and (4) hiring departments and supervisors needing to revise recruitment, hiring, and retention policies.

Response: SEVP-certified schools are not required to maintain specific staff numbers other than one PDSO. Although DHS anticipates that most schools authorized to sponsor F students and J exchange visitors will be able to accommodate the additional DSO/RO labor burden with existing staff, DHS recognizes that some may elect to hire more DSOs and ROs to meet the requirements of the rulemaking. DHS expects that hiring costs would vary depending on number of F students and J exchange visitors at each institution, size of the institution, and number of existing staff. DHS anticipates that costs from hiring and paying additional staff would represent

a small portion of annual revenue for the great majority of sponsors.

In its regulatory impact analysis, DHS recognizes that beyond DSOs, additional university departments may also incur labor burden from the rulemaking, such as personnel offices and planning committees, among others. DSOs and ROs already coordinate with other departments when completing regular SEVIS updates, and DHS anticipates that these updates would provide the information needed for most EOS requests.

(4) Human Resources (HR) and Hiring Processes

Comments: One commenter stated that because F–1 students and J–1 exchange visitors can be legally authorized to work at many public and private sector employers across the United States, DHS had not adequately assessed the significant, negative impacts that HR professionals at employers are likely to experience if the proposed rule is implemented. The commenter further stated that HR staff would need to determine the employment eligibility end date for each F–1 and/or J–1 employee and develop processes to track their EOS application, the status of their EOS application with USCIS, track the 240-day extension of work authorization while the application is pending, and obtain new documentation each time an extension is approved or denied by USCIS.

Response: DHS disagrees that the final rule will significantly burden employers. In its regulatory impact analysis, DHS accounted for 1.5 hours of HR labor burden per EOS request for time required by HR staff to track form updates related to each EOS request and avoid inadvertent unauthorized employment due to form discrepancies with the Form I–9. Nothing in the final rule requires employers to prepare additional documentation; the rule instead requires F–1 students who wish to complete OPT to apply for EOS if the OPT will occur after the expiration of the status. DHS also does not expect that the final rule will commonly result in documents with divergent and confusing expiration dates.

(5) IT System Costs and Concerns

Comments: Multiple commenters expressed concern about the financial burden that updating IT systems to meet the requirements of the proposed rule may place on educational institutions. One commenter stated that the time and resource burden of the changes would be significant and permanent, as would the addition of information technology solutions to track students' academic

progress, flagging any changes that impact students' proposed degree timelines. Another commenter stated that it was analytically indefensible to use "uncertainty of the scope and scale of the system upgrades needed as a result of this proposed rule" to avoid monetizing batch processing upgrade costs for institutions as a result of the rule. Another commenter stated that employment and payroll systems will need to be updated to incorporate the Form I–94 end date as an additional data point to determine employment eligibility and noted that any changes to the employment and payroll system, within a university system, must be made at the system level and requires at least 6 months advance notice before changes can be implemented.

In addition, another commenter stated that the rule would require extensive software updates, enhanced data collection, and the development of new business processes, which would be further complicated by unreliable data transfer systems between government agencies regarding the fixed period of stay.

Response: DHS acknowledges the concerns associated with schools updating their internal IT systems to meet the requirements of the rule and recognizes in the RIA that the rule could lead to system upgrades by schools and program sponsors that currently use batch processing to interface with SEVIS.

However, the costs associated with such updates vary based on the type of updates needed by each school and it is difficult for DHS to quantify specific costs. No specific costs were provided that allowed for a meaningful estimate to be utilized in the analysis. These costs are discussed in a qualitative manner in lieu of a quantified estimate. SEVP-certified schools are not required to utilize batch processing, *i.e.*, the use of a third-party software or database, to identify and push changes from foreign student records in a school's official academic database to SEVIS. Because of these heterogeneities, DHS was unable to model any monetized impact to institutions in a reliable manner. According to Circular A–4 guidance on regulatory impact analyses, when a regulation's impact is difficult to quantify, economists are required to complete the analysis by describing these impacts qualitatively. Therefore, DHS elects to describe these impacts qualitatively in the RIA.

Lastly, DHS disagrees that data transfers systems between government agencies regarding the fixed period of stay will be unreliable, as there has been coordination between agencies on

implementation. Additionally, many other visas utilize fixed periods of stay and are able to coordinate across government agencies. Since many visas utilize fixed periods, DHS expects that systems for employment should be able to handle the addition of an end date for alien workers in the country on a visa.

(6) Potential Decline in Enrollment

Commenters expressed concern that the proposed rule would lead to a significant decline in foreign student enrollment, contrary to DHS's assertion that it would have only a "marginal impact." One commenter estimated that programs exceeding 4 years at their institution are at risk of losing 61 percent of their enrolled foreign student population. One commenter cited a recent analysis published by NAFSA: Association of International Educators showing that visa bans and disruptions in visa interviews and processing were already predicted to cause a potential 30 to 40-percent decline in new foreign student enrollment, contributing to a 15-percent overall drop in fall enrollment.²⁷⁸ Another commenter cited surveys conducted by the Institute for Progress and NAFSA that found: (1) 49-percent of respondents, who were foreign students studying in the United States, said they would not have enrolled had D/S been replaced with a fixed period of admission; and (2) 16 percent fewer prospective students said they were likely to enroll in U.S. programs if D/S were replaced with a fixed period of admission (57 percent) compared to the current rules (67 percent).²⁷⁹ A commenter stated that 54 percent of current students and 29 percent of prospective students, reported they would not come to the United States for a degree without access to OPT.²⁸⁰

Response: DHS acknowledges that the rule may have an impact on U.S. competitiveness in attracting foreign students and exchange visitors. Any reduction in enrollment could potentially diminish the economic benefits that foreign students and exchange visitors contribute to the U.S. economy. DHS has chosen to discuss these impacts qualitatively, as the exact magnitude of any enrollment decline and its downstream economic effects

²⁷⁸ The commenter referenced <https://www.nafsa.org/about/about-nafsa/us-economy-could-suffer-7-billion-loss-precipitous-drop-international-students>.

²⁷⁹ The commenter referenced Institute for Progress and NAFSA, *Surveys on International Talent Pipelines* (Sept. 15, 2025), <https://ifp.org/wp-content/uploads/2025-Surveys-on-International-Talent-Pipelines-1.pdf>.

²⁸⁰ The commenter referenced the 2025 *Surveys on International Talent Pipelines*, *supra* note 279.

remain uncertain and speculative. DHS also discusses uncertainty regarding enrollment impacts in Appendix A of the RIA.

DHS acknowledges the analysis from NAFSA showing how disruptions in visa interviews and processing could contribute to a fall in student enrollment. Any visa interview or processing disruptions that occurred prior to the announcement of this rule are likely to be driven by factors other than this rule. Further, this rule is unlikely to impact the student visa interview or processing processes. Therefore, DHS does not intend for the rule to cause significant shift in student enrollment due to these effects.

DHS acknowledges the commenter's report that survey results from NAFSA indicated that 49 percent of respondents said they would not have enrolled in the first place had D/S been replaced with a fixed period of admission. However, DHS notes that survey responses often reflect hypothetical preferences rather than actual behavior, and such results may overstate the likelihood of enrollment declines. In practice, students may weigh other factors, such as the quality of U.S. educational institutions and career opportunities, more heavily when making enrollment decisions.

DHS expects foreign students to consider the cost of extending their status in the context of the overall cost of their program, which may include expenses such as tuition, textbooks, room and board, and discretionary expenses. Because the cost of status extension is small, relative to the overall cost of attendance, DHS does not expect potential reduction in enrollment due to this added cost to be significant.

Additionally, while some nonimmigrant students may choose not to enroll as a result of this rule, DHS expects that U.S. educational institutions will continue to attract other students who are not dissuaded by the requirements of this rule. U.S. universities and colleges may be able to fill any vacancies left by nonimmigrant students who choose not to enroll with other qualified applicants, which could reduce the overall impact on enrollment numbers.

Comments: Another commenter questioned why the analysis of the 2020 Rule indicated a stronger potential effect on international enrollment than the current proposed rule and stated that without a clear justification for the change, experts in the field are not reassured that the proposed change will not impact their job security.²⁸¹

Response: The effects of the D/S rule differ from the impacts calculated in the 2020 regulatory impact analysis due to changes in underlying student enrollment patterns since 2020 and changes in the proposed rule, such as replacing the 2-year/4-year maximum fixed admission period with a 4-year maximum fixed admission period. DHS has updated the RIA for the final rule and estimates annualized costs of \$443.1 million and \$448.6 million, when discounted at 3 and 7 percent respectively.

e. Costs to the U.S. Economy, Industries, Taxpayers

(1) Economic Contributions of Foreign Students

Comments: Many commenters emphasized the significant economic contributions that foreign students and exchange visitors make to the U.S. economy, with multiple commenters citing data from NAFSA showing that foreign students contributed \$43.8 billion to the U.S. economy during the 2023–24 academic year and supported over 378,000 jobs across various economic sectors. Another commenter stated that the estimated foregone economic activity resulting from reduced international talent retention is \$12.8 billion. The commenters remarked that, for every three foreign students enrolled in the United States, one U.S. job is created or supported through spending in higher education, accommodation, dining, retail, transportation, telecommunications, and health insurance.²⁸² Another commenter stated that, according to data from the U.S. Department of Commerce Bureau of Economic Analysis, education related travel exports ranked seventh among service exports in 2024.²⁸³

Commenters stated that policies that discourage foreign students from studying or conducting research in the United States would have significant negative economic consequences. One commenter stated that the immediate economic losses projected by DHS paled when compared with possible future losses since foreign students drive innovation, advance America's global competitiveness, and create research

²⁸² The commenters referenced NAFSA, *The United States of America: Benefits from International Students* <https://www.nafsa.org/sites/default/files/media/document/EconValue2024.pdf> and NAFSA, *International Students Contribute Record Breaking Level Spending and 378,000 Jobs*, <https://www.nafsa.org/about/about-nafsa/international-students-contribute-record-breaking-level-spending-and-378000-jobs>.

²⁸³ The commenter referenced United States Department of Commerce, Bureau of Economic Analysis, *Education Service Exports*, <https://www.trade.gov/education-service-exports>.

and academic opportunities in local colleges and universities that would benefit the country for generations. Multiple commenters emphasized the vital role of foreign students in American innovation. One commenter stated that, since 2000, 36 percent of U.S. Nobel Prize winners have been immigrants, many arriving initially as students; 40 to 47 percent of Fortune 500 companies were founded by immigrants or their children; and 44 to 55 percent of billion-dollar startup companies have at least one immigrant founder. Some commenters stated that foreign students, and graduates, founded 55–64 percent of America's "unicorn" companies (valued at \$1 billion or more), creating millions of jobs and trillions in economic value in critical fields, such as AI, in the United States, ahead of other nations. One commenter mentioned that international graduates who remain in the United States become high-earning taxpayers who offset administrative costs, and young international workers help support America's aging population through Social Security and Medicare contributions.

Commenters referenced their own analysis using over 20 years of detailed administrative data from USCIS, SEVIS, and the U.S. Census.²⁸⁴ They stated they conservatively assumed a 10-percent decline in new F–1 enrollments in degree granting programs due to the elimination of D/S and determined that this reduction would lead to a 1.9-percent decrease in the total supply of high-skill STEM workers in the United States. This would be a 0.09 percentage-point decline in their share of the labor force, and a 0.024 to 0.048 percentage-point reduction in annual Total Factor Productivity growth. The commenters stated that, over a 10-year period, this lost productivity growth would cause GDP to be 0.239 to 0.478 percent smaller than it otherwise would have been, equivalent to \$72 to \$145 billion in today's economy. Another commenter cited this study explaining it found that expected reductions in STEM focused foreign students would, in turn, reduce annual productivity growth in the U.S. economy by 3 to 6 percent, cumulating to a loss of \$220 to \$439 billion per year after 10 years and this would be the likely end result after the combined effect of eliminating D/S admissions,

²⁸⁴ The commenters referenced Clemens, M., Neufeld, J., and Nice, A., *Brain Freeze: How International Student Exclusion will Shape the STEM Workforce and Economic Growth in the United States* (Sept. 28, 2025), attaching the report to their comment and advising it was forthcoming by the Institute for Progress and IZA Institute of Labor Economics.

²⁸¹ See 85 FR 60526 (Sept. 25, 2020).

restricting OPT, and reducing access to H-1B status. The commenter reported this estimate is 22 times greater than DHS's cost estimate of \$3.3 billion in the NPRM.

Commenters provided specific examples and statistics related to state level economic contributions of foreign students. A commenter stated that preliminary projections by NAFSA and JB International revealed that recent actions, such as visa bans and disruptions in visa interviews and processing, had already had a calamitous effect on many U.S. local economies. Commenters cited a Fall 2025 NAFSA report and stated that an analysis of SEVIS and DoS data predicted a potential 40-percent decline in new foreign student enrollment, contributing to a 15-percent drop in overall enrollment that fall, which would deprive local economies of an estimated \$7 billion in spending and more than 60,000 jobs.²⁸⁵ One commenter suggested the cost could be between \$50 and \$200 million to local economies in lost tax revenue. Another commenter cited the same analysis and remarked that this dramatic decline is already taking place without the enactment of the proposed rule, and the proposal would only increase the losses further. One commenter shared that their institution was expecting a 61-percent decline in foreign student enrollment and questioned what the impact would be on the U.S. economy if only one school was experiencing such a significant decline.

Response: DHS acknowledges the economic contribution of nonimmigrant students and exchange visitors through tuition and regional spending, as well as contributions to research, innovation, and teaching. DHS anticipates the economic benefits to municipalities, educational institutions, and firms whose businesses rely on nonimmigrant students and exchange visitors to continue, as this rule will not end those activities. DHS acknowledges that the rule may adversely affect U.S. competitiveness in the international market for nonimmigrant students and exchange visitors, however DHS does not intend for the rule to cause significant impacts on enrollment. Any reduction in enrollment has the potential to reduce the economic benefits that nonimmigrant students and exchange visitors offer. However, DHS expects the United States to remain a popular, competitive, and attractive

place for nonimmigrant students and exchange visitors to pursue their program of interest. Enrollment decisions are driven by a wide variety of factors beyond EOS costs, including perceived quality of education, total cost of education, and job opportunities offered by the education. DHS does not intend for the rule to impact the quality of educational experience or availability of job opportunities offered in the United States and expects that the extensions of stay required by this rule will be a relatively minor burden for students and exchange visitors in the context of the total costs of living and studying in the United States. For these reasons, DHS expects that the United States will remain a desirable destination for many nonimmigrant students. Due to the speculative nature of the magnitude of the decrease in enrollment and any downstream economic impacts that may result from this rule, DHS discusses this impact qualitatively.

DHS disagrees with the assumption made in the Clemens analysis that a 10 percent decline in new F-1 enrollments is a conservative estimate. This assumption is based on survey results from NAFSA, which indicated that “49 [percent] of respondents said they would not have enrolled in the first place had D/Ss been replaced with a fixed period of admission.”²⁸⁶ DHS notes that survey responses often reflect hypothetical preferences rather than actual behavior, and such results may overstate the likelihood of enrollment declines. In practice, students may weigh other factors, such as the quality of U.S. educational institutions and career opportunities, more heavily when making enrollment decisions. It remains uncertain as to how many students will choose not to enroll due to this rule. DHS discusses the uncertainty with enrollment impacts in the Final Regulatory Impact and Flexibility Act Analysis, Appendix A. DHS believes that this rule will not be a major deterrent, as the main regulatory burden to file an EOS request in order to remain in the country may not be costly enough to dissuade enrolling. While some students may perceive risk in the new requirement, DHS assumed DSO and RSOs will provide guidance to students to facilitate EOS submission in addition to compliance with other new requirements. DHS acknowledges the perceived risk impacts but anticipates uncertainty may decline as students and DSOs/RSOs become more familiar with the EOS process. The EOS cost is not

seen as significant for those who desire the quality of U.S. educational institutions and the opportunities afforded to them. Therefore, if there are minimal enrollment impacts, we do not expect the downstream effects on employment and GDP to materialize.

DHS notes a goal of this rule is to effectively enforce compliance with statutory inadmissibility grounds related to unlawful presence and to mitigate the risks found in the D/S framework, thereby preventing fraud and abuse, enhancing national security, and ensuring program integrity. While some nonimmigrant students may choose not to enroll as a result of this rule, DHS expects that U.S. educational institutions may attract other students who are not dissuaded by the requirements of this rule. U.S. universities and colleges may be able to fill vacancies left by nonimmigrant students who choose not to enroll with other qualified applicants, which could reduce the overall impact on enrollment numbers such that the net impact is difficult to estimate. DHS maintains that nonimmigrant students will continue to pursue educational opportunities in the STEM fields. The students who replace the vacancies at educational institutions would be able to fill employment vacancies that would otherwise have been occupied by nonimmigrants deterred by the rule. DHS expects this replacement effect to reduce the impact of the rule on employment sectors that utilize nonimmigrant students, such as STEM fields, and thus reduce the impact on overall GDP.

Finally, DHS emphasizes that this rule does not address practical training programs, such as OPT or H-1B visa status, which are governed by separate regulations.

(2) Impacts on Specific Industries and Sectors

Comments: One commenter noted the challenges facing America's high-skill workforce and the resulting impact, highlighting the growing technology corridors that depend on international talent pipelines to compete globally. The commenter continued referencing smaller metropolitan areas (e.g., Rochester, New York, or Madison, Wisconsin) that have built innovation focused economies around universities that attract significant foreign student populations. Citing the Global Innovation Index, the commenter remarked that 23 U.S. clusters rank among the world's top 100 science and technology clusters and stated that they all rely heavily on foreign students to maintain their competitive edge. Another commenter stated that severely

²⁸⁵ Commenters referenced <https://www.nafsa.org/sites/default/files/media/document/EconValue2024.pdf> and <https://www.nafsa.org/fall-2025-international-student-enrollment-outlook-and-economic-impact>.

²⁸⁶ See *Surveys on International Talent Pipelines*, supra note 279.

curtailing the number of international scholars and students in STEM fields would create disastrous disruptions to research institutions and biomedical innovation. The commenter also stated that the proposed rule would create greater uncertainty for international scholars considering where to study, leading to a limited talent pool within the U.S. biomedical research workforce. This talent pool has contributed, significantly, to the United States leading the world in biomedical innovation. Another commenter stated that the economic impacts would be particularly acute to industries like the automotive and mobility sectors, manufacturing, and higher education, some of the most significant employers in the Michigan economy. One commenter cited a report indicating that the United States faces a significant skills deficit in AI and “heavily relies on foreign-born talent,” with foreign students constituting more than 50 percent of computer scientists with graduate degrees employed in the country today and nearly 70 percent of currently enrolled computer science graduate students. The commenter also stated that, among U.S.-trained Ph.D. Graduates in AI-related fields, around 80 percent have remained in the country. Similarly, another commenter noted that over 70 percent of full-time graduate students in computer science and electrical engineering at U.S. universities are foreign students. Another commenter claimed that the rule would cause a 2-to-4-percentage-point contraction in entry-level talent pools for tech and engineering and setbacks in critical research for defense and emergency preparedness.

Response: DHS acknowledges nonimmigrant students and scholars have made contributions to industries like the automotive and mobility sectors, manufacturing, higher education, and STEM fields. DHS does not intend for the rule to cause a significant decline in nonimmigrant student enrollment because the high-quality education offered at U.S. institutions will continue to attract talented nonimmigrant students and researchers. DHS thus does not anticipate a significant reduction in research capabilities, technological advancement, or industrial benefits associated with nonimmigrant students.

Comments: One commenter expressed concern about the impact of the proposed rule on the U.S. healthcare system, particularly regarding J–1 physicians, since the use of annual contracts would effectively require J–1 clinical residents and fellows to file extensions every year with USCIS. This

would likely result in consequential delays in their ability to timely start their training programs on June 1, each year. One commenter projected a 5-to-10-percent reduction in J–1 physicians in medical deserts. The commenter stated that this would cause catastrophic harm, not only on U.S. training programs but on the overall provision of health in the United States, given the critical role J–1 physicians play in providing healthcare, and particularly in federally designated underserved communities. The commenter argued that at a time when the United States was expecting a shortage of 187,130 physicians by 2037, the United States simply could not afford to lose U.S. trained physicians. Another commenter highlighted the potential negative impact on medical training programs themselves, noting that the added administrative burdens, uncertainty around EOS approvals for resident physicians, and increased costs would deter many qualified individuals from filling available training positions in the United States.

Response: DHS acknowledges that nonimmigrant students who received medical training at U.S. institutions have filled important roles providing medical care in the United States, including in underserved, rural areas. DHS expects that nonimmigrant students will continue to receive medical training in the United States and will continue to serve in these critical roles due to the lack of such training opportunities in their home countries.

Officers admitting J–1 nonimmigrants will be instructed to refer to Box 4 on their DS–2019 in order to get the full program length, up to four years, for the admitted nonimmigrant’s I–94, which will reduce the need for the annual re-appointment cycle that the commenter cites. This allows categories with longer programs, such as Alien Physicians, to only require an EOS every 4 years, and other categories to only require them if they exceed their maximum duration and can extend beyond that. This will limit the number of EOS requests from J–1 nonimmigrants while still providing the necessary oversight the rule seeks to provide. Since the overall cost of an EOS request is small compared to the lengthy programs for Alien Physicians admitted on J–1 visas, this is not expected to deter physicians from practicing in the United States, and they will continue to support the healthcare industry. Any reduction in J–1 Alien Physicians is expected to be minimal and not impact healthcare systems in a significant way.

Comments: A couple of commenters expressed concern about the broader economic and diplomatic impact of the proposed rule. One commenter stated that DHS must analyze the financial and diplomatic impact of the proposed rule, beyond direct impacts to the education sector, including the presence and contributions of foreign students in U.S. higher education, workforce development, global understanding, and impact on foreign relations more generally.

Response: DHS acknowledges the commenters’ concerns about United States image abroad. DHS believes the United States will remain a destination of choice for foreign nationals in the F academic student, J exchange visitors, and I foreign information media representative classifications, because the rule will not diminish access to quality programs, open discussion and exchange of ideas, and other benefits that have attracted—and will continue to attract—hundreds of thousands of foreign nationals to the United States. For this reason, DHS does not expect this rule to result in negative impacts on U.S. foreign relations.

Comments: A commenter stated that DHS’s cost analysis fails to capture the disproportionate burdens placed on rural institutions and their foreign students.

Response: DHS recognizes that this rule may impose higher burdens on rural institutions and their foreign students as a result of greater travel distance to complete Form I–539/I–539A. To estimate travel costs, DHS used an average round-trip distance to an ASC of 50 miles and the 2025 General Services Administration rate of \$0.70 per mile in the regulatory impact analysis of the NPRM. DHS acknowledges that some nonimmigrants will differ from that average depending on proximity to ASCs and access to transportation. Additionally, this rule does not prevent students or other nonimmigrants subject to the rule from enrolling or participating in their programs in rural areas. While there is an increased possibility of travel costs, these costs should be minimal over the length of their program and will not serve as a deterrent to those nonimmigrants who wish to participate in programs in rural areas.

(3) Concerns About Taxpayer Burden

Comments: A couple of commenters expressed concern about the burden the proposed rule would place on U.S. taxpayers. One of these commenters stated that SEVIS is funded by users (not taxpayers), and the proposed changes would precipitate “countless

millions in taxpayer-funded expenditures for enforcement.”

Response: DHS recognizes that a reduction in the number of nonimmigrant students and exchange visitors applying for visas or for F or J status in the United States will impact the amount of fees collected by SEVP and DoS from nonimmigrant students and exchange visitors through visa applications and SEVIS fees. These fees are used to cover the operational costs associated with processing the applications and adjudications, and thus any decrease in fee payments would be associated with a corresponding decrease in costs. As USCIS is fee funded, they can adjust the required resources as needed based on volume and the amount of fees received to process forms.

Further, DHS does not expect substantial reductions in the number of nonimmigrant students and exchange visitors applying for visas or for F or J status in the United States as a result of this rule. DHS acknowledged in the NPRM that the elimination of D/S has the potential to reduce nonimmigrant student enrollment and participation of exchange visitor and foreign media representatives due to additional costs and other burdens associated with extensions of the admission period. DHS expects foreign students to consider the cost of extending their status in the context of the overall cost of their program, which may include expenses such as tuition, textbooks, room and board, and discretionary expenses. Because the cost of status extension is small, relative to the overall cost of attendance, DHS does not expect potential reduction in enrollment due to this added cost to be significant.

f. Costs to Representatives of Information Media

Comments: One commenter stated that media outlets would face significantly higher costs due to the need for constant rotation of international correspondents, jeopardizing the sustainability of U.S. bureaus. The commenter remarked that all costs of correspondents' stays, housing, insurance, travel, schooling, are fully funded by media organizations, not by U.S. taxpayers.

A commenter stated that, from an administrative perspective, implementing 2-year admissions and extensions would significantly reduce the frequency of filings and this would likely lower the number of I visa extension petitions DHS would have to adjudicate each year. The commenter stated that this reduction would, in turn, decrease both applicant costs and

agency workload. The commenter further stated that reducing repeat filings within the small, well-defined I visa population aligns with DHS's objectives under Executive Orders 12866 and 14192 to maximize net benefits and minimize private sector expenditures. The commenter also suggested that allowing multiple extensions, without a numeric cap, and authorizing up to 5-year visa validity through reciprocity, would help reduce backlogs at consular posts and POEs. This would still enable DHS to conduct regular checks at each 2-year admission and with every EOS filing.

One commenter estimated that more frequent I visa renewals would increase operational and travel costs by approximately 700 percent over a 5-year period, creating what they characterized as an unreasonable financial burden.²⁸⁷

Response: DHS recognizes the public's desire to minimize impacts to media outlets and international correspondents. However, DHS disagrees that the rule meaningfully increases the rotation of these correspondents by setting a fixed admission period of 240 days (90 days for I nonimmigrants presenting passports from the PRC except Hong Kong SAR and Macau SAR passport holders) with no limit on the number of extensions that an I nonimmigrant may apply for, or the number of times the I nonimmigrant may apply for admission at a POE, so long as they continue to pursue I activities. DHS data shows that the at least 90 percent of I nonimmigrants remain in the United States for less than 240 days.

DHS acknowledges that changing the duration of I visas from 240 days to 2 years or 5 years could reduce the number of EOS requests from this population. However, DHS finds that most I visa holders will not require an EOS request with a 240-day duration of stay, as the majority of I visas stay less than the 240-day duration.²⁸⁸ Individuals who wish to stay longer will have the ability to apply for extensions of their stay.

DHS chooses the 240-day stay to guarantee a regular cadence of review for national security and fraud prevention benefits while limiting the number of I visa holders who will need to apply for an EOS request.

DHS disagrees with the significant cost increase for I nonimmigrants cited by the commenters, as the cost of EOS requests would only apply to less than

10 percent of I nonimmigrants. The Regulatory Impact Analysis calculated the cost of an EOS request and found that an I nonimmigrant will, on average, spend between \$732 and \$1,311, depending on the level of assistance and submission method. These costs are variable and will depend on the exact situation of the nonimmigrant completing the form. These costs will only incur once or twice per year, accumulating for those who remain in the United States for a significant period of time. Overall, these costs are not considered a large financial burden on I nonimmigrants.

3. Benefits

Comments: While providing feedback on the RIA, a commenter stated that the NPRM fails to demonstrate any measurable security benefits resulting from the proposed rule. The commenter also expressed that existing oversight systems already provide extensive monitoring capabilities. Furthermore, the commenter wrote that security resources should be focused on actual threats rather than being diverted to administrative processing.

Response: DHS acknowledges that it has not quantified the benefits of the final rule in the regulatory impact analysis but disagrees with the claim that it fails to demonstrate any measurable security benefits. DHS has clearly articulated the security benefits of the final rule, including enabling DHS to more effectively combat fraud and abuse, accurately account for the accrual of unlawful presence grounds of inadmissibility and better protect the integrity of nonimmigrant categories such as F, J, and I classifications. By replacing the D/S framework with fixed periods of admission, the final rule provides DHS with periodic and direct opportunities to assess compliance with immigration laws, detect violations, and address national security concerns. This oversight mechanism ensures timely evaluations at pre-determined intervals, which are critical for enforcing immigration laws and promptly identifying risks to national security.

4. Costs-Benefits Comparison

Comments: Commenters also criticized the rule's cost-benefit analysis and economic data as flawed and misleading, underestimating costs and overstating benefits. Others commented that DHS had not shown that the benefits of the rule were outweighed by the economic costs, highlighting financial impact to higher education institutions, exchange programs, employers, and local economies.

²⁸⁷ The commenter did not provide a source.

²⁸⁸ DHS's analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

Many commenters expressed concerns that the proposed rule would impose substantial annualized costs, exceeding \$390 million across both U.S. and non-U.S. parties, without presenting evidence of proportional national security benefits.

Approximately \$86 to 88 million of the costs would be borne by U.S. parties alone. One commenter stated that, based on DHS's own estimate of nearly \$400 million annually, the rule would result in a cost of over \$100,000 per student visa case that would be handled differently than under current procedures. Another commenter calculated, using DHS's estimate of \$86.3 to \$88.1 million in costs to U.S. parties only and an average of 88 individuals of concern per year, the cost would amount to approximately \$1 million per individual. A commenter suggested DHS publish a detailed return-on-investment (ROI) or benefit analysis quantifying the estimated security or immigration-integrity benefits, such as the number of misuse or fraud cases the rule would prevent and the associated cost per case. Without such evidence, the commenter stated, the rule appears to be a costly solution in search of a problem.

Commenters criticized the proposed rule's RIA for failing to demonstrate that its benefits outweigh its substantial costs, in violation of basic principles of sound governance.²⁸⁹ A commenter stated that by overlooking the well-documented economic contributions of foreign students, the proposed rule fails to weigh costs against claimed benefits, contrary to sound regulatory practice. Multiple commenters stated that the cost-benefit analysis quantifies hundreds of millions of dollars in costs while offering only qualitative description of benefits, highlighting a failure to meet basic regulatory standards. A commenter emphasized that effective regulatory analysis requires demonstrable evidence that benefits outweigh costs, and asserted that the proposal does not meet this fundamental test. They further stated that implementing the rule would constitute an abuse of executive authority by imposing costly restrictions without delivering proportionate benefits.

Response: DHS acknowledges there are costs associated with the rule as discussed in the regulatory impact analysis. The purpose of this rule is to effectively enforce compliance with the

statutory inadmissibility grounds related to unlawful presence and to mitigate the risks found in the D/S framework, which in turn reduces fraud, abuse, and noncompliance with statute for the F, J, and I nonimmigrant programs. Requiring a fixed term of admission affords immigration officers enough predetermined opportunities to directly verify that aliens are engaging only in those activities their respective classifications authorize while they are in the United States, and, in turn, more effectively enforce compliance with immigration laws as well as monitor fraud and abuse. The rule does not direct institutions to change their admissions or finances but requires additional oversight of nonimmigrants to prevent fraud and abuse.

The commenter calculating a cost of \$100,000 per individual is using a particular example of potential overstay cases mentioned in the NPRM—the nearly 77,000 F–1 students who have spent more than 10 years in nonimmigrant student status since SEVIS was implemented in 2003. The commenter calculating a cost of \$1 million per individual is using another particular example of potential overstay cases mentioned in the NPRM—2,134 aliens who first entered as F–1 students between 2000 and 2010 and remain in active F–1 status today. However, the goal of this rule is not to target specifically the individuals in these populations, but instead to effectively enforce compliance with statutory inadmissibility grounds related to unlawful presence and to mitigate the risks found in the D/S framework, thereby preventing fraud, abuse, and national security risks more generally. Therefore, these calculations substantially misestimate the cost-benefit balance of this rule.

Circular A–4 guidance for conducting the Regulatory Impact Analysis says agencies should proceed only on the basis of a reasoned determination that the benefits justify the costs, but with the recognition that some benefits and costs are “difficult to quantify”. It acknowledges not all-important effects can be expressed in monetary units, but requires the government to provide a reasoned, transparent determination that the overall social good is a sufficient reason to proceed, even if the purely monetized benefits are not numerically larger than the monetized costs. DHS believes it has sufficiently met this requirement and demonstrated that national security and fraud detection benefits exceed the expected costs in the regulatory impact analysis accompanying the final rule.

R. Regulatory Flexibility Analysis: Disproportionate Impact on Small Institutions

Comments: Commenters expressed concern that the proposed rule would disproportionately burden small educational institutions, stating that DHS failed to accurately estimate or disclose the true costs and rendering the rule non-compliant with the RFA. One commenter said the NPRM lacks the required analysis of impacts on small entities mandated by 5 U.S.C. 605 and stated that the rule fails to include adequate regulatory flexibility provisions to mitigate disproportionate burdens to small entities. A commenter stated that they estimated their school would see, at minimum, a 75-percent reduction in F–1 student numbers and that their business would see, at minimum, a 70-percent reduction in annual revenue, resulting in job losses and a distinct possibility that the school would no longer be financially viable. Another commenter stated that DHS estimates did not reflect realities at small, rural colleges with no dedicated international staff, noting that at their institution, DSO duties fell to three Associate Deans of Student Affairs who were already balancing multiple responsibilities. One commenter asked what concrete measures DHS would implement to prevent rule requirements from forcing smaller institutions to reduce foreign student services or withdraw from international education entirely.

Response: DHS appreciates the commenter's concerns regarding the analysis of impacts on small entities as required by the RFA, 5 U.S.C. 605, and the adequacy of regulatory flexibility provisions to mitigate disproportionate burdens on small entities. However, DHS respectfully disagrees with the commenter's assertions that the rule lacks the required analysis and fails to include adequate regulatory flexibility provisions.

In addition to preparing an initial regulatory flexibility analysis (IRFA), DHS prepared and published a full Final Regulatory Flexibility Analysis (FRFA), which is available in the docket for the rule. The IRFA and FRFA evaluate the potential impacts of the rule on small entities, including whether the rule is likely to have a significant economic impact on a substantial number of small entities. The analyses also consider alternatives to minimize such impacts while ensuring the rule achieves its intended objectives.

DHS analyzed all the entities that would be affected by the final rule and

²⁸⁹ Commenters referenced E.O. 12866, *Regulatory Planning and Review*, 58 FR 51735 (Oct. 4, 1993); E.O. 13563, *Improving Regulation and Regulatory Review*, 76 FR 3821 (Jan. 21, 2011).

DHS found that 78 percent of SEVP-certified institutions and 62 percent of J exchange visitor program sponsors would be considered small entities.

Under the final rule, DSOs and ROs will have to spend approximately 135 hours for rule familiarization and adaptation in the first year after the rule takes effect. For each DSO, rule familiarization would cost \$6,735 in the first year after the rule takes effect. Additionally, 1 hour of advising burden has been added per F-1/J-1 nonimmigrant already in country before the rule takes effect. This results in an additional average of \$3,630 per DSO/RO in year 1. Further, each year DSOs/ROs will spend approximately 3 hours per F-1/J-1 EOS request to review the Form I-539 completed by the F-1/J-1 nonimmigrant, update the SEVIS record and track EOS requests, and advise the F-1/J-1 nonimmigrant about the extension process and the requirements to file an EOS with USCIS. Additionally, HR staff will spend approximately 1.5 hours per F-1 EOS request to track form updates related to each EOS request and avoid inadvertent unauthorized employment due to form discrepancies with the I-9. The DSO cost per EOS request is \$233.

DHS estimates that 73.4 percent of small schools will experience an impact less than or equal to one percent of their annual revenue. DHS estimates that the majority of small J sponsors would experience an impact less than or equal to one percent of their annual revenue.

S. Paperwork Reduction Act (PRA)

1. General Comments

Comments: Multiple commenters raised concerns about the proposed changes to SEVIS and USCIS forms, which they said would increase administrative burdens and require substantial implementation and training costs. Multiple commenters expressed concern that the potential additions of hundreds of thousands of I-539 extension applications annually could conflict with the Paperwork Reduction Act, the E-Government Act of 2002 and other policies requiring administrative simplification.

Multiple commenters expressed concern converting the SEVIS program process into a USCIS-adjudicated EOS process would substantially increase the public burden due to the paperwork expansion required by new or more frequent EOS information collection requirements (e.g., Form I-539/I-539A filings, biometrics appointments, potential interviews). Another commenter stated that the proposed rule's Sufficient Fund Requirement at 8

CFR 214.2(f)(7) appears burdensome from the perspective of the PRA.

A commenter stated that DHS must provide accurate estimates of the associated burden hours and costs and justify these against proven D/S compliance tools. A commenter stated that the PRA estimate does not reflect the realities of small rural colleges that lack dedicated international staff, writing that the added burden of EOS filings would overwhelm staffing capacity and place the greatest strain on students, who would face increased costs, confusion, and delays. A commenter noted the large amount of work that will be created at larger institutions during the transition, noting specifically work authorizations. Another commenter asserted that the Attorney General has the authority for information collection, in consultation with the Secretary of State and the Secretary of Education.

Response: DHS appreciates the commenters' concerns regarding potential legal issues, administrative burdens, and information collection requirements associated with the proposed rule. However, DHS respectfully disagrees with the assertions made.

Regarding concerns about administrative burdens and the potential conflict with the PRA, DHS has carefully considered the implications of the proposed rule and its associated information collection requirements. DHS has determined that the rule complies with the PRA and does not impose administrative burdens beyond what is required for the implementation of the rule. The PRA requires federal agencies to minimize the paperwork burden for individuals, businesses, and other entities while ensuring the efficient collection of information necessary for the proper performance of agency functions. DHS has conducted an analysis of the information collection requirements and utilized the costs burdens as part of the full Regulatory Impact Analysis. The final RIA concluded that the overall benefits outweigh the total costs of the rule.

DHS conducted a thorough review of all SEVIS functionality to identify modifications necessary to guarantee the systems compliance with the regulatory provisions. These changes include substantive and non-substantive changes to SEVIS to support additional recordkeeping and reporting requirements associated with recommendations for an F-1 student EOS. As these modifications are implemented SEVIS users will be updated via Broadcast Messages and

Release Planning Guides once the changes have occurred. DHS acknowledges that these changes may incur implementation and training costs as identified in the RIA. However, DHS believes that the estimated burden is necessary to realize the national security and fraud prevention benefits of this rule.

With respect to the assertion that the Attorney General has the authority for information collections in consultation with the Secretary of State and the Secretary of Education, DHS notes that the Homeland Security Act of 2002 transferred certain authorities and responsibilities from the Attorney General to the Secretary of Homeland Security. Specifically, the Act established DHS and reassigned functions related to immigration and other areas to the Secretary of Homeland Security. As such, the Secretary of Homeland Security now holds the authority to implement rules and policies within DHS's jurisdiction, including those involving information collections. Furthermore, the consultation referenced in 8 U.S.C. 1372(a)(1) relates to the initial development of SEVP and SEVIS and does not require consultation for these minimal changes to the existing information collection request; however, DHS did consult with the ED prior to the publication of the NPRM and the final rule.

2. ICE Forms I-20 and I-17

Comments: A commenter stated that the "Extend Program" functionality in the F-1 SEVIS release at the time of their comment restricts the new program end date to no more than 1 year beyond the student's current program end date despite the current EOS regulation under 8 CFR 214.2(f)(7) not limiting the term of the extension period, and recommended alignment between SEVIS functionality and regulatory provisions.

Multiple commenters had suggestions about the new items proposed on the I-20 and I-17 forms in described in the NPRM. Commenters opined that the proposed substantive and non-substantive changes in SEVIS intended to facilitate the DSOs' recommendations for the EOS are not necessary since DSOs routinely approve extensions of programs under the D/S framework. A commenter suggested SEVIS already collected a program end date and that a graduation/degree conferral date is duplicative and unnecessary. Multiple commenters stated that the DHS proposal to update the list of educational levels in the I-17 is vague. Commenters further added that DSOs

have trouble mapping programs to SEVIS categories and inconsistencies between institutional systems and SEVIS definitions could lead to compliance or reporting challenges.

Response: DHS conducted a thorough review of all SEVIS functionality to identify modifications necessary to implement the new regulatory provisions from this rule. As these modifications are implemented, SEVIS users will be updated via Broadcast Messages and Release Planning Guides once the changes have occurred.

DHS appreciates the feedback from commenters regarding the substantive and non-substantive changes to SEVIS. This rule will change the way that a DSO processes the extension of an F student's program of study. Therefore, SEVP is updating SEVIS to accommodate the new EOS process, which will now require DSOs to recommend an extension of an F student's AUD, instead of approving an extension.

With regard to the request to add a field to collect an F student's graduation or degree awarded dates, DHS disagrees with the statement that this new data element is duplicative. Separating a student's program end date from the graduation or degree awarded date will provide DHS with clearer data on whether a student has officially completed their program of study. This distinction is particularly important in cases in which DSOs do not shorten the program end date when a student graduates or completes their program early, creating ambiguity about the student's actual completion status. Collecting this information will improve SEVP's ability to monitor students' completion status and ensure accurate reporting across SEVP-certified schools. Additionally, DHS appreciates the commenters' feedback about the proposal to update the list of educational levels in SEVIS. DHS relies on the National Center for Education Statistics' (NCES) definitions of educational levels,²⁹⁰ which provide a structure for determining whether a nonimmigrant student's program of study reflects upward academic progression. The list of educational levels that schools should use to update their Form I-17, "Petition for Approval of School for Attendance by Nonimmigrant Student," is available on Study in the States. DHS plans to update SEVIS to be consistent and clear on how this list of educational levels

should be mapped appropriately with an F student's program of study, thus ensuring consistency with the NCES definitions.

Comments: Multiple commenters expressed support for a separate proposal that would collect additional data through Forms I-20 and I-17, including the integration of program information into Form I-17, thereby replacing the current process of emailing portable document format (PDF) files to SEVP and providing more data and information for DHS to investigate specific cases of concern without the need for the broader changes proposed in the rule.

Response: While DHS appreciates commenters support for ongoing SEVP initiatives to better collect data on the Forms I-20 and I-17 in SEVIS, this subject matter does not fall within the scope of this rule.

3. USCIS Forms I-539 and I-539A

Comments: A commenter said the NPRM's own PRA analysis for Forms I-539/I-539A shows very large new burdens and costs and only questionable necessity. However, another commenter stated that the additional oversight mechanisms enabled by the proposed changes to the information collection requirements—particularly those related to Form I-539 and SEVIS reporting—are both necessary and appropriate. The commenter urged DHS to require more robust and standardized documentation in EOS applications to reduce fraud, ensure proper use of student status, and minimize unnecessary adjudication burdens. A commenter asked whether estimated time for biometrics appointment in conjunction with Form I-539 was sufficient and included travel time.

Response: DHS agrees that the oversight enabled by the changes to the Form I-539 is appropriate. The estimated time burden for Form I-539 did not change based on the changes proposed to the form. The total annual burden to respondents increased due to the addition of biometrics processing and the estimated number of increased applications.

The estimated time for biometrics appointment is sufficient and does not include travel time. Currently, the Form I-539 generally does not require a biometrics collection visit as part of the filing. The respondent may be requested to attend one, which is why the instructional language indicates "may" rather than stating the appointment as a requirement. As standard practice, DHS does not capture separate burden for an activity that isn't considered a normal

part of the process; the request to attend would not contribute a significant overall burden, so the form burden is considered adequate to cover such occasional requests. DHS is currently working on a final biometrics rulemaking after proposing to add a biometrics visit requirement and considering the associated time burden for that action.²⁹¹

T. Other Regulatory Requirements

1. Family Well-Being

Comments: While not expressly discussing family assessment requirements, a commenter encouraged DHS to reassess the rule's impact on mixed-status families and ensure that family unity and child welfare are central to the final rule. The commenter referenced *Zadvydas v. Davis*, 533 U.S. 678 (2001), stating that the Supreme Court emphasized the importance of family unity and constitutional protections afforded to U.S. citizen children. The commenter suggested creating a pathway to legal permanent residency for long term F-1 nonimmigrants that have U.S. citizen children while in the United States as a F-1 nonimmigrant. Similarly, the commenter requested clearer guidance on how extension requests will be evaluated, especially for individuals with deep family ties and long-term compliance histories.

Response: DHS has reviewed this rule in line with the requirements of section 654 of the Treasury General Appropriations Act, 1999, Public Law 105-277, 112 Stat. 2681 (1998). DHS has systematically reviewed the criteria specified in section 654(c)(1) *Assessment of Federal Regulations and Policies on Families*, by evaluating whether this regulatory action: (1) impacts the stability or safety of the family, particularly in terms of marital commitment; (2) impacts the authority of parents in the education, nurture, and supervision of their children; (3) helps the family perform its functions; (4) affects disposable income or poverty of families and children; (5) only financially impacts families, if at all, to the extent such impacts are justified; (6) may be carried out by State or local government or by the family; or (7) establishes a policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society. DHS has no data that indicates that this rule will have any direct impacts on family well-being. Accordingly, DHS has determined that

²⁹⁰ See National Center for Education Statistics, *Digest of Education Statistics*, https://nces.ed.gov/programs/digest/d09/figures/fig_01.asp (last visited Mar. 18, 2026).

²⁹¹ See *Collection and Use of Biometrics by U.S. Citizenship and Immigration Services*, 90 FR 49062 (Nov. 3, 2025).

the implementation of this regulation will not negatively affect family well-being and will not have any impact on the autonomy and integrity of the family as an institution.

While the commenter cited, *Zadvydas v. Davis*, 533 U.S. 678 (2001), that case is inapplicable to this rulemaking. The commenter also provided a suggestion to create a pathway to legal permanent residency for long term F–1 nonimmigrants that have U.S. citizen children while in the U.S. as a F–1 nonimmigrant; however, that is outside the scope of this rulemaking. DHS notes however that family members are free to maintain their relationships with F, J, and I nonimmigrants, regardless of their family structure or immigration status.

2. NEPA

Comments: A professional association recommended that DHS strengthen its position that the rule does not require an environmental analysis under the National Environmental Policy Act (NEPA) by creating and adopting a categorical exclusion specifically for rules that do not increase immigration. They also took the position that the existing categorical exclusion cited by DHS is flawed and overly broad, lacking specific reasoning tied to immigration policy, further stating that since the proposed rule does not increase immigration—and therefore does not contribute to population growth, a key environmental concern under NEPA—it would qualify for a properly tailored categorical exclusion. The commenter finished by remarking that establishing such an exclusion would provide a more robust procedural safeguard and reinforce DHS's compliance with environmental law.

Response: DHS appreciates the recommendation and the commenter's interest in matters of immigration, but creating a new categorical exclusion under NEPA is outside the scope of this rulemaking. Further agency finds no current need for such a categorical exclusion for this rulemaking since the rulemaking already complies with all necessary laws.

3. Unfunded Mandates Reform Act

Comments: Many commenters generally claimed the rule does not comply with the Unfunded Mandates Reform Act (UMRA). Some commenters characterized the rule as an unfunded mandate for educational institutions, U.S. entities, federal agencies, program sponsors, and states. One estimated that the rule would require over 1.2 million additional administrative hours annually across higher education, translating to approximately \$60 million

in unfunded personnel costs. Another commenter pointed out that these new costs were being imposed at a time when state or educational institution budgets are already strained. Another individual specifically pointed out that the rule imposes massive costs on educational institutions without adequate federal funding, potentially violating UMRA requirements. A commenter stated that the proposal amounts to an unfunded mandate on institutions, forcing universities to become extensions of the federal immigration bureaucracy and spend limited resources on compliance staff and systems. Another commenter warned that the rule would divert resources from education and research, transforming educational offices into an extension of USCIS and focused on processing paperwork rather than providing legitimate student support. Commenters further challenged the rule's compliance with the UMRA, arguing that DHS failed to properly estimate and disclose the true costs imposed by the rule such as additional administrative staff hiring needs, training costs of DSOs or other administrative staff, and administrative tracking and processing costs. A professional association further suggested that DHS relied on flawed and misleading economic data, which prevented the public from receiving accurate notice of the proposal's true costs.

Response: DHS appreciates the commenter's concerns regarding the potential applicability of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, to the proposed rule. DHS understands that UMRA requires federal agencies to assess the effects of discretionary regulatory actions that may result in expenditures of \$100 million or more (adjusted for inflation) in any year by State, local, or tribal governments, or by the private sector.

DHS has carefully evaluated the final rule to ensure compliance with UMRA. Based on DHS's analysis in the final regulatory impact analysis, the rule does meet the threshold for expenditures that would trigger the requirements of UMRA. In addition, DHS updated the regulatory impact analysis between the NPRM and the final rule, where DHS was able to obtain more detailed data in the analysis and updated some assumptions, such as familiarization costs, in response to the public comments. DHS has completed a written statement under UMRA in Section VI.E. of this final rule.

4. Federalism

Comments: Commenters also raised concerns about federalism. One individual remarked that education is traditionally a state function under the Tenth Amendment and another commenter posited that Federal restrictions effectively forcing states to restructure their educational programs undermine state fiscal autonomy, potentially compelling states to raise taxes or diminish education quality to cover resulting shortfalls. Commenters stated that decisions about whom to teach should rest with local educational institutions, consistent with principles of federalism and State sovereignty. One individual said that the proposed rule does not provide a federalism impact summary or Tribal impact summary as required by Executive Orders 13132 and 13175, writing that U.S. universities enrolling foreign students are often part of larger state higher education systems or Tribal colleges. They went on to reason that if program sponsors are correctly viewed as State or Tribal entities operating through State or Tribal budgets, with employees considered State or Tribal workers, then these impact analyses might be required by the aforementioned Executive Orders.

Response: DHS appreciates the commenters' concerns regarding federalism and the potential impacts of the proposed rule on State and Tribal entities, including remarks about education traditionally being a state function under the Tenth Amendment and the implications for state fiscal autonomy and sovereignty. DHS emphasizes that the rule has been carefully crafted to align with federal statutory authority and policy objectives while minimizing undue interference with State and Tribal functions. The rule does not mandate changes to State or Tribal educational programs or directly compel States or Tribes to restructure their budgets, raise taxes, or diminish education quality. Rather, the rule is intended to ensure compliance with federal immigration laws and policies, which operate within the scope of DHS's jurisdiction. Additionally, the effects of this rule that the commenters mentioned are speculative and are, at most, indirect effects.

Regarding Executive Orders 13132 (Federalism) and 13175 (Consultation and Coordination with Indian Tribal Governments), DHS has reviewed the rule and determined that it does not have substantial direct effects on States, Tribes, or the distribution of power and responsibilities between the federal government and State or Tribal

governments. As such, DHS has concluded that a federalism impact summary is not required for this rule. While DHS acknowledges that some U.S. universities enrolling foreign students are part of larger State higher education systems or Tribal colleges, the rule does not alter the fundamental structure or operations of these entities in a manner that would trigger the requirements of these Executive Orders.

U. Out of Scope

DHS received a wide range of comments, described in detail below, which fall outside the scope of this rulemaking. This includes potential legal challenges to the rule, hiring difficulties for aliens, requests for advance notice for planned SEVIS outages, a desire to collect more precise data in SEVIS, university admissions policies, tuition costs, elimination of work authorizations, abuses in practical training by technology consulting companies, desired changes to the practical training structure, employment-based immigration, humanitarian and family-based immigration, DACA, other nonimmigrant categories, a desired expansion of the Voluntary Self-Reported Exit program, and broader political or cultural concerns. DHS appreciates these comments and has taken them under advisement for the future.

DHS recognizes the contributions and challenges faced by foreign students, scholars, and exchange visitors, as well as the need for system stability and program integrity. This rule is focused specifically on the admission and maintenance of status for F, J, and I nonimmigrant classifications, and does not set or revise overall immigration policy, establish new quotas, or create new eligibility categories. The rule does not apply to DACA recipients, who are not in any lawful immigration status. This rule was carefully developed to comply with all applicable statutory and regulatory requirements.

DHS has carefully considered public comments and the potential impacts on affected parties in developing this rule, and remains committed to ensuring the integrity, security, and fairness of the U.S. immigration system. DHS will continue to monitor and respond to legal developments or challenges as appropriate, and appreciates all input received, even where it falls outside the scope of this rulemaking.

Accordingly, DHS will not provide further detailed responses to comments that do not directly relate to the provisions of this rule. A summary of these out-of-scope comments follows.

A commenter warned that multiple parties would have standing to challenge the rule, including student plaintiffs facing imminent harm from retroactive status changes, universities facing administrative costs and lost enrollment, and businesses reliant upon foreign student spending. Additionally, the commenter provided discussion of venue considerations, damage claims, and preliminary relief standards as part of potential legal challenges to the proposed rule.

Commenters shared experiences of being unable to accept contract roles due to citizenship requirements or facing rejection during job searches before reaching interview stages. Commenters expressed concerns about system stability, requesting more advanced notice for planned SEVIS outages that affect school processing capabilities.

Commenters stated that university prices continue to increase for Americans, Americans continue to take on educational debt and face school admission difficulty. Commenters expressed concern that foreign students increase competition for admissions which leads to a decrease in educational and leadership opportunities for Americans. A commenter argued that the presence of foreign students does not enhance the educational experience of American students. Additionally, commenters raised concerns and challenges regarding foreign teaching assistants with limited English proficiency or subject matter expertise which impacts the quality of education. Conversely, other commenters opposed these views.

Many commenters voiced concerns on the difficulty of Americans finding work and the impact of foreign students and workers on American jobs and wages. Some commenters suggested that DHS eliminate work authorizations for nonimmigrants to preserve job opportunities for American workers. Other commenters made comments on other impacts of H-1B and similar programs on U.S. workers.

Some commenters recommended eliminating or significantly modifying the OPT and CPT program. A commenter argued that OPT violates the INA by allowing student visa holders to work after completing their degrees. Commenters stated that “Day One CPT” functions as an employment status rather than as an educational status. Another commenter maintained that OPT circumvents congressionally determined limits on H-1B visas and saturates the American labor market with foreign job seekers who may accept lower wages. However, some

commenters defended the OPT program because the participants are more likely to work in STEM fields, the program provides valuable work experience and strengthens the talent pipelines between U.S. educational institutions and companies.

Many commenters were supportive of limiting nonimmigrant access to CPT and (to a lesser degree) OPT. While generally expressing support for the proposed rule, commenters expressed concerns over CPT and OPT, remarking that these programs are “heavily abused” by technology consulting companies and create an unfair advantage for foreign workers.

A commenter stated that CPT should be approved by USCIS. One commenter stated that CPT should be abolished because it takes jobs away from Americans. Commenters opposed to changes in CPT/OPT stated that some F-1 students remain in CPT/OPT because of the difficulty in obtaining H-1B status. One commenter stated that foreign students are forced to stay in F-1 status by the H-1B lottery. Another commenter raised concerns regarding the recent H-1B lottery reforms and \$100,000 entry fees, noting low percentages of selection rates through the lottery process.

A commenter recommended that DACA recipients should be excluded from the proposed rule. Separately, a commenter stated that the use of the term “alien” to describe human beings from another country was dehumanizing people from abroad and not appropriate.

Some commenters suggested improving transparency and accessibility in labor market testing, utilizing the creation of a national job posting board for Program Electronic Review Management (PERM) listings and broader job advertisement requirements.

A commenter recommended expanding SEVIS to collect more precise employment data for F-1 students participating in CPT and OPT, including third-party placement tracking and wage reporting.

Commenters proposed a wide range of restrictions, limits, and procedural changes to various nonimmigrant and immigrant visa categories. Suggestions included stricter eligibility requirements, more frequent visa applications, shorter stay limits, increased background checks and monitoring (especially for certain nationalities), biometric identity cards, caps on foreign student numbers, mandatory out-of-country renewals, and higher costs for visa applicants. Some advocated for reducing or eliminating

student visas, prioritizing American students and workers, and restricting or pausing visa issuance until border security is achieved. Others recommended changes to marriage fraud prevention, the B-1/B-2 and H-1B programs, and the OPT program, including subjecting OPT hires to the same taxation as U.S. citizens. Additional recommendations included new reporting and biometric requirements, special policies for medical graduates and high-skilled talent, and exemptions for healthcare workers from certain H-1B fees. Some commenters also called for country-specific restrictions based on perceived security risks.

Some commenters also recommended expanded waivers and pathways for physician International Medical Graduates, preserving OPT for medical graduates transitioning to residency, creating exceptions for medical and biomedical research training, and establishing a “Legal Privilege Status” for high-skilled global talent with flexible work authorization. Commenters supported expanding visa opportunities for individuals perceived as contributing positively to the U.S. economy and society.

A commenter expressed support for expanding the Voluntary Self-Reported Exit program, suggesting that integration with the existing SEVIS system could provide DHS with more effective tracking and oversight of ability visa holders’ departures than annual extension applications.

A commenter stated that the NPRM failed to evaluate how the fixed admission model would affect populations beyond the F, J and I categories. The commenter further stated that the NPRM overlooked the impact on individual R-1 religious workers who pursue academic study or ministerial training in the United States, who often transition between student and religious worker status.

Commenters made out-of-scope remarks about various immigration statuses and programs, including general opinions on foreign student processing; concerns and allegations about general lack of immigration law enforcement and immigration fraud; allegations related to visa applicants, employment-based immigration (including H-1B fraud, EB-1, EB-2 NIV and I-140), family-based immigration (marriage, green card), B-1/B-2 visitors, and humanitarian-based immigration such as waivers and the asylum process; concerns about H-1B program costs; a request to lift travel ban for Iranians; and concerns that the visa program promotes slave labor and corporate

incentives that render U.S. laws meaningless and generally disadvantage Americans. Another commenter raised concerns about F-1 students engaged in ELT programs and urged DHS to halt F-1 visa issuance for all ELT programs.

Other out of scope comments unrelated to the rule included general support for enforcing immigration laws, general opposition to social media monitoring and surveillance of students; general opposition to various Presidents, general opposition to various Administrations’ policy decisions (including open borders, closed borders) and government officials, remarks about American voters and culture, comments urging the government address illegal immigration and avoid pursuing policies which impact social security checks, opposition to billing code changes, general support that public funded institutions should benefit Americans; general political opposition, concerns about public safety, comments generally concerned about national security, counterproliferation, and infrastructure (including domestically and with respect to China, India, and Middle-Eastern countries), general comments about freedom of speech concerns, comments indicating that corporate employers benefit financially from the foreign student program and hiring foreigners (some commenters indicating that politicians and/or government officials permits this), statements which did not explain with sufficient specificity what or who the commenter was referring to, a comment indicating a test of the commenting system, one commenter suggested an elaborate legislative proposal modifying the hiring, recruiting, and interview process; a request for an exception for a specific individual from China; statements about reinstating the McLaren-Warren act, requests to release “the Epstein Files,” request to revoke specific media visas issued, and a congratulatory message to “Mr. Edlow” on his confirmation as USCIS director.

V. Discussion of the Final Rule

All persons arriving at a POE to the United States must be inspected by a CBP officer and must apply for admission to the United States with CBP.²⁹² In the case of aliens, a CBP officer determines whether the aliens are eligible for admission and, if they are, issues the Form I-94, Arrival/Departure Record, with the nonimmigrant classification and period

of admission.²⁹³ For the vast majority of aliens, their I-94 includes a specific date through which their status is valid; they must depart the United States on or before that date. An alien who wishes to lawfully remain in the United States in the same status past that date generally must apply for an EOS with USCIS.

However, certain nonimmigrant classifications, including F academic students, J exchange visitors, and I representatives of foreign information media, and their dependents, may be admitted into the United States for D/S instead of a period of time with a specific departure date. DHS has changed the admission provisions for these particular nonimmigrant classifications, including replacing admissions for “duration of status” with a fixed admission period. This will enable immigration officers to independently and directly verify the continued eligibility of foreign visitors in F, J, or I nonimmigrant status. It will also require aliens who fall under certain criteria to apply more frequently for additional admission periods.

A. Summary of Changes in the Final Rule as Compared to the NPRM

Following careful consideration of public comments received, DHS has made several modifications to the regulatory text proposed in the NPRM. In addition to minor changes for clarity, the changes include the following:

- *Technical edits in the following sections:*
 - 8 CFR 214.1(c)(5)—Removes prior language in the NPRM under 8 CFR 214.1(c)(5) (proposed) because the current version of the regulation at 8 CFR 214.1(c)(7) already substantively addresses this topic, *i.e.*, that USCIS has discretion to grant decisions on extension or amendment of stay request, and that decisions may not be appealed;
 - 8 CFR 214.2(f)(5)(i)(C)—Revised to clarify that “public high school” may also include a charter school or other similar school funded by U.S. taxpayers;
 - 8 CFR 214.2(f)(5)(ii) and 8 CFR 214.2(f)(8)—Revised the titles for consistency with one another;

²⁹³ The I-94 is used by the U.S. government to track arrivals and departures of nonimmigrants. Originally the form was designed in two parts—one for the Government and one for the nonimmigrant. The second part would be stapled into the nonimmigrant’s passport and then removed upon departure. The form is now maintained electronically and can be accessed by nonimmigrants by downloading it from the CBP website. See CBP, *Official Site for Travelers Visiting the United States: Apply for Provisional I-94, Retrieve Form I-94/I-95, Request Travel History and Check Travel Compliance*, <https://i94.cbp.dhs.gov/> (last visited Jun. 4, 2026).

²⁹² See INA sec. 235, 8 U.S.C. 1225; see also 8 CFR 235.

○ New 8 CFR 214.2(f)(5)(ii)(C)—Replaces “F–1 nonimmigrant” with “F–1 student” for consistency with the other regulatory changes, as the terms are synonymous;

○ New 8 CFR 214.2(f)(5)(viii)—Replaces “Automatic extension of F stay” with “Automatic extension of the authorized period of stay”;

○ New 8 CFR 214.2(f)(8)(i)(D)—Consistent with the discussion in the NPRM,²⁹⁴ adds the word “first” to refer to the student needing to complete his or her first academic year of a program of study at the school that initially issued his or her Form I–20 or successor form (unless an exception has been authorized by SEVP);

○ New 8 CFR 214.2(f)(8)(i)(H)—Adds the phrase “begin or resume classes” rather than the previously proposed “resume classes”;

○ New 8 CFR 214.2(f)(8)(ii)—Clarifies the previously proposed transfer procedure language;

○ 8 CFR 214.2(f)(11)(i)(D)—Replaces “60” with “30”, which provides that an F–1 student may not request a start date that is more than 30 days after the student’s program end date. This technical change aligns with the 30-day period that was proposed in the NPRM under 8 CFR 214.2 (f)(11)(i)(B)(2) and with the 30-day period of preparation for departure under new 8 CFR 214.2 (f)(5)(v); and

○ New 8 CFR 214.2(j)(1)(vi)—Replaces “J–1 stay” with “J–1 authorized period of stay”.

• *Clarifications and substantive changes in the following sections:*

○ 8 CFR 214.1(c)(3)(v)—Clarifies that those who fall under 8 CFR 214.1(m) may be eligible for an EOS if admitted for D/S;

○ New 8 CFR 214.1(m)(1)(ii) and (iii)—Clarifies that under the transition regulations, DHS reserves the discretion to extend the period exempting the filing of the Form I–539 or successor form beyond the dates and instances provided under paragraph (i) and (ii) regarding OPT and STEM OPT (by moving part of the proposed paragraph (ii) from the NPRM into a new standalone paragraph (iii) in the final rule, to correctly reflect that the new paragraph (iii) applies for the entire subsection);

○ New 8 CFR 214.2(f)(5)(i)—Clarifies when additional time may be granted to F–1 students by referencing additional activities and the accompanying CFR sections which provide procedures for those activities (*i.e.*, adding “to complete their program of study, as described in paragraphs (f)(7) and

(f)(8)(iv) of this section, begin a new program of study, as described in paragraphs (f)(5)(ii)(D) and (f)(7) of this section, or”);

○ New 8 CFR 214.2(f)(5)(ii)(A)—Clarifies the language prohibiting transfers and changes in educational objectives for F–1 students at any level below the graduate degree level, prohibiting them from transferring or changing educational objectives, *i.e.*, majors or educational levels, within the first academic year of a program of study, unless an exception is authorized by SEVP for extenuating circumstances. Adds “a student needing to change schools to complete elementary or secondary education” to the non-exhaustive list of examples of extenuating circumstances. Clarifies that an F–1 student at the graduate level or above may not change educational objectives at any point during their program of study. Prohibits an F–1 student at the graduate level or above from transferring at any point during their program of study, unless an exception is authorized by SEVP for extenuating circumstances;

○ New 8 CFR 214.2(f)(5)(ii)(C)—States that the prohibition for an F–1 student to maintain, be admitted, or otherwise be provided F–1 status at the same or lower educational level after completing a program applies to those aliens who have completed a program after the effective date of this final rule;

○ New 8 CFR 214.2(f)(5)(ii)(E)—Limits the ability to delay or suspend the implementation of 8 CFR 214.2(f)(5)(ii)(A) through (C) for a period of two years from the effective date of the rule since this provision is not needed indefinitely. Further, adds that if DHS delays or suspends any provisions in new 8 CFR 214.2(f)(5)(ii)(A) through (C) governing the change in educational objectives, DHS will make an announcement of the delay or suspension by publication of a notice in the **Federal Register**. This is in addition to the announcement on SEVP’s website;

○ New 8 CFR 214.2(f)(5)(v)—Clarifies that an F–1 student who completes their course of study or any authorized practical training early must depart, with any eligible dependents, within 30 days from the end date of their study or training or otherwise seek to maintain lawful status (by adding “However, if the F–1 student ends his or her study or training prior to expiration of his or her period of admission, the F–1 student, and any eligible dependents, must, within 30 days from the end date of the study or training, depart the United States or otherwise seek to maintain lawful status.”) This section also

clarifies that if an F–1 student fails to maintain a full course of study or otherwise fails to maintain status, not only are they not eligible for any additional time for departure, but they must also leave the country immediately;

○ New 8 CFR 214.2(f)(8)(i)(C) and (D)—As proposed in the NPRM, prohibits an F–1 student in a graduate level program of study from changing educational objectives or transferring to an SEVP-certified school, but clarifies that this does not apply if an exception is authorized by SEVP under 8 CFR 214.2(f)(5)(ii)(A);

○ New 8 CFR 214.2(f)(10)(ii)(D)—Revises the proposed language for F–1 students recommended for post-completion OPT to make it clear that they can seek admission through CBP after travel abroad or an EOS with USCIS;

○ New 8 CFR 214.2(j)(1)(ii)(C)—Clarifies that the departure period of 30 days applies equally for those whose programs have ended early and those whose programs completed on time (by adding “If the program end date is shortened, the J–1 exchange visitor and any J–2 accompanying dependents, must leave the United States within 30 days from the new program end date or otherwise seek to maintain lawful status in that 30-day period.”);

○ New 8 CFR 214.2(j)(1)(iv)(D)—Clarifies the process for late requests for extensions of the current program end date. The language was revised with terminology that accurately reflects the responsibilities of ROs in updating the program status or program end date on the most recent Form DS–2019, and the sponsor’s responsibilities in submitting the necessary corrections or reinstatements;

○ New 8 CFR 214.2(j)(1)(vii)(A)—Clarifies that for J–1 nonimmigrants, employment is authorized during the pendency of a timely filed EOS for up to 240 days, but not thereafter (by adding the phrases “in authorized employment and”; “but not including employment” where applicable). Also added clarifying language to make clear that there is a special provision for those applying for EOS during the first six months after the effective date of the rule;

○ Revised 8 CFR 214.2(j)(1)(ix)—Refers to DHS rather than previously proposed USCIS to not erroneously limit DHS authority related to this provision; and

○ New 8 CFR 248.1(e)—Continues to reference the aliens Form I–20 or Form DS–2019, but removes previously proposed text referring to those forms accompanying the change of status

²⁹⁴ See 90 FR at 42073.

application that was approved prior to the alien's departure.

B. General Period of Admission for F and J Nonimmigrants

DHS continues to develop its systems and processes in order to implement all provisions of the final rule. DHS will admit F-1 and J-1 nonimmigrants for up to the length of their program listed on the Form I-20 or Form DS-2019, or successor form, not to exceed a period of 4 years. These nonimmigrants will also receive an additional 30-day period for arrival prior to the start date listed on their forms and a 30-day period to prepare for departure or to otherwise seek to obtain lawful authorization to remain in the United States. *See* new 8 CFR 214.1(a)(4)(i) through (iii); and new 8 CFR 214.2(f)(5) and (j)(1)(ii). In this final rule, DHS has clarified that F and J nonimmigrants whose programs end early must either leave the United States or otherwise seek to maintain lawful status within 30-days from the new program end date. *See* new 8 CFR 214.2(f)(5)(v) and (j)(1)(ii)(C).

The period of admission for F-2 and J-2 dependents may not exceed the authorized period of stay of the principal F-1 or J-1 nonimmigrant.

DHS addresses the following circumstances that might apply when F and J nonimmigrants apply for admission at a POE:

- Aliens who departed the United States, including those seeking admission before their timely filed EOS application has been adjudicated, but after their previously authorized period of stay has expired, could be eligible to be admitted for the length of time required to reach the program end date noted in their most recent Form I-20 or DS-2019, not to exceed 4 years, plus a period of 30 days to prepare for departure or to otherwise seek to obtain lawful authorization to remain in the United States, similar to an initial period of admission. *See* new 8 CFR 214.1(a)(4)(i)(A) and (ii)(A). USCIS would consider the alien's EOS application abandoned because the alien's new fixed date of admission based on the most recent I-20 or DS-2019 had already been determined by CBP upon the most recent admission to the United States, and thus the pending EOS application is extraneous. *See* new 8 CFR 214.1(c)(8).

- Aliens who departed the United States and are applying for admission before their timely filed EOS application has been adjudicated, but before their previously authorized period of stay has expired, could be eligible to be admitted either for: the length of time as indicated by the program end date noted

in their most recent Form I-20 or DS-2019, not to exceed 4 years, plus a period of 30 days to prepare for departure or to request admission for the previous period authorized admission and wait for USCIS to adjudicate the EOS. If the alien is admitted for the program length (not to exceed 4 years, as applicable), USCIS would consider the alien's EOS application abandoned because the alien's new fixed date of admission based on the most recent I-20 or DS-2019 had already been determined by CBP upon the most recent admission to the United States, and thus the pending EOS application is extraneous; or the period of time remaining on their previously authorized period of admission. CBP could admit the alien for a period of time not to exceed the unexpired period of stay that was authorized before the alien's departure, plus a period of 30 days to prepare for departure. In this scenario, in accordance with new 8 CFR 214.1(c)(8), an alien's EOS application is not considered abandoned and USCIS could grant a new period of stay upon subsequent adjudication of the EOS application. *See* new 8 CFR 214.1(a)(4)(i) and (a)(4)(ii). DHS is providing additional clarification here in this preamble that in order to facilitate admission in this scenario, aliens should be prepared to provide evidence of a timely filed extension in the form of a receipt notice issued by DHS for either instance detailed above.

- Aliens who departed the United States after timely filing an EOS application and are reapplying for admission after their EOS application is granted. In such cases, CBP could admit them for a period of time not to exceed the time authorized by their approved EOS, plus a period of 30 days to prepare for departure. *See* new 8 CFR 214.1(a)(4)(i)(C) and (a)(4)(ii)(C). When applying for admission at a POE while their application for employment authorization is pending, they should have a notice (currently Form I-797) issued by USCIS indicating receipt of the application for employment authorization (currently Form I-765) necessary for post-completion OPT or STEM OPT and their latest I-20 endorsed by their DSO approving OPT or STEM OPT with a proposed end date. *See* new 8 CFR 214.1(a)(4)(iii).

- Aliens who departed the United States without an approved EOS application and are applying for admission with a valid Form I-20 or Form DS-2019, or successor form, may be admitted for the length of time as indicated by the program end date noted in their Form I-20 or DS-2019, not to

exceed 4 years, plus a period of 30 days to prepare for departure. *See* new 8 CFR 214.1(a)(4)(i)(A) and (ii)(A) and new 8 CFR 214.2(f)(5) and (j)(1)(ii)(A).

- F nonimmigrants applying for admission to engage in post-completion OPT or STEM OPT may, generally, be admitted either up to the expiration date noted on their EAD or up to the DSO's recommended employment end date for post completion or STEM OPT specified on their Form I-20, whichever is later, plus a 30-day period to prepare for departure. *See* new 8 CFR 214.1(a)(4)(iii) and new 8 CFR 214.2(f)(5). When applying for admission at a POE while their application for employment authorization is pending, they should have a notice issued by USCIS indicating receipt of the employment authorization application necessary for post-completion OPT or STEM OPT (currently Form I-797) and their latest I-20 indicating approval for OPT or STEM OPT by their DSO with a suggested end date.

- The method to calculate the period of admission for F-1 and J-1 nonimmigrants is explained. The 30-day period before the indicated report date or program start date and 30 additional days following the program end date do not count towards the maximum. *See* new 8 CFR 214.2(f)(5), (f)(7)(vi), (j)(1)(ii) and (j)(1)(iv)(C). The calculation of the 4-year maximum period of admission will not begin from the date of admission during that 30-day arrival window, but from the program start date. Similarly, the 30-day departure periods for F-1 and J-1 nonimmigrants will not count towards the 4-year maximum period of admission. This will avoid a scenario where an F-1 or J-1 seeks admission 30 days prior to the program start date, is admitted for a maximum 4 year period of admission to complete a 4 year program, but receives a period of admission calculated from the date of entry, meaning that the end of their period of admission would end 30 days prior to their 4 year program end date, thereby requiring the F-1 or J-1 to apply for an EOS or depart and re-enter the United States.

Under this final rule, certain aliens applying for admission pursuant to the provisions relating to automatic extension of visa validity in the case of an absence not exceeding 30 days solely in contiguous territory or adjacent islands could be admitted up to the unexpired period of stay authorized prior to their departure and the visa is considered automatically extended to the date of application for readmission only. *See* new 8 CFR 214.1(b)(1) and 22 CFR 41.112(d).

All of these cases assume, consistent with this final rule, that the admission period of any F or J nonimmigrant previously admitted for D/S will be transitioned to a fixed date of admission upon travel outside the United States. To provide adequate notice to aliens previously admitted for D/S regarding the date when their admission period ends pursuant to the transition, an alien's period of admission will expire on the program end date on the alien's Form I-20 or DS-2019 that is valid on the final rule's effective date, not to exceed a period of 4 years from the final rule's effective date, plus the currently permitted additional period of 60 days for F nonimmigrants and 30 days for J nonimmigrants to depart. *See* new 8 CFR 214.1(m)(1). DHS believes that this will provide adequate notice because all students and exchange visitors in F or J nonimmigrant status who wish to extend their program currently need to apply for permission with their DSO or RO. At that time, the DSO or RO could explain that they are recommending a program extension, but the F or J nonimmigrant must apply for an EOS directly with DHS or depart the United States and seek readmission, and such EOS or readmission must be granted to remain lawfully in or to re-enter the United States, respectively.

Under current policy, F and J nonimmigrants admitted for D/S do not accrue unlawful presence until the day after USCIS formally finds a nonimmigrant status violation while adjudicating a request for another immigration benefit or on the day after an immigration judge orders the alien excluded, deported, or removed (whether or not the decision is appealed), whichever comes first.²⁹⁵ In reliance on this policy, some F and J nonimmigrants admitted for D/S may not have taken the appropriate steps to maintain status, otherwise change status, or depart the United States. This final rule is concerned with providing adequate notice to allow F and J nonimmigrants who are maintaining status to transition to a new date-certain admission.

Although some F and J nonimmigrants may have program end dates longer than 4 years, DHS believes that using the program end date on the Form I-20 or DS-2019, up to a maximum 4-year period of admission, as the fixed date of admission is the best option because it aligns with the general structure of post-secondary education

while still allowing for the government to have increased oversight of this population through the requirement that those nonimmigrants who wish to remain beyond their authorized period of admission either apply to extend their stay or depart the United States and seek readmission. According to the ED, students can normally earn a bachelor's degree in 4 years²⁹⁶ and non-resident students normally earn their bachelor's degrees within 4 years of entry.²⁹⁷ The total number of F-1 students pursuing a bachelor's degree in 2023 was 457,906, constituting almost 34 percent of the 2023 nonimmigrant student population. The total number of F-1 students pursuing a master's degree, generally 2-year programs, in 2023 was 608,857, representing almost 45 percent of the nonimmigrant student population. Taken together this population represents almost 79 percent of the nonimmigrant students in the United States.²⁹⁸ Therefore, DHS believes that a 4-year period of admission will not pose an undue burden on them, because many F and J nonimmigrants will complete their program within a 4-year period and not have to request additional time from DHS. The smaller proportion of students not pursuing a bachelor's or master's degree are enrolled in different programs, which may last more or less than 4 years.²⁹⁹ While DHS acknowledges the additional burden that this rule would impose on students engaged in programs lasting longer than 4 years, DHS believes that the benefit to program integrity of this rule would outweigh the burden to this population. Before arriving at the 4-year admission periods, DHS considered various options, which were discussed within the NPRM.³⁰⁰

²⁹⁶ *See* The Mobile Digest of Education Statistics, *The Structure of American Education* (2017), https://nces.ed.gov/programs/digest/mobile/The_Structure_of_American_Education.aspx.

²⁹⁷ *See* National Center for Education Statistics. (2024). *Graduation rate from first institution attended for first-time, full-time bachelor's degree-seeking students at 4-year postsecondary institutions, by race/ethnicity, time to completion, sex, control of institution, and percentage of applications accepted: Selected cohort entry years, 1996 through 2017* (Table 326.10). In *The Digest of Education Statistics, 2024*. https://nces.ed.gov/programs/digest/d24/tables/dt24_326.10.asp (last visited Feb. 9, 2026).

²⁹⁸ *See* ICE, 2023 SEVIS by the Numbers Report (May 10, 2024), https://www.ice.gov/doclib/sevis/btn/24_0510_hsi_sevp-cy23-sevis-btn.pdf.

²⁹⁹ Other programs include associate degrees, language training programs, and Ph.D. programs, among others.

³⁰⁰ *See* 90 FR at 42082–83 (Aug. 28, 2025).

C. Automatic Extension of Visa Validity at POE for Contiguous Travel

DHS changed the admission language in the provision relating to extension of visa validity in limited situations from “shall” to “may” to clarify that CBP always maintains the discretion to determine whether an alien is admissible and the appropriate period of admission. This change removes any ambiguity about whether CBP has an absolute duty to admit an alien to clarify that CBP has the discretion to admit an alien for a certain period of time, consistent with statutory and regulatory authorities. *See* new 8 CFR 214.1(b)(1).

DHS made technical revisions to the visa revalidation provisions allowing certain F, J, and M nonimmigrants to apply for admission if eligible for admission as an F, J, or M nonimmigrant if they are applying for admission after an absence from the United States not exceeding 30 days spent solely in contiguous territory or adjacent islands. *See* new 8 CFR 214.1(b). Such technical revisions include updating language to clarify that “visa revalidation” refers to automatic extension of visa validity at the POE to the date of application for readmission only. These provisions apply when, for example, a nonimmigrant finds himself or herself applying for re-entry after going to Mexico on spring break without realizing that his or her visa had expired. Instead of having to get a new visa, CBP may admit the nonimmigrant, whose visa validity is automatically extended by operation of DoS regulations. *See* 22 CFR 41.112(d). DHS does not believe it is necessary to require a nonimmigrant to obtain a new visa under these circumstances.

DHS made minor technical updates to account for inaccurate or no longer applicable terms and cites. First, DHS struck the reference to INA 101(a)(15)(Q)(ii) and reserved it, as that program no longer exists and is no longer in the INA.³⁰¹ *See* new 8 CFR 214.1(b)(1)-(3). Second, DHS struck the reference to “duration of status” in redesignated 8 CFR 214.2(f)(5)(vii) and new 8 CFR 214.1(b)(1), 214.2(f)(18)(iii), and 274a.12(b)(6)(v).

D. EOS

This final rule will not create a new form for an EOS application. However, in the future, some form names and numbers may change. While DHS plans to update existing forms to allow F and I nonimmigrants to apply for an EOS

³⁰¹ *See* Irish Peace Process Cultural and Training Program Act of 1998, Public Law 105–319, 112 Stat. 3013 (Oct. 30, 1998), as amended by Public Law 108–449, 114 Stat. 1526 (Dec. 10, 2004).

²⁹⁵ *See* USCIS Memorandum, *supra* note 72 (which currently applies unlawful presence to F, J, and I nonimmigrants in relation to duration of status but which will change accordingly when duration of status no longer applies to them.).

with USCIS, DHS believes it is more efficient to replace references to specific form names and numbers throughout the current regulations with generally applicable language.

Using general language in the regulatory text instead of referring to specific form names and numbers helps both DHS and stakeholders. It allows for technical changes without requiring an entirely new rulemaking to update form names. Stakeholders will receive notice and specific guidance on USCIS' website and in the appropriate form instructions, as they already do for various other benefits. Therefore, DHS uses this language in 8 CFR 214.1(c)(2) and struck the phrase exempting F and J nonimmigrants from filing an EOS, as they will be required to file an EOS if they wish to remain in the United States beyond their specified date of admission. *See* new 8 CFR 214.1(c)(2).

Additionally, DHS struck "other than as provided in 214.2(f)(7)" from new 8 CFR 214.1(c)(3)(v) and added in its place "except those who fall under 8 CFR 214.1(m)" to make it clear that students must apply for an EOS. This requirement will not apply to other nonimmigrants admitted for D/S, such as A-1 or A-2 representatives of foreign governments and their immediate family members; they will remain ineligible to file an EOS.

As part of the EOS application, USCIS requires biometric collection and may require such collection from F, J, and I nonimmigrants. USCIS has the general authority to require and collect biometrics from applicants, petitioners, sponsors, beneficiaries, or other individuals residing in the United States for any immigration and naturalization benefit. *See* 8 CFR 103.16. Biometric collection helps USCIS confirm an individual's identity and conduct background and security checks. Further, USCIS may also require any applicant, petitioner, sponsor, beneficiary or individual filing a benefit request, or any group or class of such persons submitting requests to appear for an interview. *See* 8 CFR 103.2(b)(9). USCIS may require such an interview as part of the screening and adjudication process that helps confirm an individual's identity, elicit information to assess the eligibility for an immigration benefit, and screen for any national security or fraud concerns.

The rule addresses the admission of F, J, and I nonimmigrants who timely filed an EOS and/or an application for employment authorization but left the United States before receiving a decision from USCIS. DHS anticipates this scenario will apply mostly to F-1

students applying for post-completion OPT and STEM OPT extensions.

While USCIS generally does not consider an application for EOS abandoned when the nonimmigrant leaves the United States,³⁰² DHS recognizes the potential for conflict if a nonimmigrant receives authorization from both CBP and USCIS for what amounts to the same request (a specific period of time to pursue authorized activities). Where an alien in F, J, or I status timely files an application for EOS, leaves the United States before USCIS approves that EOS application, and applies for admission to continue his or her activities for the balance of the previously authorized admission period, USCIS would generally not consider the EOS application abandoned. *See* new 8 CFR 214.1(c)(8)(i).

Consistent with the general provision on admission in new 8 CFR 214.1(a)(4) where the alien leaves the United States and applies for admission while his or her EOS application is pending and is admitted based on a new Form I-20 or DS-2019 after his or her previously authorized admission has expired; the pending EOS may be deemed abandoned. In this case, the AUD provided by CBP on the alien's I-94 would govern. *See* new 8 CFR 214.1(c)(8)(ii). This is because, in these cases, CBP's grant of a new period of authorized stay will supersede the pending EOS application seeking a period of authorized stay, rendering it superfluous.

DHS considered a policy whereby an F, J, or I nonimmigrant would automatically abandon an EOS application upon departing the United States. However, DHS believes such a strict requirement would not be practical, because people cannot always predict when they will have to travel. The decision to grant or deny an EOS, including in the event of a departure, involves an exercise of agency discretion, utilizing the laws, regulations, agency policy, and operational guidance.

Regarding applications for employment authorization for F-1 and J-2 nonimmigrants, DHS notes that CBP does not adjudicate applications for employment authorization. Should an EOS application be deemed abandoned, USCIS will continue processing any applications for employment authorization, notwithstanding a departure, and, if the application is

approved, USCIS will not issue an EAD with a validity date that exceeds the fixed date of admission provided to the alien at the POE. For example, an F-1 student wishing to engage in post-completion OPT or a STEM OPT extension will need to file both an EOS application and an application for employment authorization. Where the alien had departed the United States before his or her applications are adjudicated, USCIS will not consider the employment authorization application abandoned. *See* new 8 CFR 214.1(c)(8)(ii).

In all events, when an F-1 or a J-2 nonimmigrant travels while the employment authorization or EOS application is pending, he or she is still expected to respond to any RFE and to timely submit the requested documents. Because an RFE may arrive after an alien departs, either electronically or at a U.S. address, aliens traveling outside the United States while applications are pending are advised to make necessary arrangements to determine whether they have received an RFE relating to their application and to timely respond to any RFE.³⁰³ Failure to do so could result in USCIS denying an employment authorization or EOS application for abandonment.

E. Transition Period

1. F and J Nonimmigrants Who Are in D/S on the Effective Date of the Final Rule

DHS will generally allow all F and J nonimmigrants present in the United States on the final rule's effective date who are validly maintaining that status and who were admitted for D/S to remain in the United States in F or J status, without filing an EOS request, up to the program end date reflected on their Form I-20 or DS-2019 that is valid on the final rule's effective date, for a period not to exceed 4 years from the effective date of the final rule, plus an additional 60 days for these F nonimmigrants and 30 days for J

³⁰² *See* U.S. Dep't of Justice, *Memo from Cook, Acting Asst. Comm. Programs, Travel After Filing a Request for a Change of Nonimmigrant Status*, HQ 70/6.2.9 (June 18, 2001), <https://www.uscis.gov/sites/default/files/document/memos/Travpub.pdf>.

³⁰³ *See* ICE, *Traveling as an International Student*, <https://studyinthestates.dhs.gov/traveling-as-an-international-student> (last visited Feb. 9, 2026). *See also* ICE, *Travelling Outside the United States for Five Months or Fewer*, <https://www.ice.gov/sevis/travel> (last updated July 8, 2025), which notes, "Can I reenter if my request for OPT is pending? Yes, but traveling during this time should be undertaken with caution. USCIS may send you [an RFE] while you are away, however, so you will want to make sure you have provided a correct U.S. address both to your DSO and on the application and would be able to send in requested documents. Also, if USCIS approves your OPT application, you will be expected to have your EAD in hand to re-enter the United States. Like a request for further information, USCIS can only send the EAD to your U.S. address."

nonimmigrants to depart the country. See new 8 CFR 214.1(m)(1).

F and J nonimmigrants who depart the United States after the rule's effective date and before the end date reflected on their Form I-20 or DS-2019 may be admitted with a new fixed admission period, like any other newly admitted F or J nonimmigrant, as provided for in new 8 CFR 214.1(a)(4), based on the date on their Form I-20 or DS-2019 and 30 days for departure. See new 8 CFR 214.2(f)(5) or (j)(1)(ii). Aliens who need additional time to complete their current course of study, including requests for post-completion OPT, STEM OPT, or academic training, or would like to start a new course of study or exchange visitor program must apply for an EOS with USCIS for an admission period up to the new program end date, or OPT end date, listed on the Form I-20 or DS-2019, or successor form, reflecting such an extension, up to a maximum of 4-years. See new 8 CFR 214.1(m)(1).

For those aliens in F-1 status, admitted for D/S, present in the United States on September 15, 2026 who have timely filed on or before September 15, 2026 an application for post-completion OPT or a STEM OPT extension, there is not a requirement to file an EOS application, and, instead, they are only required to file the application for employment authorization for post-completion OPT or STEM OPT extension. See new 8 CFR 214.1(m)(1)(i). An F-1 nonimmigrant who departs the United States before filing the application for post-completion OPT or STEM OPT, and is subsequently admitted to the United States with a fixed period of admission is required to file both an application for employment authorization, (Form I-765 or successor form) and an Application to Extend/Change Nonimmigrant Status (Form I-539, or successor form), pursuant to 8 CFR 214.2(f)(11)(i)(B)(2) or (C). See new 8 CFR 214.1(m)(1)(ii). An alien described in this section who departs the United States while the Application for Employment Authorization is pending or once approved will be admitted for a fixed period of time pursuant to 8 CFR 214.1(a). *Id.* DHS reserves the discretion to extend the period exempting the filing of the Application to Extend/Change Nonimmigrant Status (Form I-539 or successor form) in 6-month increments by publication of a notice in the **Federal Register**. See new 8 CFR 214.1(m)(1)(iii). The final rule moved this paragraph from paragraph (ii) to offer additional clarity, since such an extension can also apply to paragraph (i).

An F-1 nonimmigrant who departs the United States while the application for employment authorization for post-completion OPT or STEM OPT is pending or once approved will be admitted for a fixed admission period pursuant to new 8 CFR 214.1(a)(4)(iii). F-1 nonimmigrants who file for employment authorization for STEM OPT remain eligible for the 180-day extension of their post-completion OPT EAD while their application for STEM OPT is pending pursuant to 8 CFR 274a.12(b)(6)(iv).

Regarding pending applications for employment authorization during the transition period, aliens in F status who are subject to the transition and who are seeking post-completion OPT and STEM OPT employment authorization will be authorized to lawfully remain in the United States while the application is pending with USCIS if: (1) they are in the United States on the effective date of the final rule with admission for D/S; (2) they properly filed an application for employment authorization; (3) their application is pending on the final rule's effective date; and (4) they are not otherwise removable under the INA. Unless otherwise advised by USCIS, they will not have to file for an EOS or re-file an application for employment authorization. See new 8 CFR 214.1(m)(2). If the application for employment authorization is approved, the F-1 student will be authorized to remain in the United States in F-1 status until the expiration date of the EAD, plus 60 days as provided in their previous admission. If the employment application is denied, the F-1 student will continue to be authorized to remain in the United States until the program end date listed on their Form I-20, plus 60 days as provided in their previous admission, as long as he or she continues to pursue a full course of study and otherwise meets the requirements for F-1 status. See new 8 CFR 214.1(m)(2)(i).

Aliens in F-1 status with pending employment authorization applications, other than post-completion OPT and STEM OPT, also do not need to file for an extension or refile an employment authorization application. As long as these F-1 nonimmigrants continue to meet the requirements for F-1 status, they continue to be authorized to remain in the United States until the program end date listed on the Form I-20, plus 60 days, regardless of whether the employment authorization is approved or denied. See new 8 CFR 214.1(m)(2)(ii).

As discussed in the NPRM, DHS believes that this transition will not be unreasonably burdensome on F and J

nonimmigrants, and it will enable DHS to transition F and J nonimmigrants without unduly burdening nonimmigrants, USCIS, or CBP. Many would be able to complete their programs per the terms of their initial D/S using the original program end date as an expiration of their authorized period of stay. DHS may grant such periods, which include an additional 60 days for F nonimmigrants and 30 days for J nonimmigrants as provided in their previous admission, automatically without an application or fee. With this option, DHS believes that the majority of F and J nonimmigrants will be shifted to a fixed initial period of admission of 4 years or less. For example, J-1 research scholars and alien physicians who have program end dates for up to 5 or 7 years respectively will need to apply for an EOS before the 4-year maximum period of stay expires, *i.e.*, the date that falls 4 years after the rule becomes effective and is listed in this rule for each program.

This will also allow DHS to transition F and J nonimmigrants to an admission for a fixed time period without unduly burdening them, USCIS, or CBP. It ensures that no F and J nonimmigrants remain in the United States indefinitely by requiring all F and J nonimmigrants admitted for D/S who wish to extend their stay beyond their program end date or the 4-year maximum, whichever is applicable, to either file an EOS request or depart the United States and apply for admission at a POE by their program end date or the 4-year maximum period of stay from the effective date of this final rule, plus an additional 60 days for F nonimmigrants and 30 days for J nonimmigrants.

DHS considered the effect of transitioning to a fixed period of admission on F and J nonimmigrants originally admitted for D/S who chose to temporarily come to the United States to pursue a program of study or an exchange visitor program. DHS believes the changes will not significantly affect the interests of these nonimmigrants admitted in D/S. DHS is not changing the fundamental requirements to qualify for these nonimmigrant statuses, rather it is only changing the length of time that an individual may lawfully remain in the United States in F or J status without filing an EOS application. Admitting these classifications of nonimmigrants for a fixed period of admission simply confirms that the admission is temporary and clearly communicates when that temporary admission period ends. Further, as is the case for the fixed period of admission policy more generally, a fixed date of admission simply places these

nonimmigrants in the same position as most other nonimmigrants who are temporarily in the United States. They will still be able to continue to pursue their full course of study or exchange program; however, if they need additional time in F or J status, the burden will now be on them to request authorization directly from DHS and establish eligibility to extend their period of stay in such status, whereas previously they obtained an extension of lawful status in conjunction with a program extension through a DSO or RO.

At the same time, this process will provide immigration officials an opportunity to directly review and determine whether F and J nonimmigrants who wish to remain in the United States beyond their fixed period of admission are complying with U.S. immigration law and are indeed eligible to retain their nonimmigrant status. If there are F or J nonimmigrants relying on a D/S admission in an attempt to permanently remain in the United States, or otherwise circumvent their authorized status, this process will allow DHS to detect and deny an EOS request or entry under a new period of admission. DHS considered several alternatives in the NPRM before determining the above proposal was the best option.³⁰⁴

2. I Nonimmigrants Who Are in D/S on the Effective Date of the Final Rule

I nonimmigrants who are in the United States on the effective date of the final rule will change from the existing D/S admission to a fixed date of admission. DHS is adopting the proposal in the NPRM for an automatic extension of the length of time it takes the alien to complete his or her activity, for a period of up to 240 days. *See* new 8 CFR 214.1(m)(3). This is based on the period of stay authorized in 8 CFR 274a.12(b)(20), which generally provides an automatic extension of employment authorization of 240 days to certain aliens whose status has expired but on whose behalf an application for an EOS was timely filed through a Form I-539, Application to Extend/Change Nonimmigrant Status, and which under new 8 CFR 214.2(i), has been generally applicable to an I nonimmigrant who changes information mediums.³⁰⁵ However, aliens who present a passport issued by the People's Republic of China (with the exception of a Hong Kong SAR passport

or a Macau SAR passport), may be authorized an EOS until the activities or assignments consistent with the I classification are completed, but the EOS must not exceed the maximum period of 90 days. *See* new 8 CFR 214.1(m)(3). DHS believes that adopting an already established timeframe, to which I nonimmigrants are already accustomed, is reasonable. Consistent with the current process, an I nonimmigrant who departs the United States after the effective date of this final rule and would like to return to the United States in that same status will need to reapply for admission as an I nonimmigrant at a POE.

I nonimmigrants on D/S who seek to remain in the United States longer than the automatic extension period provided are required to file an EOS request with USCIS.³⁰⁶ *Id.* In addition to I nonimmigrants being familiar with the timeframe under 8 CFR 274a.12(b)(20), DHS anticipates that this provision will reduce any gaps in employment due to USCIS' processing timeframes between the I nonimmigrant's application for extension and USCIS approval of the application. It will also facilitate an I nonimmigrant's ability to complete his or her assignment while temporarily in the United States on behalf of a foreign media organization, it that it will give ample time to any I nonimmigrant to either complete that assignment or ask for an extension, as needed.

If the EOS is denied, the alien must cease working and depart the United States immediately. As with most other nonimmigrant classifications, they will not be given any period of time to prepare for departure from the United States after the denial, and there may be significant immigration consequences for failing to depart the country immediately. For example, such aliens generally will begin to accrue unlawful presence the day after the issuance of the denial. DHS believes this standard provides parity across nonimmigrant classifications.

Finally, the transition procedures do not apply to aliens in F, J, or I nonimmigrant status who are outside the United States when the final rule takes effect, or to any aliens present in the United States in violation of their status. *See* 8 CFR 214.1(m).

F. Requirements for Admission, Extension, and Maintenance of Status of F Nonimmigrants

Under this final rule, as outlined in the proposed rule, DHS has changed the

regulations that provide the framework for admission, extension, and maintenance of status for F nonimmigrants. These changes will eliminate D/S, require students to file an EOS if requesting to remain in the United States beyond the period of their admission, and clarify terms to ensure that the activities in an F nonimmigrant has engaged in are consistent with those of a bona fide student.

1. Admission for a Fixed Time Period

In the NPRM, DHS proposed striking the previous regulation that allows F nonimmigrants to be admitted for D/S while also proposing to replace it with a provision allowing F nonimmigrants to be granted status for the length of their program, not to exceed 4 years. *See* proposed 8 CFR 214.2(f)(5)(i) and (f)(7)(vi). This is retained in the final rule with additional clarity added to new 8 CFR 214.2(f)(5)(i). More specifically, that paragraph references instances when additional time may be granted to an F-1 student by adding language to reference the completion of their program of study, as described in paragraphs (f)(7) and (f)(8)(iv) of that section and the beginning of a new program of study, as described in paragraphs (f)(5)(ii)(D) and (f)(7) of that section.

Second, the NPRM proposed retaining in the regulations the statutory limitation that restricts public high school students to an aggregate of 12 months of study at any public high school(s) while also clarifying that the 12-month aggregate period includes any school breaks and annual vacations. This is retained in the final rule with clarification that a public high school may also include a charter school or other similar school funded by U.S. taxpayers. *See* new 8 CFR 214.2(f)(5)(i)(C). Current requirements, including paying the full cost of education, also remain in place.

Third, F-1 students who are applying to attend an approved private elementary or middle school or private academic high school will continue to be covered by the provisions of 8 CFR 214.2(f)(6)(i)(E). These provisions require the DSO to certify a minimum number of class hours per week prescribed by the school for normal progress toward graduation. *See* 8 CFR 214.2(f)(6)(i)(E). However, like all other F-1 students, they will be subject to the 4-year maximum period of admission, and they will need to apply for an EOS with DHS if staying beyond this period. This is retained in the final rule. *See* new 8 CFR 214.2(f)(7)(vi).

Fourth, DHS proposed exempting part-time border commuter students

³⁰⁴ 90 FR at 42085–86 (Aug. 28, 2025).

³⁰⁵ *See* USCIS, *Instructions for Application to Extend/Change Nonimmigrant Status*, <https://www.uscis.gov/i-539> (last updated Jan. 9, 2026).

³⁰⁶ In FY 2024, fewer than 38,000 aliens entered the U.S. in I classification. *See* DHS FY 2024, Quarter 4, tbl.4B, *supra* note 11.

from the general length of admission provisions. The regulations at 8 CFR 214.2(f)(18) would continue to govern these border commuter students, including that DHS continue to admit them for a fixed time period. This is retained in the final rule. *See* new 8 CFR 214.2(f)(5)(i)(B).

Fifth, F–1 students in a language training program will be restricted to an aggregate of 24 months of language study, which will include breaks and an annual vacation. *See* new 8 CFR 214.2(f)(5)(i)(A). This limitation is a way to prevent abuse of the F–1 program. Public Law 111–306, enacted on December 14, 2010, and effective since 2011, requires language training schools enrolling F–1 students to be accredited by an accrediting agency recognized by the ED. DHS has found students enrolling in lengthy periods of language training, in some cases for more than two decades.³⁰⁷ DHS has also identified students who enrolled in language training programs despite previously being enrolled in or completing undergraduate and graduate programs requiring English language proficiency.³⁰⁸ Unlike degree programs that typically have prescribed course completion requirements, there are no nationally-recognized, standard completion requirements for language training programs and students are able to enroll in language training programs for lengthy periods of time. The lengthy enrollment in a language program, including enrollment in language courses for long periods subsequent to completion of a program of study that

requires proficiency in English, raises concerns about whether the F–1 nonimmigrants meet the statutory definition of a bona fide student with the intent of entering the United States for temporary study.³⁰⁹ Therefore, there is a 24-month aggregate limit for F–1 students to participate in a language training program, as it will provide a reasonable period of time for students to attain proficiency while mitigating DHS's concerns about the integrity of the program. This timeframe generally comports with the amount of time needed to gain the highest level of English proficiency under the Cambridge English Exam.³¹⁰ This is retained in the final rule.

Sixth, DHS proposed students with pending employment authorization applications who are admitted based on the DSO's recommended employment end date for post-completion OPT or STEM OPT specified on their Form I–20, with a notice issued by USCIS indicating receipt of the Application for Employment Authorization, Form I–765 or successor form for post-completion OPT or STEM OPT, and who cease employment authorized pursuant to a post-completion OPT- or STEM OPT-based EAD that expires before the alien's fixed date of admission as noted on their Arrival/Departure Record (Form I–94 or successor form), be considered to be in the United States in a period of authorized stay from the date of the expiration noted on their EAD until the fixed date of admission as noted on their I–94 (unless the student violates the terms of the authorized stay). This is retained in the final rule. *See* new 8 CFR 214.2(f)(5)(i)(D).

Seventh, the authorized period of stay for F–2 dependents cannot exceed the authorized period of stay of the principal F–1 student. DHS proposed adding this requirement and retains this proposal in the final rule. *See* new 8 CFR 214.2(f)(5)(i)(E).

2. Changes in Educational Objectives

Prior to the implementation of this final rule, all F–1 students who change from one educational level to another or pursue multiple degrees in the same educational level are considered to be maintaining status. *See* new 8 CFR 214.2(f)(5)(ii). DHS has observed that some students continuously enroll in different programs at the same degree level, such as by pursuing multiple associate, master's, undergraduate, bachelor's, or certificate programs. Alternatively, some students change to a lower educational level, such as

completing a master's degree and then changing to an associate's program or an ELT program.³¹¹ This has enabled some aliens to remain in the United States for lengthy periods of time in F–1 student status, raising concerns about the temporary nature of their stay. In 2024, DHS identified nearly 77,000 F–1 students who have spent more than 10 years in student status since SEVIS was implemented in 2003.³¹² This includes individuals who enrolled in programs at the same educational level as many as 19 times, as well as students who completed graduate programs and then enrolled in undergraduate programs, including associate's degrees.³¹³

DHS has also observed a pattern of students immediately transferring schools or changing educational levels or programs of study upon their arrival in the United States. These students often use an admission letter and Form I–20 from a well-known school to increase their odds of obtaining a student visa and then immediately request a transfer to their intended school or program of study once they have gained admission to the United States. Some of the most egregious examples are those who apply to a 4-year university, which requires demonstration of sufficient English level skills for enrollment in classes through the passage of the Test of English as a Foreign Language test (commonly known as TOEFL), receive their visa based on their declared intention of attending a 4-year university, and then transfer to English language programs upon arrival. Other, more dangerous examples, include those foreign students who receive a visa based on their declared intention to study the humanities, but then transfer into sensitive programs such as nuclear science. A handful of those have been arrested for spying for China.³¹⁴ The existing regulations are vulnerable to exploitation by aliens who threaten U.S. national security. This rule is designed to reduce this vulnerability. Since 2020, there have been over 13,000 F–1 students who transferred before the start of classes or within their first term, including over 4,400 students transferring from a higher education to ELT program of study within their first

³¹¹ *Id.*

³¹² DHS analysis of data in SEVIS and valid as of Mar. 17, 2025.

³¹³ *Id.*

³¹⁴ *See* CNN Politics, *Chinese Engineer Sentenced to 8 years in US Prison for Spying*, *supra* note 82, and Senate Select Committee on Intelligence Hearing (Feb. 13, 2018), *supra* note 82.

³⁰⁷ For example, one student has been enrolled in ELT programs at nine different schools since January 3, 2003. This student is active in SEVIS, reportedly studying English full time as of May 7, 2025—accounting for more than 22 years of language training. The student's most recent school issued a program extension changing the student's program end date from January 2, 2025, to January 2, 2026. The school input the following reason for the extension: "Student pursuing advanced level linguistic studies." The school's 2025 catalog contains no references to linguistic studies—advanced or otherwise—and indicates the school offers general English academic preparation, TOEFL preparation, and business English courses. DHS analysis of data in SEVIS and valid as of May 7, 2025.

³⁰⁸ SEVIS Records show that for example a student who entered the country in 2005 studied English and then between January 2011 and December 2024, he enrolled in a bachelor's program in Biology/Biological Sciences, a master's program in Biotechnology, and a second master's program in Bioinformatics. He also engaged in post-completion OPT and two periods of STEM OPT. Each of his Forms I–20 indicated the academic programs required English proficiency, and the student had English proficiency. However, in January 2025, the student transferred to a language training school and remains active in SEVIS reportedly engaged in ELT as of May 7, 2025. DHS found at least 20 similar examples. DHS analysis of data in SEVIS and valid as of May 7, 2025.

³⁰⁹ *See* INA 101(a)(15)(F).

³¹⁰ *See* Cambridge English, *supra* note 195.

term or session of a program of study.³¹⁵ The number of F–1 students who changed their educational levels within the first 60 days of their program is close to 8,400.³¹⁶ While the number of students transferring or changing educational levels represents a small percentage of the total F–1 student population, these transfers are often promoted by third-party recruiters and other for-profit entities to allow aliens to use the student visa process to mask their intent in the United States or circumvent F–1 restrictions.³¹⁷ In addition, school officials are often burdened with the administrative costs of processing SEVIS transfer requests from F–1 students who misrepresented their intentions of studying at their institution.

While there may be legitimate cases of students who wish to change their educational objective to gain knowledge at a lower or the same educational level, the traditional path of study typically progresses from a lower educational program to a higher one. The existing regulations present a model consistent with the majority of bona fide students who follow this traditional trajectory. The term “full course of study” as defined in the existing regulations requires that the program “lead to the attainment of a specific educational or professional objective.”³¹⁸ Repeated changes to a program of study either within the same educational level or to move to a lower level, as well as immediate changes to a program of study upon initial entry into the United States, are not consistent with attainment of such an educational or professional objective. This understanding was reflected in the preamble to a 1986 rulemaking proposing changes to the F regulations, which stated: “The proposed regulation. . . places limitations on the length of time a student may remain in

any one level of study. Thus, the Service has eliminated applications for [EOS] for students who are progressing from one educational level to another but has placed a control over students who, for an inordinate length of time, remain in one level of study.”³¹⁹ But, by 1991, INS eliminated all EOS applications and began to rely on DSO’s to make the decision on whether educational progress was being made. In the decades that have followed, it has become clear that this has enabled thousands to stay here for decades by switching programs and not making any upward progress.³²⁰

Consistent with the NPRM, DHS is restricting school transfers and changes of educational objectives within a student’s first academic year of a program of study, unless an exception is authorized by SEVP, and prohibiting F–1 students in a graduate level program of study from changing educational objectives at any point during their program of study. F–1 students in a graduate level program of study are also prohibited from transferring, but the proposed regulatory text has been amended to allow SEVP to authorize an exception to this prohibition due to extenuating circumstances.

“Educational objectives” refers to an F–1 student’s educational level or major. See new 8 CFR 214.2(f)(5)(ii)(A) and new 8 CFR 214.2(f)(8)(i). DHS believes these changes will accommodate the legitimate academic activities of bona fide students, such as a desire to pursue a different field of study or more specialized studies in their current field. These changes will also provide SEVP with flexibility to grant exceptions for extenuating circumstances. For example, an exception may be appropriate when a school closes or when a school has a prolonged inability to hold in-person classes due to a natural disaster or other causes. DHS has also clarified in the final rule that extenuating circumstances include students needing to change schools to complete elementary or secondary education.

In addition, an alien who has completed a program as an F–1 nonimmigrant at one educational level will be unable to maintain F–1 status, depart and be admitted in F–1 status, or otherwise obtain F–1 status (e.g., via a change of status) through a program at the same educational level or a lower educational level. See new 8 CFR

214.2(f)(5)(ii)(C). However, an F–1 student who has completed a program in the United States at one educational level and is beginning a new program at a higher educational level will be considered to be maintaining F–1 status if they otherwise comply with requirements under 8 CFR 214.2(f). See new 8 CFR 214.2 (f)(5)(ii)(B). These provisions were retained from the NPRM to the final rule. They will be applied prospectively. Any programs completed prior to the effective date of the rule will not be counted towards the limits.³²¹

DHS believes that it is reasonable for a student to progress to a higher educational level rather than continue at the same level or pursue a lower level of education, as that is the traditional trajectory in the pursuit of higher education. Movement within the same level after completion of a program to a lower educational level raises concerns regarding whether the F–1 student is a bona fide student who intends to temporarily and solely pursue a full course of study rather than pursuing different degrees as a de facto way to prolong their stay in the United States.

If an F–1 student who has completed their first academic year of a program of study seeks to change educational objectives and this change would require an EOS, the alien would then apply for EOS using the form designated by USCIS, paying the required fee and following all form instructions, including submitting any biometrics required by 8 CFR 103.16. See new 8 CFR 214.2(f)(5)(ii)(D).

DHS recognized that these changes might require updates to SEVIS and other systems. Because the timeframe for those updates is not fixed and there could be technical issues regarding implementation, DHS is including a provision whereby DHS may delay or suspend implementation, in its discretion, if it determines that the change in educational level limitation is inoperable for any reason. The need for this provision is not indefinite and therefore DHS has added language in the regulatory text to clarify that this provision can be used for up to two years from the effective date of the rule (i.e., September 14, 2028). See new 8 CFR 214.2(f)(5)(ii)(E). If DHS delays or suspends the provisions in this section governing the change in educational objectives, DHS will make an

³¹⁵ See SEVIS Data on Initial Transfers and Change of Education Counts (Mar. 31, 2025).

³¹⁶ *Id.*

³¹⁷ On May 29, 2020, President Trump signed a Presidential Proclamation to suspend the entry as nonimmigrants of certain students and researchers from the PRC. See *Suspension of Entry as Nonimmigrants of Certain Students and Researchers from the People’s Republic of China*, Proc. No. 10043, 85 FR 34353 (Jun. 4, 2020). Since this proclamation, students often circumvent enforcement of this proclamation by applying to a permissible program of study to obtain a student visa and admission to the United States and then transferring or changing their program of study to engage in studies, research, and other activities that are prohibited. This is also a tactic used by international and third-party recruiters. See Inside Higher Ed., *Gaming the Student Visa System* (Jan. 12, 2024), <https://www.insidehighered.com/news/global/international-students-us/2024/01/12/international-admission-offices-plagued-fraud-and>.

³¹⁸ 8 CFR 214.2(f)(6)(i).

³¹⁹ *Nonimmigrant Classes; Change of Nonimmigrant Classification*, 51 FR 27867 (Aug. 4, 1986).

³²⁰ By reviewing SEVIS data as of Apr. 6, 2025, DHS has identified 2,137 aliens who first entered as F–1 students between 2000 and 2010 and remain in active F–1 status today.

³²¹ For example, an F–1 student who completed a master’s degree prior to the effective date of the rule would be eligible to enroll in and be admitted for the completion of another master’s degree. Any programs completed after the effective date of the rule would be counted towards the new limits of this rule.

announcement of the delay or suspension by notice in the **Federal Register** and to the academic community through SEVP's various communication channels, including *ICE.gov/sevis*, Study in the States (<https://studyinthestates.dhs.gov>), and SEVIS Broadcast Message. DHS will also announce the implementation dates of the change in degree level provision through SEVP's communication channels (*ICE.gov/sevis*, Study in the States, and SEVIS Broadcast Message) at least 30 calendar days in advance.

Additionally, DHS is retaining the term "educational" with respect to a change in level as DHS believes it accurately reflects current academic models. Specifically, "educational" captures programs for non-degree students, whereas using a term such as "degree" may not. For example, an F-1 student currently will not qualify for additional post-completion OPT if he or she changes to a non-degree certificate program, given that the certificate program is not a "higher educational level." Similarly, certificate programs for professional advancement are typically not considered to be a "higher educational level" allowing students to qualify for additional post-completion OPT.

DHS believes these changes will encourage F-1 students to complete the programs of study for which they were admitted to the United States and to only pursue additional programs of study that demonstrate an upward progression in degree levels, which is expected from a qualified bona fide student who is coming to the United States temporarily and solely to pursue a course of study. DHS believes that this restriction will not significantly impact the choice of bona fide students who come to the United States temporarily to complete a full course of study. The F-1 program, with its statutory requirement that an alien be a bona fide student who seeks to enter the United States temporarily and solely for the purpose of pursuing a full course of study at the school listed on his or her Form I-20 or successor form, should not be used by aliens wishing to remain in the United States indefinitely. These changes will better ensure that this statutory intent is fulfilled without hindering the options presented to bona fide students seeking study at higher educational levels and thus create a balanced solution to this issue.

3. Preparation for Departure

DHS retains its proposal from the NPRM to change the departure period for F nonimmigrants from 60 to 30 days. See new 8 CFR 214.2(f)(5)(v). DHS

received comments on this change, and those comments are discussed elsewhere in this preamble. DHS made this change for several reasons as discussed in the NPRM. The 60 days previously provided to F-1s to prepare for departure was twice as long as that of other SEVP programs (M and J nonimmigrants). See new 8 CFR 214.2(j)(1)(ii) and 8 CFR 214.2(m)(10)(i). In addition, this 60-day period is also six times longer than certain nonimmigrants who are authorized to remain in the United States for years but are only provided with a 10-day period to depart the United States.

As discussed within the NPRM, DHS believes that 30 days for the F nonimmigrant population is the appropriate balance between a 60-day and a 10-day period of departure and has retained the proposed 30-day departure period for F-1 nonimmigrants in the final rule.³²² Similarly, DHS notes that seeking an EOS or change of status is an allowable activity for F-1 nonimmigrants during the 30-day departure period following the completion of their program and incorporated this clarification in the proposed rule and retains it in the final rule. See new 8 CFR 214.2(f)(5)(v).

DHS has also retained its proposal to clarify that an F-1 student who has completed a course of study and any authorized practical training will be allowed an additional 30-day departure period which is reflected in the AUD on the Form I-94 (or successor form), or the expiration date noted on the EAD (Form I-766 or successor form) plus the 30-day departure period, as applicable, to prepare for departure from the United States, or to otherwise maintain status, including timely filing an EOS application in accordance with 8 CFR 214.2(f)(7) and 8 CFR 214.1 or to timely file a change of status application in accordance with 8 CFR 248.1(a). See new 8 CFR 214.2(f)(5)(v). DHS removed the reference to completing a course of study or a program in order to provide consistency in the admission of all F-1 and J-1 nonimmigrants and to allow the departure period to be reflected in I-94 at admission, so that the F-1 and J-1 nonimmigrants will have a unambiguous end date of their period of authorized admission, easily referenced on the I-94. USCIS, when adjudicating applications for a change of status to F-1 and J-1 nonimmigrant status and EOS applications of F-1 and J-1 status will similarly provide I-797 approval notices reflecting the 30-day departure period following the program end date or the 4-year maximum period of admission,

or period of OPT or STEM OPT, as applicable.

In the final rule, DHS added a clarifying sentence to address situations where F-1 students end their study or training early. For example, an F-1 student may enter their program anticipating it will take 4 years to complete, but they may then complete that program in 3 years. Or an F-1 student may enter their program anticipating it will take 4 years to complete, but they may stop their studies completely after one semester. When an F-1 student ends their study or training early, that student, and any eligible dependents, must, within 30 days from the new end date, depart the United States or otherwise seek to maintain lawful status. See new 8 CFR 214.2(f)(5)(v).

Since an F-1 student now has 30 days, rather than the previously allotted 60 days, to depart the country or to otherwise maintain status after their completion of their program or program end date, it follows that they need to file a Form I-765 or successor form for post-completion OPT within 30 days, rather than the previously allotted 60 days, after their program end date. See new 8 CFR 214.2(f)(11)(i)(B)(2). This has been retained in the final rule.

It similarly follows that a student may not request a start date of OPT employment which is more than 30 days (rather than 60 days) after the student's program end date. DHS overlooked this update to 8 CFR 214.2(f)(11)(i)(D) in the NPRM but has made the change in the final rule. As explained in the response to comments above, DHS recognizes failing to make this update may cause confusion. This technical change aligns with the 30-day period that was proposed in the NPRM under 8 CFR 214.2(f)(11)(i)(B)(2) and with the 30-day period of preparation for departure under 8 CFR 214.2(f)(5)(v).

In the NPRM, DHS also proposed retaining the current regulatory language that allows a 15-day period for departure from the United States if an alien is authorized by the DSO to withdraw from classes, but no additional time for departure if the alien fails to maintain a full course of study without the approval of the DSO or otherwise fails to maintain status. See new 8 CFR 214.2(f)(5)(v). Because DSOs generally authorize withdrawal based on compelling academic or medical circumstances when a student proactively requests permission, DHS believes retaining the 15-day period is appropriate and has retained this provision in the final rule. However, aliens who fail to maintain their full course of study, are denied EOS, or

³²² 90 FR at 42089 (Aug. 28, 2025).

otherwise violate their status are required to immediately depart the United States, as is consistent with other nonimmigrant classifications. DHS considered allowing a short “grace period” for departure after an EOS denial but concluded there was not a compelling reason to treat F nonimmigrants who have received a denial more favorably than other nonimmigrant classifications. As in other nonimmigrant classifications, failure to immediately depart under these circumstances may result in accrual of unlawful presence and subject the individual to removal.

4. Automatic Extension of Authorized Period of Stay and Employment

a. Authorized Period of Stay and Employment Authorization Under 8 CFR 214.2(f)(5)(viii)

Each year, a number of U.S. employers seek to employ F-1 students and file a Form I-129, Petition for a Nonimmigrant Worker, with USCIS, along with a change of status request, to obtain classification of the F-1 student as an H-1B nonimmigrant worker. The H-1B nonimmigrant visa program allows U.S. employers to temporarily employ foreign workers in specialty occupations, defined by statute as occupations that require the theoretical and practical application of a body of highly specialized knowledge and a bachelor's or higher degree in the specific specialty, or its equivalent. *See* INA sections 101(a)(15)(H)(i)(b) and 214(i); 8 U.S.C. 1101(a)(15)(H)(i)(b) and 1184(i). The H-1B classification, however, is subject to annual numerical allocations, commonly referred to as a “cap.” *See* INA sections 214(g)(1)(A) and (g)(5)(C); 8 U.S.C. 1184(g)(1)(A) and (g)(5)(C).³²³ For purposes of the H-1B numerical allocations, each fiscal year begins on October 1. Petitioners may not file H-1B petitions more than 6 months before the date of actual need for the employee.³²⁴ Thus, the earliest date an H-1B cap-subject petition may be filed for an allocation for a given fiscal year is April 1, 6 months prior to the start of the applicable fiscal year for which initial H-1B classification is sought.

Many F-1 students complete a program of study or post-completion

OPT in mid-spring or early summer. Per existing regulations, after completing their program or post-completion OPT, F-1 students have 60 days (which DHS is proposing to change to 30 days) to take the steps necessary to maintain legal status or depart the United States. *See* new 8 CFR 214.2(f)(5)(v). However, because the change to H-1B status cannot occur until October 1, an F-1 student whose program or post-completion OPT expires in mid-spring has two or more months following the 60-day period before the authorized period of H-1B status can commence. To address this situation, commonly known as the “cap-gap,” DHS established regulations that automatically extended F-1 D/S and, if applicable, post-completion OPT employment authorization for certain F-1 nonimmigrants until April 1 of the fiscal year for which the H-1B status is being requested or until the validity start date of the approved petition, whichever is earlier. *See* redesignated 8 CFR 214.2(f)(5)(vii). The extension of F-1 D/S and OPT employment authorization is commonly known as the “cap-gap extension.” This rule does not change the “cap-gap extension” provisions; it simply removes the reference to D/S and makes clear that an automatic extension will be granted to those with a fixed period of stay.

b. F-1 Status and Authorized Employment While EOS and/or Employment Authorization Applications Are Pending

DHS struck “duration of status” from redesignated 8 CFR 214.2(f)(5)(vii) in the proposed rule and clarified that an alien with F-1 status whose admission period as indicated on his or her I-94 has expired, but who has timely filed an EOS application, will be authorized to continue pursuing a full course of study after the end date of his or her admission until USCIS adjudicates the EOS application. *See* new 8 CFR 214.2(f)(5)(viii). This change allows for ongoing authorization to continue studies as long as the student has timely filed his or her EOS and will not penalize students if USCIS is unable to adjudicate an EOS application before a student's new term or course of study is underway. In such cases, students will be able to continue pursuing their full course of study.³²⁵ This change is retained in the final rule.

³²⁵ However, if the extension of stay application is received during the 30-day period under new paragraph 8 CFR 214.2(f)(5)(v), the F-1 student is authorized to continue a full course of study but may not continue or begin engaging in practical training or other employment. *See* new 8 CFR 214.2(f)(7)(iii)(B).

DHS did clarify the title of new 8 CFR 214.2(f)(5)(viii) in the final rule, since the automatic extension is for the authorized period of stay while the EOS is adjudicated, rather than an automatic EOS. The title changed from “Automatic Extension of F stay and employment authorization. . .” to “Automatic extension of the authorized period of stay and employment authorization. . .”

The shift to a fixed date of admission has implications for various types of employment authorization. Prior to the effective date of this final rule, DSOs could authorize certain types of employment authorization, including on-campus employment and CPT,³²⁶ and students generally did not need to be concerned about a specific expiration date for their student status, and thus their employment authorization, because they were admitted for D/S. This rule changes that framework with different implications for various types of employment authorization.

For on-campus employment where no EAD is needed, DHS is allowing aliens in F-1 status to continue to be authorized for on-campus employment while their EOS applications with USCIS are pending, not to exceed a period of 240 days.³²⁷ *See* new 8 CFR 214.2(f)(5)(viii). If the EOS application is still pending after 240 days have passed, the F-1 student will no longer be authorized for employment and will need to stop engaging in on-campus employment. DHS is allowing a 240-day automatic extension period in order to minimize disruptions to on-campus employment by teaching assistants, post-graduates working on research projects, and other positions that are integral to an F-1 student's educational program. Note that the 240 days start after the expiration of one's current stay. DHS has always encouraged and will continue to encourage all nonimmigrants to apply for EOS within

³²⁶ *See* 8 CFR 214.2(f)(9)-(12), 8 CFR 274a.12(b)(6)(iv).

³²⁷ *See* 8 CFR 214.2(f)(9)(i) for a description of on-campus employment. For on-campus employment that is based on severe economic hardship resulting from emergent circumstances pursuant to redesignated 8 CFR 214.2(f)(5)(vi), *see* later discussion for additional restrictions. The EOS application must be timely filed pursuant to the new paragraph at 8 CFR 214.2(f)(7)(iii)(B). Moreover, if an F-1 student files an extension of stay application during the 30-day period provided in 8 CFR 214.2(f)(5)(v)(new), he or she does not receive an automatic extension of authorized employment, including on-campus, CPT, and severe economic hardship, and must wait for approval of the extension of stay application (and employment authorization application, if required) before engaging in CPT or employment. *See* new 8 CFR 214.2(f)(5)(viii).

³²³ Under INA 214(g)(1)(A), 8 U.S.C. 1184(g)(1)(A), 65,000 aliens may be issued H-1B visas or otherwise provided H-1B nonimmigrant status in a fiscal year. This limitation does not apply to aliens who have earned a master's or higher degree from a U.S. institution of higher education, as defined in 20 U.S.C. 1001(a), until the number of aliens who are exempted from such numerical limitation during such year exceeds 20,000. INA 214(g)(5)(C), 8 U.S.C. 1184(g)(5)(C).

³²⁴ *See* 8 CFR 214.2(h)(2)(i)(I).

the six months³²⁸ preceding the expiration of their current authorized stay thereby providing an additional buffer against any disruption of the ability to work.

Likewise, DHS is allowing an automatic extension of off-campus employment authorization for up to 240-days during the pendency of the EOS application, for F–1 students who have demonstrated severe economic hardship pursuant to 8 CFR 214.2(f)(9)(ii)(C) and previously received an EAD from USCIS that expired at the program end date that is now being extended with the EOS application. *See new 8 CFR 214.2(f)(5)(viii).* These circumstances may include loss of financial aid or on-campus employment without fault on the part of the student, substantial fluctuations in the value of currency or exchange rate, inordinate increases in tuition and/or living costs, unexpected changes in the financial condition of the student's source of support, medical bills, or other substantial and unexpected expenses. In such cases, DHS believes a 240-day automatic extension of employment authorization will help alleviate the severe economic hardship and avoid a disruption in their employment, especially given the fact that an EAD is required and the frequency at which these students must submit an application for employment authorization.³²⁹ Additionally, given that USCIS's average EAD processing time is typically 60–120 days for foreign students and 90–120 for most others, a 240-day timeframe provides sufficient flexibility in case of unexpected delays.

For F–1 students granted off-campus employment authorization on the basis of severe economic hardship resulting from emergent circumstances pursuant to redesignated 8 CFR 214.2(f)(5)(vi), DHS proposed, and is retaining in the final rule, an automatic extension of such employment authorization with a different validity period than the general 8 CFR 214.2(f)(9)(ii)(C) severe economic hardship employment authorization extension described above while their EOS applications are pending. *See new 8 CFR 214.2(f)(5)(viii).* This will codify USCIS's current policy which states USCIS may grant SSR employment authorization for the duration of the

Federal Register notice validity period, but the period of authorization may not exceed the F–1 student's academic program end date.³³⁰

As first promulgated in 1998, the SSR regulations provide necessary flexibility to address unforeseeable emergencies by allowing DHS, by notice in the **Federal Register**, to suspend the applicability of some or all of the requirements for on- and off-campus employment authorization for specified F–1 students where an emergency situation has arisen calling for this action. These F–1 students must continue to attend classes but are allowed to take a reduced course load. By regulation, aliens approved for SSR to take at least 6 semester or quarter hours of instruction at the undergraduate level or 3 semester or quarter hours of instruction at the graduate level. *See new 8 CFR 214.2(f)(5)(v).* Failure to take the required credits could be considered a failure to maintain F–1 status. The SSR regulations are announced by notice in the **Federal Register**, and such employment may only be undertaken during the validity period of the SSR notice.

Due to the shift to a fixed admission period, DHS proposed to provide an automatic extension of SSR-based employment so aliens' ability to benefit from this long-standing regulatory relief is not interrupted by USCIS processing times. This change is consistent with current USCIS policy, which allows for SSR employment authorization to be granted for the duration of the **Federal Register** notice validity period, so long as the period of authorization may not exceed the F–1 student's academic program end date. It is also consistent with existing practice for certain nonimmigrants who require an EAD.³³¹ This is retained in the final rule. Further, DHS has retained its proposal to automatically extend SSR authorization if an F–1 student has a timely-filed EOS pending for up to the end date stated in the **Federal Register** notice announcing the suspension of certain requirements, or 240 days, whichever is earlier. *See new 8 CFR 214.2(f)(5)(viii).*

As evidence of these automatic extensions of employment authorization, DHS will allow the F–1 student's I–94 (or successor form) or EAD (Form I–766, or successor form), for F–1 nonimmigrants requiring an EAD, when combined with a notice

issued by USCIS indicating receipt of a timely filed EOS application (such as the Form I–797),³³² to be considered unexpired until USCIS issues a decision on the EOS application, not to exceed 240 days. *See new 8 CFR 214.2(f)(5)(viii).* SSR-based employment authorization that has been automatically extended can be evidenced by the F–1 student's EAD and the receipt notice issued by USCIS (the Form I–797), not to exceed the lesser of 240 days or the end date stated in the **Federal Register** notice announcing the suspension of certain requirements.

5. New Process for EOS Application

Under current regulations, F–1 students may obtain a program extension from a DSO as long as they are maintaining status and making normal progress toward the completion of their educational objectives. *See new 8 CFR 214.2(f)(7)(i) and (iii).* The problem with the “normal progress” standard is that it is undefined, and DHS believes that retaining it could lead to inconsistent adjudications. Even now, the lack of a standard definition for normal progress leads DSOs to inconsistently extend F–1 students' program end dates and thus their stay in the United States. Some DSOs use a strict standard, evaluating, for example, documentation to support a student's claim of a compelling medical condition or illness that serves as the basis for the student's request for extension of the student's current program. However, other DSOs claim that the student is making “normal progress” whenever a student simply needs more time to complete the program. This inconsistency results in some students being able to remain in F–1 status for years simply by having the DSO update the Form I–20 without providing a justification as to how the student is making “normal progress” and what academic or medical circumstances necessitate the extension of the program.

Therefore, DHS proposed not to use a “normal progress” standard with respect to seeking a program extension, and to require, in addition to the requirement that the applicant obtain a Form I–20 from the DSO recommending extension of the program, the applicant will be required to file an EOS

³²⁸ With respect to the earliest filing date for a Form I–539, there is no prohibition on filing the form before a certain date ahead of expiration.

³²⁹ *See 8 CFR 274a.12(c)(3).* 8 CFR 214.2(f)(9)(ii)(F)(2) provides that employment authorization based upon severe economic hardship may be granted in one-year intervals up to the expected date of completion of the student's current course of study.

³³⁰ *See generally* USCIS Policy Manual, Vol. 2, Part F, Chap. 6, *Employment*, <https://www.uscis.gov/policy-manual/volume-2-part-f-chapter-6> (last visited Feb. 4, 2026).

³³¹ *See 8 CFR 214.2(f)(10)–(12), 8 CFR 274a.12(b)(6)(iv).*

³³² However, if an F–1 student files an extension of stay application during the 30-day period provided in new paragraph 8 CFR 214.2(f)(5)(v), he or she does not receive an automatic extension of authorized employment, including on-campus, CPT, and severe economic hardship, and must wait for approval of the extension of stay application (and employment authorization application, if required) before engaging in CPT or employment. 214.2(f)(5)(viii).

application to request additional time to complete their current course of study beyond their authorized period of admission. *See* new 8 CFR 214.2(f)(7)(i). This change is retained in the final rule.

Apart from pursuing a new course of study, DHS appreciates that the time for study can legitimately fluctuate given the changing goals and actions of the student. For example, a student may experience compelling academic or medical reasons, or circumstances beyond their control that cause them to need additional time in the United States beyond the predetermined end date of the program in which they were initially enrolled. DHS understands these circumstances arise and believes these scenarios present an appropriate situation for DHS to directly evaluate the nonimmigrant's eligibility for additional time in the United States. However, instead of effectively extending their stay through a DSO's program extension recommendation in SEVIS, students will have to obtain a Form I-20 from the DSO recommending a program extension and apply to USCIS for an EOS. Immigration officers thereby will be able to conduct appropriate background and security checks on the applicant at the time of the EOS application and directly review the proffered evidence to ensure that the alien is eligible for the requested EOS, including through assessing whether the alien remains admissible. *See* 8 CFR 214.1(a)(3)(i). This extra step is necessary because an immigration officer will be able to see a more fulsome picture while considering the student's particular circumstances, and be able to identify potential fraud and criminality, thereby ensuring public safety and program integrity.

In these circumstances, DHS will only extend the stay beyond the program end date of an otherwise eligible F-1 student requesting additional time to complete their program if the additional time needed is due to a compelling academic reason, documented medical illness or medical condition, or circumstance that was beyond the student's control. As with all nonimmigrant EOS requests, an alien seeking an EOS generally must have continually maintained status.³³³ If an F-1 student dropped below a full course of study, that drop must have

been properly authorized. F-1 students seeking extensions of stay must primarily be seeking to temporarily stay in the United States solely to pursue a full course of study, INA section 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i), and not for other reasons separate from, or in addition to, pursuing a full course of study.

If an F-1 student were to violate the terms of his or her F-1 status, the F-1 student would need to apply to USCIS for reinstatement, consistent with 8 CFR 214.2(f)(16). If a student is reinstated and his or her admit until date expires within 6 months, but the student is unable to complete his or her program of study within that time, then the F-1 student also would need to apply to USCIS for an EOS. In that scenario, the F-1 student would need to make separate requests for reinstatement and for EOS by submitting a separate form for each request, including the required filing fee for each form, by marking reinstatement on one form and then EOS on the other. Both forms can then be submitted together at the same time to avoid unnecessary adjudication delays. In the event both forms are submitted together, and the F-1 student's application to reinstate student status is denied, his or her application for EOS would also be denied, with both filing fees being retained by USCIS and not refunded.

By way of illustration, a student with a fixed date of admission may request an additional 4 months to complete his or her program because the student was authorized to drop below a full course of study for one semester due to illness. Prior to the effective date of this final rule, the student would need to request an updated Form I-20 from the DSO recommending a program extension. Now, consistent with the proposal in the NPRM, an immigration officer could review the proffered evidence and ensure that the claim is supported by documentation from a medical doctor. Conversely, a student may request an EOS for additional time to complete an associate program but fail to submit evidence they were properly authorized to drop below a full course of study. The immigration officer has discretion to request transcripts from the student. If a student's transcripts reflect that the student failed multiple classes one semester, an immigration officer could determine if the student has failed to maintain status due to a failure to carry a full course of study as required. In another example, a student could submit an EOS request to continue in the same program because he or she was unable to take all the required classes for his or her major due to over-

enrollment at the school. Again, an officer could request additional information, if needed, to determine that the student was maintaining a full course of study (or, if not, was properly authorized to reduce his or her course load), but due to the school's high enrollment, the student may validly require an additional semester to complete the degree requirements in order to graduate.

Therefore, DHS proposed to eliminate a reference to "normal progress" with respect to seeking a program extension, and incorporate a new standard clarifying that acceptable reasons for requesting an extension of a stay for additional time to complete a program are: (1) compelling academic reasons; (2) a documented illness or medical condition; or (3) exceptional circumstances beyond the control of the alien. *See* new 8 CFR 214.2(f)(7)(i)(C).³³⁴ These provisions are retained in the final rule.

The first two factors are based on the current regulatory provisions for program extension, 8 CFR 214.2(f)(7)(iii), from the 2025 text (e.g., changes of major or research topics, and unexpected research problems). DHS proposed to clarify that, in addition to academic probation and suspension, a student's repeated inability or unwillingness to complete his or her course of study, as demonstrated by a pattern of failing classes and requesting multiple program extension, is not an acceptable reason to request an EOS for additional time to complete a program. *See* new 8 CFR 214.2(f)(7)(i)(C)(1). This is also retained in the final rule.

DHS expects bona fide students to be committed to their studies, attending classes as required, carrying a full course of study, and making reasonable efforts toward program completion. Repeatedly failing classes demonstrates that the student is not making reasonable efforts toward completing his or her program of study. Therefore, a student who has a pattern of failing classes that has resulted in multiple program extensions would not be qualified for an EOS. The prohibition against requesting an EOS would not include students, such as those who, pursuant to DHS regulations, are making normal progress toward completing their program of study and still may not complete the program within 4 years

³³³ Failure to file on or before the expiration of the previously accorded status or failure to maintain such status may be excused at the discretion of USCIS if the alien demonstrates that at the time of filing: the delay was due to extraordinary circumstances beyond the control of the applicant, and USCIS finds the delay commensurate with the circumstances, the alien has not otherwise violated his or her status, and is not subject to deportation. *See* 8 CFR 214.1(c)(3)(viii).

³³⁴ DHS did not propose to update the term "normal progress" as defined in 8 CFR 214.2(f)(6)(i)(E). The provision at 8 CFR 214.2(f)(6)(i)(E) relates to study at an approved private elementary or middle school or public or private academic high school. In that context, it is clear that "normal progress" is the completion of the academic year (for example, 6th grade).

due to the standard timeline and requirements for the program. Absent such factors as being placed on academic probation or suspension, or repeatedly failing classes, these students would be eligible for extension based upon compelling academic reasons. This prohibition also does not include cases where the DSO properly authorized the student to drop below a full course of study as well as cases in which the status has been reinstated following a loss of status. In such case, the student is eligible for reinstatement if the reduced course load was within the DSO's power to authorize. A student would be expected to provide evidence demonstrating the compelling academic reason in order for the DSO to recommend a program extension. The student may then apply for an EOS. While a letter from the student may be sufficient to meet his or her burden of proof, an immigration officer will evaluate the individual case and make the determination as to whether additional evidence (such as a letter from a member of the school administration or faculty) is needed to adjudicate the case.

DHS also proposed to clarify that a student can qualify for a program extension and corresponding EOS based on a documented illness or medical condition. To provide an objective standard, DHS proposed to codify standards already included in 8 CFR 214.2(f)(6)(iii)(B), which requires a student to provide medical documentation from a licensed medical doctor, licensed doctor of osteopathy, licensed psychologist, or licensed clinical psychologist to substantiate the illness or medical condition if seeking a reduced course load. *See new 8 CFR 214.2(f)(7)(i)(C)(2)*. This is retained in the final rule. As this is already a long-standing requirement for DSOs and students in a similar context, DHS believes this will be appropriate and easy to implement in the program extension and corresponding EOS process. Further, requiring applicants to provide documentation of their medical illness or medical condition that caused their program delay is a reasonable request, because they are asking DHS to provide them additional time in the United States.

DHS also proposed a new factor in the EOS provisions—circumstances beyond the student's control, including a natural disaster, a national health crisis, or the closure of an institution. *See new 8 CFR 214.2(f)(7)(i)(C)(2)(iii)*. This is retained in the final rule. As in the reinstatement context, DHS believes that there might be additional reasons beyond compelling academic or

documented medical reasons that result in a student's inability to meet the program end date listed on the Form I–20.

Therefore, DHS proposed a third prong that encompasses scenarios that are not envisioned in the current provisions governing the extension of a program end date, such as those noted above. Some scenarios are currently in the reinstatement provisions, 8 CFR 214.2(f)(16)(i)(F), such as natural disasters, pandemics, and the negligence of a DSO, and DHS believes that they merit favorable consideration in extension requests moving forward. Other scenarios may present circumstances that require a more intensive, fact-specific analysis and may fall into this proposed third prong. For example, the circumstances surrounding the closure of a school may be considered in determining whether the student qualifies for an EOS. By way of illustration, if a school closes as a result of a criminal conviction of its owners for engaging in student visa fraud by not requiring students to attend, but the student is unable to demonstrate that he or she was attending classes prior to closure as required to fulfill a full course of study, the closure of the institution might not qualify the student for a program extension. In contrast, if a school closes but a student is able to demonstrate that he or she was attending classes and was fulfilling all requirements to otherwise remain in status, the closure of the institute may qualify the student for a program extension.

The requirements to timely request an extension of the program end date would remain largely unchanged; however, DHS proposed a technical change to replace all references to the DSO “granting” an extension of the program with the term “recommend” an extension of the program in order for the student to file for EOS because USCIS, not the DSO, would “grant” the EOS. *See new 8 CFR 214.2(f)(7)(ii)*. This is retained in the final rule. For example, a student may not necessarily be granted an EOS by USCIS if an adjudicator determines the student has not actually maintained status or does not actually have compelling academic or documented medical reasons for the delay, despite the DSO's recommendation for program extension.

Where the alien requests a recommendation to extend the program end date, the DSO could only make a recommendation to extend the program if the alien requested the extension before the program end date noted on the most recent Form I–20, or successor form. Additionally, consistent with

changes throughout this rule, once the DSO recommends the extension of the program, the alien would need to timely file for an EOS on the form and in the manner designated by USCIS, with the required fees and in accordance with the filing instructions, including any biometrics required by 8 CFR 103.16 and a valid, properly endorsed Form I–20 or successor form, showing the new program end date barring extraordinary circumstances. *See 8 CFR 214.1(c)(4) and new 8 CFR 214.2(f)(7)(ii) and (f)(7)(iii)*. This is retained in the final rule.

If seeking an EOS to engage in any type of practical training, the alien in F–1 status will also need to have a valid Form I–20, properly endorsed for practical training, and be eligible to receive the specific type of practical training requested. *See new 8 CFR 214.2(f)(7)(v)*. This is retained in the final rule. Finally, as with all immigration benefit requests, an immigration officer will generally not grant an EOS where an alien in F–1 status failed to maintain his or her status.

Finally, a student's failure to timely request, from the DSO, a recommendation for extension of the program end date prior to expiration of the student's authorized stay, which would result in the DSO recommending an extension of the program end date in SEVIS after the end date noted on the most recent Form I–20 or successor form, will require the alien to file for a reinstatement of F–1 status, because the alien will have failed to maintain status and will be ineligible for an EOS. *See new 8 CFR 214.2(f)(7)(viii)*. A request for reinstatement must be filed in the manner and on the form designated by USCIS, with the required fee, including any biometrics required by 8 CFR 103.16. DHS is also requiring F–2 dependents seeking to accompany the F–1 principal student to file applications for an EOS or reinstatement, as applicable. These requirements are consistent with current provisions.

With the transition from D/S to admission for a fixed time period, F–1 students will need to apply for an EOS directly with USCIS, by submitting the appropriate form and following the requirements outlined in the form instructions. USCIS anticipates accepting the Form I–539, Application to Change/Extend Nonimmigrant Status, for this population but would like the flexibility to use a new form if more efficient or responsive to workload needs. Thus, DHS is retaining its proposal to use general language to account for a possible change in form in

the future. *See* new 8 CFR 214.2(f)(7)(iii)(A). If the form ever changes, USCIS would provide stakeholder's advance notice on its web page and comply with Paperwork Reduction Act requirements.

Like all other aliens who file a Form I-539, F-1 applicants may be required to submit biometrics and may be required to appear for an interview pursuant to 8 CFR 103.2(b)(9). In addition, applicants will need to demonstrate that they are eligible for the nonimmigrant classification sought. Accordingly, applicants must submit evidence of sufficient funds to cover expenses. A failure to provide such evidence will render the applicant ineligible for the EOS. *See* new 8 CFR 214.2(f)(7)(ii).

While the sponsoring school is required to verify the availability of financial support before issuing the Form I-20, they may not be well-versed in foreign documentation submitted by applicants and circumstances may change between the issuance of a Form I-20 and a request for an EOS. Further, it is incumbent upon DHS to determine the veracity of the evidence submitted, and officers must ensure that the student has sufficient funds to study in the United States without resorting to unauthorized employment. The phrase "sufficient funds to cover expenses" is referred to in existing DoS regulations concerning issuance of F and M nonimmigrant student visas, 22 CFR 41.61(b)(1)(ii), and current DoS policy requires an applicant to provide documentary evidence that sufficient funds are, or will be, available to defray all expenses during the *entire* period of anticipated study.³³⁵ While this does not mean that the applicant must have cash immediately available to cover the entire period of intended study, which may last several years, the applicant must demonstrate enough readily available funds to meet all expenses for the first year of study and that additional funds will be available for the duration of the intended period of study.³³⁶ DHS believes requiring evidence of readily available financial resources to cover expenses for one year of study is reasonable given that F students are familiar with this requirement because this is the standard used by the DoS in the issuance of F nonimmigrant visas. DHS also considers that this standard is appropriate because it establishes concrete resources for one full academic year of the program.

Further, applicants must demonstrate that, barring unforeseen circumstances, adequate funds will be available for each subsequent year of study from the same source or from one or more other specifically identified and reliable financial sources. Such evidence for one year and subsequent years could include, but is not limited to: complete copies of detailed financial account statements for each account intended to be used to fund the student's education; other immediately available cash assets; receipts and/or a letter from the school accounts office indicating tuition payments already made and any outstanding account balance; affidavits of support from a sponsor; proof of authorized private student loans;³³⁷ and/or other financial documentation.

F-1 applicants will generally need to timely file their EOS application—meaning that USCIS will need to receive the application on or before the date the authorized admission period expires. *See* new 8 CFR 214.2(f)(7)(iii)(B). This application timeframe for timely filing an EOS application will include the 30-day period of preparation for departure allowed after the completion of studies or any authorized practical training. However, if the extension application is received during the 30-day period of preparation for departure provided in 8 CFR 214.2(f)(5)(v) following the completion of studies, the alien in F-1 status may continue studying but may not continue or begin engaging in practical training or other employment until the extension request is approved and, as applicable, an EAD is issued. *See* new 8 CFR 214.2(f)(7)(iii)(B). To avoid this scenario, DHS continues to encourage nonimmigrants to file their EOS applications within the six months³³⁸ preceding the expiration of their stay.

The length of the extension granted could be up to the period of time needed to complete the program or requested practical training, not to exceed 4 years, unless the alien is a border commuter, enrolled in language training, or attending a public high school. By permitting admission only "up to" the prescribed period, USCIS and CBP are afforded discretion as to the ultimate length of time to grant the applicant and consider factors such as program length.

F-2 dependents seeking to accompany the F-1 principal student will need to file applications for an EOS

or reinstatement, as applicable. *See* new 8 CFR 214.2(f)(7)(iv). A dependent F-2 spouse and unmarried children under the age of 21 seeking to accompany the principal F-1 student during the additional period of admission will need to either be included on the primary applicant's request for extension or properly file their own EOS applications on the form designated by USCIS. If the dependent files a separate Form I-539, he or she will need to pay a separate Form I-539 filing fee.

However, if the dependent files a Form I-539A as part of the primary applicant's EOS request on a Form I-539, only one fee will be required.

USCIS generally will need to receive the extension applications on or before the expiration of the previously authorized period of admission, including the 30-day period following the completion of the course of study, as indicated on the F-2 dependent's I-94. To qualify for an EOS, the F-2 dependent will need to demonstrate the qualifying relationship with the principal F-1 student who is maintaining status, also be maintaining his or her own status, and not have engaged in any unauthorized employment. *See* new 8 CFR 214.2(f)(7)(iv). Extensions of stay for F-2 dependents will not be able to exceed the authorized admission period of the principal F-1 student. By removing D/S for family members, DHS is ensuring that a spouse who engaged in unauthorized employment would be denied EOSs and must return home. As with other nonimmigrant classifications, if a dependent is aging out before the program end date listed on the I-20, the entire family, including the J-1 principal, will receive an EOS only until the F-2's 21st birthday, which will then require the remaining family members and the principal F-1 student to apply for an EOS for the remainder of the program and for the aged out F-2 to leave the country or change status to a different nonimmigrant category.

Under new 8 CFR 214.2(f)(7)(vii), if USCIS denies the request for an extension, and the period of admission for the student and his or her dependents has expired, then the student and his or her dependents will need to immediately depart the United States. As with other nonimmigrant classifications, they will not be given any period of time to prepare for departure from the United States after the denial, and there may be significant immigration consequences for failing to depart the country immediately. For example, such aliens generally will begin to accrue unlawful presence the day after the issuance of the denial. DHS

³³⁵ *See* 9 FAM 402.5-5(G), *Adequate Financial Resources*, <https://fam.state.gov/FAM/09FAM/09FAM040205.html> (last updated Aug. 15, 2024).

³³⁶ *Id.*

³³⁷ Federal student loans are only available to U.S. citizens and permanent residents.

³³⁸ With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

believes this standard provides parity across nonimmigrant classifications.

6. School Transfers and Changes in Educational Objectives

The proposed rule discussed several examples of fraudulent “pay-to-stay” schemes in which students were falsely reported as maintaining status in return for cash payments to DSOs.³³⁹ Furthermore, the D/S framework has enabled some aliens to become “professional students” who spend years enrolled in programs at the same educational level (for example, multiple associate degree programs) or complete programs at one educational level and enroll in lower educational levels (such as completing a master’s degree and then enrolling in an associate program).³⁴⁰ While admission for a fixed time period will help to address these concerns, DHS proposed limitations on program changes within and between educational levels to further strengthen the integrity of the F nonimmigrant visa classification by better ensuring that aliens are in the United States primarily to study, rather than to reside permanently in the United States. *See* new 8 CFR 214.2(f)(8)(i). The final rule retains this provision.

DHS also proposed to retain some of the current school transfer and change of educational level conditions. First, as is the case currently, aliens would need to begin classes at the transfer school or program within 5 months of transferring out of the current school or within 5 months of the program completion date on his or her current Form I–20; and second, if the alien is authorized to engage in post-completion or STEM OPT, he or she must be able to begin or resume classes within 5 months of transferring out of the school that recommended OPT or the date the OPT authorization ends, whichever is earlier. This is retained in this final rule, although, as compared the NPRM, the regulatory text in the final rule replaces the statement that the F–1 student “must be able to resume classes within 5 months. . .” with the F–1 student “must be able to begin or resume classes within 5 months. . . .” *See* new CFR 214.2(f)(8)(i)(G) and (H).

DHS retained the current provisions at 8 CFR 214.2(f)(8)(i), rendering aliens who do not pursue a full course of study ineligible to change programs or transfer schools, and clarifying that failure to pursue a full course of study includes, but is not limited to, a student whose

pattern of behavior demonstrates a repeated inability or unwillingness to complete his or her course of study. Just as delays caused by unacceptable patterns of behavior, academic probation or suspension are not acceptable reasons for program extensions and corresponding EOS of a student’s current program, neither are they an acceptable reason for failing to carry a full course load. Such aliens will have failed to maintain F status, are ineligible for a change of program and school transfers and will be required to file for a reinstatement of status, if eligible. *See* new 8 CFR 214.2(f)(8)(i).

To complete a transfer, an F–1 student must first notify the student’s current school (the “transfer-out school”) of the intent to transfer and indicate the school to which the student intends to transfer (the “transfer-in school”). Upon notification by the student, the transfer-out school will update the student’s record in SEVIS as a “transfer-out” and indicate the transfer-in school and a release date. The release date will be the current semester or session completion date, or the date of expected transfer if earlier than the completion date of the established academic cycle. The transfer-out school will retain control over the student’s record in SEVIS until the student completes the current term or reaches a release date, whichever is earlier. At the request of the student, the DSO of the current school may cancel the transfer request at any time prior to the release date. As of the release date specified by the current DSO, the transfer-in school will be granted full access to the student’s SEVIS record and will then become responsible for that student. The student should then obtain a valid Form I–20 or successor form from the transfer-in school. This language is consistent with the proposal in the NPRM, but has minor clarifying edits. *See* new 8 CFR 214.2(f)(8)(ii).

DHS has also retained this proposal to clarify to the public that a change to a higher education level can be accomplished in accordance with the transfer procedures outlined in 8 CFR 214.2(f)(8)(ii). *See* new 8 CFR 214.2(f)(8)(iii).

Finally, DHS proposed technical updates. If the new program to which the student changes or transfers will not be completed within the authorized admission period established in 8 CFR 214.2(f)(5)(i), then, consistent with the other provisions throughout this rule, the F–1 student must apply for EOS in the manner and on the form designated by USCIS, with the required fee and in accordance with form instructions, together with a valid, properly endorsed Form I–20 indicating the new program

end date, and would need to provide biometrics as authorized by 8 CFR 103.16, if required. *See* new 8 CFR 214.2(f)(8)(iv).

7. Border Commuter Students

DHS struck the sentence referencing how “duration of status” is inapplicable to border commuter students because DHS is eliminating D/S for all F nonimmigrants. *See* new 8 CFR 214.2(f)(18)(iii). This is retained in the final rule.

G. Requirements for Admission, Extension, and Maintenance of Status of J Exchange Visitors

1. Initial Admission Period and Period of Stay

a. Principal Applicants

The revisions to the J regulations at 8 CFR closely align with the changes for F nonimmigrants. Under new 8 CFR 214.2(j)(1), J exchange visitors will be able to receive an initial period of admission not to exceed the program end date as stated on the Form DS–2019, up to a period of 4 years. The NPRM provided the existing permissible initial time periods for J program categories (as opposed to the periods of admission) and noted that extensions are possible with DoS approval for all categories.³⁴¹

As with the F classification, many J exchange visitors are admitted to participate in programs shorter than 4 years. Some J exchange visitors, like most F nonimmigrants, enter as post-secondary students. Similar to the F–1 Ph.D. student, some J nonimmigrants, *i.e.*, alien physicians and professors or research scholars, may need to stay longer than a 4-year period to complete their J program. However, all categories of J nonimmigrants will be covered by the same 4-year period as for F nonimmigrants. As such, DHS strives to treat these similarly situated nonimmigrants in a consistent manner by providing them with the same maximum admission period. DHS is implementing the same 4-year maximum period of admission. *See* new 8 CFR 214.2(j)(1)(ii)(A). This will help ensure compliance by providing consistency between the J program and the F program, which have programmatic similarities in that both go through the SEVIS system and need approval by their respective DSOs or ROs for exchanges and changes.

DHS is retaining the 30-day period that J nonimmigrants are provided before the report date or start of the approved program listed on the DS–

³³⁹ 90 FR at 42094–95 (Aug. 28, 2025).

³⁴⁰ DHS analysis of data in SEVIS and valid as of May 7, 2025, and June 2, 2026.

³⁴¹ 90 FR at 42095 (Aug. 28, 2025).

2019 and the 30-day period for preparation for departure. As DHS expects these nonimmigrants to use the 30-day period of time after the program ends to prepare for departure, DHS revised the language currently in 8 CFR 214.2(j)(1)(ii) that reads, “period of 30 days for the purposes of travel or for the period designated by the Commissioner . . .,” to instead read “a period of 30 days from the program end date or the 4-year maximum period of admission, whichever is earlier, for the purposes of departure or to otherwise seek to maintain lawful status.” See new 8 CFR 214.2(j)(1)(ii)(C). DHS believes that the language more accurately reflects the purpose of the period at the end of the program and accounts for other ways J exchange visitors may seek to maintain status during this period, such as by filing an EOS or change of status application. As explained in the context of F–1s above, DHS proposes changes to clarify that all J–1 nonimmigrants will be allowed the 30-day departure period following their program end date or the 4-year maximum period of admission.

b. Dependents

Consistent with the EOS eligibility requirements for J–1 nonimmigrants found at 8 CFR 214.1(c)(4), DHS codified the policy that extensions for spouses or children who are granted J–2 status based on their derivative relationship as a spouse or child of the principal J–1 nonimmigrant may not exceed the period of authorized admission of the principal J–1. The authorized period of initial admission for J–2 dependents is subject to the same requirements as the J–1 exchange visitor and may not exceed the period of authorized admission of the principal J–1 exchange visitor. See new 8 CFR 214.2(j)(1)(ii)(B).

2. EOS

The shift from D/S to admission for a fixed time period will mean that J nonimmigrants wishing to remain in the United States beyond their authorized period of stay will need to file for an EOS with USCIS. Like other nonimmigrants applying for EOS, they will need to file an EOS application on the form and in the manner designated by USCIS, with the required fee and in accordance with filing instructions, including any biometrics required by 8 CFR 103.16. See new 8 CFR 214.2(j)(1)(iv)(A). J–1 nonimmigrants seeking a program extension will continue to first request such an extension through the RO, as provided

for under existing regulations.³⁴² If such a program extension is recommended by the RO and approved by DoS, if necessary, the J–1 must apply for an EOS with USCIS to remain in the U.S. beyond the status expiration date on their I–94.

There are times when an exchange visitor’s program status becomes inactive prior to program completion, which would result in the RO recommending a reinstatement of J–1 status to include an extension of the program beyond the end date noted on the most recent Form DS–2019 or successor form.³⁴³ A request for reinstatement must be filed in the manner and timeframe required by DoS. Once the record is corrected or reinstated, the J–1 exchange visitor must submit a request for an EOS to USCIS within 30 days of the status update. This process is clarified and corrected in this final rule in response to comments. See new 8 CFR 214.2(j)(1)(iv)(D).

A dependent J–2 spouse and children seeking to accompany the J–1 exchange visitor in eligible J–1 categories during the additional period of admission will either need to be included on the primary applicant’s request for extension or file their own EOS applications on the form designated by USCIS and may be required to provide biometrics consistent with 8 CFR 103.16. See new 8 CFR 214.2(j)(1)(iv)(E). If a J–1 exchange visitor is denied EOS, then the J–2 family members will also be denied EOS, and all will be required to leave the United States immediately. However, a J–2 family member also can be denied EOS for other reasons, including due to criminal activity or not maintaining his or her status, for example, by working when not authorized, and will be required to depart the United States, but the J–1 and other J–2 dependents will be allowed to remain in the United States if EOS is approved for them.

As with other nonimmigrant classifications, the period of stay for J–2 dependents cannot exceed the period of stay authorized for the principal J–1 exchange visitor, including any EOS granted. And, as with other nonimmigrant classifications, if a dependent is aging out before the

program end date listed on the DS–2019, the entire family, including the J–1 principal, will receive an EOS only until the J–2’s 21st birthday, which will then require the remaining family members and the principal J–1 to apply for an EOS for the remainder of the program and for the aged out J–2 to leave the country or change status to a different nonimmigrant category. Also, as with other nonimmigrant classifications, if an EOS request is denied, the aliens will need to immediately depart the United States once their authorized period of stay expires.

3. Employment and Pending EOS and Employment Authorization Applications

Like I nonimmigrants, J–1 exchange visitors in some categories are authorized to engage in employment incident to status.³⁴⁴ This means that they are authorized to work per the terms of their program, and they do not have to apply to USCIS for authorization to engage in employment. As in the past, if an alien’s J–1 status has expired, but he or she timely filed an EOS application, DHS is allowing the alien to continue engaging in activities consistent with the terms and conditions of the alien’s program, including any employment authorization, beginning on the day after the admission period expires, for up to 240 days. See new 8 CFR 214.2(j)(1)(vii)(A) and 8 CFR 274a.12(b)(20). DHS is also allowing an alien whose J–1 status has expired but who timely filed an EOS application on or before 6 months after the effective date of the final rule (or longer if extended by DHS by publication of a notice in the **Federal Register**), to engage in J–1 activities, including authorized training and employment, as permitted by the alien’s exchange visitor program, while the EOS application is pending with USCIS, for the period up to the program end date on the DS–2019 (or successor form) filed with the pending application. Such authorization is subject to any conditions and limitations of the initial authorization. See new 8 CFR 214.2(j)(1)(vii). This policy is consistent with current practice and prevents J–1 exchange visitors from being penalized on

³⁴² See 22 CFR 62.43, describing J–1 program extension procedures.

³⁴³ One example is when a sponsor issues the Form DS–2019 for one year at a time for exchange visitors on multi-year programs. Prior to the end of the first year, the sponsor should have submitted an extension prior to the Program End Date but failed to do so and now must submit a Reinstatement. If approved, the request will change the status of the exchange visitor from Inactive to Active and extend the Program End Date for another year.

³⁴⁴ See 8 U.S.C. 1101(a)(15)(J) (including teaching, instructing, lecturing, and consulting among the permissible activities of nonimmigrants in the J category for participation in programs authorized by DoS); 8 CFR 214.2(j)(1)(v) (discussing employment authorization for J exchange visitors); 22 CFR 62.16 (stating that an exchange visitor program participant may receive compensation “when employment activities are part of the exchange visitor’s program”).

account of USCIS processing times, allows the alien to participate in the program without interruption, and, as applicable, prevents disruption to U.S. institutions employing or otherwise relying on the alien. The final rule clarifies the language in 8 CFR 214.2(j)(1)(vii)(A) to more explicitly discuss the employment authorization discussed in this paragraph.

If the alien's initial date of admission passes, DHS will consider the alien's I-94 unexpired when combined with a USCIS receipt notice indicating receipt of a timely filed EOS application and a valid, properly endorsed Form DS-2019 indicating his or her program's end date. An EOS application will be considered timely filed if the date on the receipt notice for the application of EOS is on or before the date the authorized stay expires. The extension of an alien's employment authorization will terminate on the date of denial of an individual's application for an EOS. *See* new 8 CFR 214.2(j)(1)(iv)(E). DHS believes that such provision will clarify how exchange visitors will demonstrate authorization to continue engaging in employment authorized pursuant to their program and better facilitate employer compliance with I-9 employment verification requirements.

Unlike J-1 exchange visitors, J-2 spouses and eligible children may only engage in employment with authorization by USCIS. *See* new 8 CFR 214.2(j)(1)(v) and 8 CFR 274a.12(c)(5). DHS retained the current restriction on the J-2 dependent's income described in 8 CFR 214.2(j)(1)(v)(A); the J-2 nonimmigrant's income may be used to support the family's customary recreational and cultural activities and related travel, among other things, but not to support the J-1. *See* new 8 CFR 214.2(j)(1)(v).

Consistent with current regulatory requirements, if a J-2 dependent wants to engage in employment, he or she will need to file an application for employment authorization, in the manner designated by USCIS, with the required fee and in accordance with form instructions. If a J-2 dependent nonimmigrant's requested period of employment authorization exceeds his or her current admission period, the J-2 dependent will need to file an EOS application or be included as part of the J-1 principal's EOS application, in the manner designated by USCIS, with the required fee and in accordance with form instructions. The validity of the J-2 dependent's employment authorization may not exceed the authorized admission period granted to the J-2 dependent pursuant to the EOS application. *See* new 8 CFR

214.2(j)(1)(iv)(A), (j)(1)(v), and (j)(1)(vii)(C).

As noted above in the discussion concerning EOS applications for F nonimmigrants, DHS considered but declined to adopt a policy that will result in abandonment of the EOS application upon traveling outside the United States while the EOS is pending. A J-1 or J-2 alien who travels during the time the EOS is pending may not be considered to have abandoned the EOS application. *See* new 8 CFR 214.1(c)(8).

DHS will allow J-1 nonimmigrants to continue employment or authorized training while an EOS application is pending with USCIS. Specifically, J-1s who have properly filed an EOS on or before March 18, 2027, may engage in the activities consistent with pursuing the terms and conditions of the exchange program objectives, including authorized training, while the EOS is pending, up to the DS-2019 end date filed with the EOS application. If a J-1 nonimmigrant's EOS is still pending upon the end date of the DS-2019 filed with the EOS application, and the J-1 obtains a program extension from the sponsor and/or DoS, as applicable, the alien may continue engaging in activities consistent with the exchange program objectives, including authorized training, so long as the EOS application is pending, and he or she has filed a subsequent EOS request with an end date beyond the DS-2019 end date requested in the preceding EOS request. In the future, the date which is initially March 18, 2027 period may be extended, if DHS determines such an extension is necessary. *See* new 8 CFR 214.2(j)(1)(vii).

Finally, DHS made minor technical updates. First, in new 8 CFR 214.2(j)(1)(vi), DHS struck the reference to "duration of status," and updated references to the "Commissioner" to refer to USCIS, while also replacing the title with '*Automatic Extension of J-1 authorized period of stay and grant of employment authorization for aliens who are the beneficiaries of a cap-subject H-1B petition*' to eliminate the prior reference to D/S and to provide more details on the paragraph. This title differs slightly from what was proposed in the NPRM in order to include better clarity with the contents of the paragraph. Second, because 8 CFR 214.2(j)(1)(vii) is being revised to describe J nonimmigrants with pending EOS applications and their employment authorization, it is necessary to revise and reassign current 8 CFR 214.2(j)(1)(vii) and (viii) to 8 CFR 214.2(j)(1)(viii) and (ix) respectively. Third, DHS made conforming amendments to the provision which

requires exchange visitors to report legal changes to their name and any changes in their address, replacing the term 'Service' with 'USCIS' and clarifying the number of days during which changes need to be reported by revising from 10 days to 10 'calendar' days for exchange visitors to report changes in their names and addresses and from 21 days to 10 business days for the RO to update SEVIS, in order to conform with existing DoS regulations.³⁴⁵ *See* new 8 CFR 214.2(j)(1)(ix). This change is made because the differing number of days for ROs to report changes between DHS and DoS regulations may cause confusion given that the time frames are both regarding the requirement for ROs to update changes in SEVIS, and this change provides for a common timeframe. In that same provision, DHS struck the sentence which references non-SEVIS programs, as SEVIS enrollment is now a mandatory requirement.

H. Requirements for Admission, Extension, and Maintenance of Status of I Nonimmigrants

1. Definition of Foreign Media Organization

The NPRM proposed several changes affecting the I nonimmigrant classification. First, DHS proposed to define a foreign media organization as "an organization engaged in the regular gathering, production, or dissemination via print, radio, television, internet distribution, or other media, of journalistic information and has a home office in a foreign country." *See* new 8 CFR 214.2(i)(1) and the accompanying discussion in the NPRM.³⁴⁶ This definition clarifies the long-standing interpretation of "foreign information media" as "journalistic information." The definition is retained in this final rule.

2. Evidence

In order to be granted I classification, an alien will need to meet his or her burden of proof to establish eligibility for admission in that nonimmigrant classification. DHS did not change the current requirement that an alien must demonstrate that the foreign media organization that they represent has a home office in a foreign country, and that the home office will continue to

³⁴⁵ 22 CFR 62.10(d)(3) clarifies that the J-1 exchange visitor must inform the RO or ARO of address changes within "10 calendar days" of the change, and 22 CFR 62.10(d)(4) states that the reporting window for ROs or AROs to update SEVIS is "10 business days" from receiving the J-1 exchange visitor's address change notification from the J-1 exchange visitor.

³⁴⁶ 90 FR at 42097-98 and 42112 (Aug. 28, 2025).

operate in the foreign country while the alien is in the United States. *See* new 8 CFR 214.2(i)(2)(i), which is unchanged from the NPRM. A self-employed applicant will need to demonstrate that he or she intends to depart the United States within a reasonable time frame consistent with the intended purpose of travel in order to maintain the home office in another country.

Further, the alien applying for I nonimmigrant status must provide a letter from the employing foreign media organization or, if self-employed or freelancing, an attestation from the alien, that verifies the employment, establishes that the alien is a representative of that media organization, and describes the remuneration and work to be performed. *See* new 8 CFR 214.2(i)(2)(ii), which is unchanged from current practice. This provides a standard basis for DHS to evaluate whether the applicant intends to comply with the I classification and only engage in the regular gathering, production or dissemination via print, radio, television, internet distribution or other media of journalistic information and represents, as an employee or under contract, an organization with an office in a foreign country. For example, such a letter can describe the content that the foreign information media representative is covering in the United States, which must be primarily journalistic information in nature, such as the reporting on recent or important events, investigative reporting, or producing educational materials, such as documentaries. Foreign media organizations would be able to describe how the content is primarily designed to provide information rather than entertainment, such as scripted or contrived situations, such as most “reality television” shows, which do not qualify an individual for admission under the I nonimmigrant classification.³⁴⁷

3. Admission Period and EOS

Consistent with the NPRM, aliens in I nonimmigrant classification (except for I nonimmigrants from the PRC) will have admission periods not to exceed 240 days or the period of time necessary to complete their activities, whichever is shorter. *See* new 8 CFR 214.2(i)(3)(i). Further, an I nonimmigrant (except for I nonimmigrants from the PRC) “may be eligible for extensions of stay, each of up to 240 days or until the activities or

assignment consistent with the I classification are completed, whichever is shorter.” *See* new 8 CFR 214.2(i)(5)(i)(A). For, I nonimmigrants presenting passports from the PRC (other than a Hong Kong SAR passport or Macau SAR passport) would be given admission and EOS of up to 90 days or until the activities or assignments consistent with the I classification are completed, whichever is shorter, and may apply for an EOS. *See* new 8 CFR 214.2(i)(3)(ii) and 214.2(i)(5)(iii). In each instance of applying for an EOS, the I nonimmigrant must demonstrate planned work activities consistent with the I classification to justify the additional time sought. *See* new 8 CFR 214.2(i)(5). These provisions were all proposed in the NPRM, and DHS is retaining them in the final rule.

I nonimmigrants who file a Form I–539 request with USCIS to request a change in information medium are currently allowed an automatic extension of employment authorization with the same employer while a Form I–539 application is pending for a period not to exceed 240 days, 8 CFR 274a.12(b)(20), DHS believes it is appropriate to extend such period of time to most other I nonimmigrant contexts. As stated in new 8 CFR 214.2(i)(5), an I nonimmigrant may continue activities consistent with the I classification while the timely application for EOS is pending, as provided for in 8 CFR 274a.12(b)(20), for a period not to exceed 240 days or the actual additional time requested on the EOS application, whichever is shorter (with the exception of an I nonimmigrant submitting a passport from the PRC, except Hong Kong SAR and Macau SAR, who can request extensions of up to 90 days), and beginning on the date of the expiration of the authorized period of stay.

In the event that the EOS application remains pending at the end of this period (the 240 day auto-extension or 90 days for certain aliens from the PRC), the I nonimmigrant, whose status has expired, may remain in the United States so long as the EOS application is pending, and he or she has filed a subsequent EOS request to remain beyond the period requested in the preceding EOS request. The alien, however, must cease working until his or her initial/preceding EOS application is approved, and USCIS may deny an EOS application if it finds that the alien did not cease working. *See* new 8 CFR 214.2(i)(5)(i) and (iii). DHS retained these provisions in the final rule. This restriction is consistent with current regulation and practice for other nonimmigrant worker classifications.

Specifically, 8 CFR 274a.12(b)(20) permits certain classes of aliens to continue employment with the same employer for a period of time not to exceed 240 days. The nonimmigrant may alternatively choose to depart the United States and apply for a new period of admission with CBP at a port of entry. The nonimmigrant would be eligible to work immediately upon re-entry.

As noted above, an I nonimmigrant may file multiple, consecutive extension requests. Each extension request, however, must conform to the current requirements outlined in new 8 CFR 214.2(i)(5) and 8 CFR 214.2(c)(4) that the request be timely filed, and that an alien file his or her EOS while the alien maintains his or her previously accorded lawful status or prior to the expiration of his or her status.³⁴⁸ Thus, under new 8 CFR 214.2(i)(5) and 8 CFR 214.1(c)(4), if an EOS remains pending and the alien needs to continue working in the United States beyond the time period requested in that particular EOS application, then he or she must file a second EOS application before the date (240 days or 90 days for certain I nonimmigrant with a passport from the PRC (excluding Hong Kong SAR and Macau SAR passport holders) or the actual time period requested, whichever is shorter), when the preceding EOS request would have expired. When multiple, timely filed consecutive EOS applications are necessary, the alien is required to cease work activities as described above because the preceding EOS application(s) remain pending; the filing of a subsequent EOS application does not confer authorization to continue work activities until the preceding EOS application(s) are approved. Upon approval of an EOS and all preceding EOS application(s), the alien may resume work activities for the period of time remaining on the latest EOS request. At any time, the denial of an extension application requires the alien to cease work activities and depart the United States immediately. *See* new 8 CFR 214.2(i)(6). As with other nonimmigrant classifications, they will not be given any period of time to prepare for departure from the United States after the denial, and there may be significant immigration consequences for failing to depart the country immediately. For example, such aliens generally will begin to accrue unlawful presence the day after the issuance of

³⁴⁷ For more information about what qualifies as “journalistic information” *see* 9 FAM 402.11–3, *Definitions of “Information Media Representative” and “Journalistic Information,”* <https://fam.state.gov/FAM/09FAM/09FAM040211.html> (last updated Apr. 22, 2024).

³⁴⁸ Current DHS regulations allow for USCIS, in its discretion, to excuse an alien’s failure to file before the period of previously authorized status expired where the alien is able to demonstrate that certain circumstances apply to him or her: *See* generally 8 CFR 214.1(c)(4).

the denial. DHS believes this standard provides parity across nonimmigrant classifications. As with other nonimmigrant classifications, DHS encourages nonimmigrants to apply for EOS within the six months³⁴⁹ (90 days for passport holders from the PRC) preceding the expiration of their current authorized stay to avoid losing the ability to work.

Finally, DHS retained the proposed amendments to 8 CFR 214.2(i)(5)(ii), to clarify that the dependents of an I nonimmigrant may be eligible for an EOS, under the same conditions and subject to the same restrictions as the principal I nonimmigrant. DHS also added regulatory text at 8 CFR 214.2(i)(5)(iv), clarifying the meaning of “timely filing” in the context of these I EOS applications.

4. Change in Information Medium or Employer

The proposed rule continued the preexisting requirement in the regulations that aliens in I nonimmigrant status may not change the information medium or the employer they will be working with until they receive permission from USCIS. *See* new 8 CFR 214.2(i)(4). As noted in the proposed rule, aliens currently submit Form I-539, Application to Extend/Change Nonimmigrant Status, for this purpose. This provision remains unchanged in the final rule.

I. Change of Status

The final rule retains, unchanged, the two provisions added to 8 CFR part 248, which governs changes of status. In the first provision, DHS clarified that aliens who were granted a change to F or J status, before the effective date of the final rule, and are applying for admission as an F or J after the final rule’s effective date may be admitted up to the program end date as noted on the Form I-20 or DS-2019 not to exceed 4 years, plus a period of 30 days following their program end date, to prepare for departure or to otherwise seek to obtain lawful authorization to remain in the United States. *See* new 8 CFR 248.1(e). CBP may admit these aliens into the United States up to the program end date, on the Form I-20 or DS-2019 that accompanied the approved change of status prior to the alien’s departure, plus an additional 30 days, thus ensuring that they do not get more time than allocated by their program end date, since these F and J nonimmigrants

would have received an admission period for D/S on the I-94 that accompanied the change of status approval.

The second provision, retained in the final rule, codifies the long-standing policy that, when an alien timely files an application to change to another nonimmigrant status, including F or J status, but departs the United States while the application is pending, USCIS will consider the application abandoned. Under section 248 of the INA, DHS may authorize a change of status to a nonimmigrant who, among other things, continues to maintain his or her status. Thus, pursuant to a policy that has been in place for decades, the change of status application of an alien who travels outside of the United States during the pendency of his or her request for a change of status is deemed abandoned. *See* new 8 CFR 248.1(f). Note, however, if there is an underlying petition filed along with the change of status, the petition may still be approved, but the alien generally would have to obtain the necessary visa at a U.S. Embassy or Consulate abroad before applying for admission to the United States in the new nonimmigrant classification.

J. Classes of Aliens Authorized To Accept Employment

DHS made the following updates to regulations pertaining to employment authorization: First, DHS struck the reference to D/S and updated the reference to 8 CFR 214.2(f)(5)(vi) in 8 CFR 274a.12(b)(6)(v). Second, in 8 CFR 274a.12(b)(10), DHS cross referenced language in 8 CFR 214.2(i) for I nonimmigrants, which clarifies that limitations currently in the provision (stating that an alien in this status may be employed only for the sponsoring foreign news agency or bureau) allow for freelance and self-employment situations where the I nonimmigrant may not have a “sponsoring” foreign news agency or bureau, and instead will need to show, among other requirements indicated in 8 CFR 214.2(i), that they are working for a qualifying foreign media organization.

K. Severability

In the event a provision in the section is not implemented, DHS has added severability clauses to ensure that the remaining provisions be implemented as an independent rule. The changes impact provisions that are not necessarily interrelated and can function independent of one another. As such, the Departments believe that most of the provisions of this final rule can function sensibly and independently of

other provisions. Therefore, in the event that any provisions in this rule are invalidated by a reviewing court, the Departments intend the remaining provisions to remain in effect to the fullest extent possible. *See* new 8 CFR 214.2(f)(20), (j)(6), and (i)(8). These are retained in the final rule.

VI. Statutory and Regulatory Requirements

DHS developed this final rule after considering numerous statutes and executive orders related to rulemaking. The following sections summarize our analyses based on a number of these statutes or executive orders.

A. Executive Order 12866: Regulatory Review

Executive Orders 12866 (Regulatory Planning and Review), and 13563 (Improving Regulation and Regulatory Review), direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.”

This rule has been designated a “significant regulatory action” that is economically significant under section 3(f)(1) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

This rule is not an Executive Order 14192 regulatory action because it is being issued with respect to an immigration-related function of the United States. The rule’s primary direct purpose is to implement or interpret the immigration laws of the United States (as described in INA 101(a)(17), 8 U.S.C. 1101(a)(17)) or any other function performed by the U.S. Federal Government with respect to aliens. *See* OMB Memorandum M-25-20, “Guidance Implementing Section 3 of Executive Order 14192, titled ‘Unleashing Prosperity Through Deregulation’” (Mar. 26, 2025).

DHS provides a summary of the Regulatory Impact Analysis (RIA) of the economic impacts below. For the full

³⁴⁹ With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

analysis, please *see* the RIA posted in the docket of this rule on *regulations.gov*.

Under the final rule changes, DHS would more frequently have opportunities to review and collect nonimmigrant information, enhancing the Government's oversight and monitoring of these aliens, resulting in costs and benefits. Over a 10-year period of analysis, DHS estimates the final rule would have annualized costs ranging from \$443.1 million to \$448.6 million (using 3 and 7 percent discount rates, respectively) when considering both U.S. and non-U.S. parties. When considering U.S. parties only, DHS estimates that annualized costs would range from \$119.9 million to \$125.1 million (using 3 and 7 percent discount rates, respectively).

Need for the Rule

The final rule would ensure an effective mechanism for DHS to periodically and directly assess whether these nonimmigrants are complying with the conditions of their classifications and U.S. immigration laws, as well as allow DHS to obtain timely and accurate information about the activities they have engaged in and plan to engage in during their temporary stay in the United States. The opportunity to assess the nonimmigrant status with timely and accurate information allows immigration officers to verify that the nonimmigrants have not obtained any criminal convictions and do not pose a threat to national security. In addition, as F, J, and I nonimmigrants would be admitted for a fixed period of admission under the final rule, they would generally begin to accrue unlawful presence following the expiration of their authorized period of admission, as noted on the Form I-94 (Arrival/Departure Record issued at the POE, and could potentially become inadmissible based on that accrual of unlawful presence under INA section 212(a)(9)(B) and (C), 8 U.S.C. 1182(a)(9)(B) and (C), upon departing the United States. These grounds of inadmissibility have important and far-reaching implications on an alien's future eligibility for a nonimmigrant or immigrant visa, admission to the United States, or adjustment of status to that of a lawful permanent resident. Therefore, these regulatory changes may deter F, J, and I nonimmigrants from failing to maintain status and deter them from engaging in fraud and abuse. By increasing DHS assessments and clarifying when unlawful presence accrual begins, the final rule would strengthen the integrity of these nonimmigrant classifications.

Affected Population

The final rule would impact F, J, and I nonimmigrants, DSOs and ROs from SEVP-certified schools and exchange visitor sponsors that run a SEVP- or DoS-designated program and foreign media representatives. Overall, approximately 2.1 million persons participated annually in the F, J, and I nonimmigrant programs combined. DHS estimated the 3-year average active nonimmigrants based on data from fiscal years 2022 to 2024. Active nonimmigrants are those present in the United States with a valid visa. Over the 3-year period, there were approximately 1.6 million F nonimmigrants, 504,000 J nonimmigrants, and 24,000 I nonimmigrants active per year.

The number of nonimmigrant EOS requests under the proposed rule depends on the unique circumstances of each nonimmigrant visa holder. For example, in situations when the nonimmigrant intends to extend their stay in the United States in furtherance of their academic training and following the proposed regulatory criteria for their visa and program, they would be expected to file an EOS. Therefore, DHS estimates the number of EOS requests over the 10-year analysis period based on the historical nonimmigrant data and criteria from the proposed regulatory provisions. Further, DHS accounts for the proposed transition period in the estimated number of EOS requests. DHS utilized event-based data to have more accurate estimations of the probability that nonimmigrants would take certain actions that require an EOS request. This allowed DHS to estimate the number of EOS requests based on how nonimmigrants act during their stay. Based on the historical data, regulatory criteria, and the transition period assumptions, DHS estimates an annual average of 393,500; 28,000; 6,000 EOS requests for F, J, and I nonimmigrants, respectively, over the ten-year period of analysis.

Costs

DHS recognizes that the final rule would incur costs. Some of the costs have been quantified based on available data, and the remaining costs are qualitative.

Quantitative Costs

Depending on each nonimmigrant's need to extend his or her stay in the United States, nonimmigrants on an F-1, F-2, J-1, J-2 and I visa would incur costs to request an EOS. The cost burden includes application fees and time for filing Form I-539 or I-539A. DHS assumes a percentage of

nonimmigrants would incur costs for additional help filing their request for EOS. DHS estimates the annualized EOS costs for the nonimmigrants would range from \$317.9 million to \$317.3 million (using 3 and 7 percent discount rates, respectively).

DHS also calculated a familiarization cost for nonimmigrants expected to be in the country when the rule goes into effect. This 1 hour of burden, which is an advising burden to meet with their DSOs and ROs, resulted in an additional year 1 cost of \$45.6 million to \$43.9 million (using 3 and 7 percent discount rates, respectively).

Further, DSOs and ROs would incur a burden for assisting additional EOS requests resulting from this final rule. When a nonimmigrant is or would be employed under OPT or CPT, DHS assumes HR staff would incur burden per EOS request to track form updates and avoid inadvertent unauthorized employment due to form discrepancies with the Form I-9. DHS estimates the annualized EOS costs for the DSOs and ROs, and HR staff would range from \$88.5 million to \$88.3 million (using 3 and 7 percent discount rates, respectively).

Additionally, DHS assumes DSOs and ROs would incur costs to familiarize themselves with the rule and to create and modify training materials, and other adaptations such as system wide briefings, systemic changes, and advising of current nonimmigrants of the rule changes. For the final rule, DHS updated the familiarization costs to 135 hours per DSO and RO based on public comments received. DHS also added 1 hour of advising burden to DSO, ROs and current nonimmigrants subject to this rule to account for the transition between the old and new rule. The 1 hour advising burden to nonimmigrants resulted in an additional cost of \$45.6 million to \$43.9 million (using 3 and 7 percent discount rates, respectively). DHS estimates the familiarization and adaptation and advising costs in year 1 to DSOs and ROs would range from \$267.9 million to \$257.8 million (using 3 and 7 percent discount rates, respectively).

Qualitative Costs

DHS acknowledges there could be other costs that the Department was not able to quantify and discusses these in the following section. Generally, DHS lacked data and information to quantify the qualitative costs below.

Federal Government Costs

DHS acknowledges there will be implementation and operational costs to the government associated with

assessing aliens at the POE for purposes of authorizing an admission period of up to 4 years. CBP officers will need training on new systems and procedures for conducting inspections at the POE consistent with the final requirements on setting a period of admission for F, J, or I nonimmigrants. DHS also acknowledges that there could be additional costs to the government to upgrade SEVIS and provide additional support services to implement the final rule. DHS anticipates there may be costs for SEVIS development, supplemental Federal staff to assist in the development, increased call center volume, and operation and maintenance of SEVIS databases and other DHS IT systems. DHS acknowledges that this rule will require efforts to update systems and train officers. However, these system updates will not incur additional costs, as the updates for SEVIS are part of regular software updates and incorporated within the budget allocations into current financial and resource allocations for SEVIS operations and maintenance. Furthermore, ADIS does not require any additional costs for new software updates as a direct result of the D/S rule. Training costs are similarly expected and incorporated within the overall training budget allocations and incur no additional cost to the U.S. taxpayer. The training for compliance with the rule will be part of regular training and training budgets and cannot be separated as a distinct cost.

Costs to Schools and Enrollments

The global market for nonimmigrant students is competitive and many U.S. schools hold an advantage over foreign institutions due to the quality of the programs they offer, however the final rule may have an impact on nonimmigrant student enrollment. The final rule affects only those F–1 and J–1 nonimmigrants who need additional time to complete their program or who wish to continue their education; however, DHS maintains that eligible students should have no difficulty with getting their EOS requests approved, which should alleviate concerns about the uncertainty of EOS approval. Schools may also incur costs for changes to their information systems and practices to implement processing under the proposed rule.

DHS expects this final rule will affect relatively few English language programs; the majority of ELT students were enrolled in programs shorter than 2 years. Some schools may choose to change their curriculum to be covered in a 2-year time period. It is possible that some language training programs would experience reduced enrollment due to the final rule.

DHS does not intend for the rule to have a significant impact on participation of other J exchange visitors or I foreign information media representatives. Equivalent U.S.-based exchange visitor programs (outside of academia) may be more difficult to find in other countries, providing less of an

incentive for nonimmigrants to choose an alternative.

Benefits

DHS expects this final rule to have qualitative benefits for national security by providing DHS additional opportunities to evaluate whether F, J, and I nonimmigrants are complying with their status requirements, or if they present a national security concern. It would deter fraud and abuse of the F, J, and I visa classifications, as requiring EOS requests at frequent intervals allow DHS to review the standing of the nonimmigrant. DHS would be able to enforce the unlawful presence provisions of the INA for those who are not complying with the terms of their visa status.

Accounting Statement

DHS has prepared a full analysis according to E.O. 12866 and E.O. 13563, which can be found in the docket for this rulemaking or by searching for RIN 1653–AA95 on www.regulations.gov. Table 1 presents the accounting statement as required by Circular A–4 for total impacts of the rule. The proposed rule would have a quantified annualized cost ranging from \$443.1 million to \$448.6 million (with 3- and 7-percent discount rates, respectively) when considering U.S. and non-U.S. parties. When considering U.S. parties only, annual costs would range from \$119.9 million to \$125.1 million (with 3- and 7-percent discount rates, respectively).

TABLE 1—OMB A–4 ACCOUNTING STATEMENT, U.S. AND NON-U.S. PARTIES
[2024\$]

Category	3-Percent discount rate	7-Percent discount rate	Source citation (RIA, preamble, etc.)
Benefits:			
Annualized Monetized \$millions/year	N/A	N/A	N/A.
Annualized Quantified	N/A	N/A	N/A.
Qualitative	- Enhance DHS's ability to enforce the unlawful presence provisions of the INA at the conclusion of F, J, and I nonimmigrants' fixed period of admission. - Deter F, J, and I nonimmigrants from engaging in fraud and abuse and strengthen the integrity of these nonimmigrant classifications. - Provide DHS with additional information to promptly detect national security concerns. - Increase DHS's ability to detect those nonimmigrants who are not complying with the terms and conditions of their status. - Ensure that immigration officers, who are U.S. Government officials, are responsible for reviewing and deciding each F, J, or I nonimmigrant's extension of stay (EOS) request.		Preamble, RIA Section A.4.
Costs:			
Annualized Monetized \$millions/year	\$443.1	\$448.6	RIA Section A.4.
Annualized Quantified	N/A	N/A	N/A.

TABLE 1—OMB A-4 ACCOUNTING STATEMENT, U.S. AND NON-U.S. PARTIES—Continued
[2024\$]

Category	3-Percent discount rate	7-Percent discount rate	Source citation (RIA, preamble, etc.)
Qualitative	• Potential burden for DHS and nonimmigrants associated with government requests for additional information or in-person interviews. • Potential reduction in enrollment of nonimmigrant students and exchange visitors and subsequent revenue effects on sponsoring institutions. • DHS costs for rule familiarization and training and additional steps at port of entries (POEs) to assess fixed periods of time for admission. • Potential burden to schools/program sponsors and DHS to update batch processing systems that facilitate exchange of data between Designated School Officials (DSOs)/Responsible Officers (ROs) and the Student and Exchange Visitor Information System (SEVIS). • Potential costs to F-1 students and schools stemming from limitations on change of education level procedures. • Potential burden on F-1 English language training (ELT) program students and schools from the restriction against ELT study beyond 24 months. • Some Employment Authorization Documents (EADs) may lapse or may not be approved if EOS requests are not approved in a timely manner.		RIA Section A.4.
<i>Transfers:</i>			
Annualized Monetized \$millions/year	N/A	N/A	N/A.
Annualized Quantified	N/A	N/A	N/A.
Qualitative	Potential reduction in fees collected by Student and Exchange Visitor Program (SEVP) and Department of State (DoS) to cover the respective program costs due to a potential reduction in international enrollment.		RIA A.4.
State, Local, and/or Tribal Government	Some public schools will incur incremental costs to comply with the final rule and a potential decline in international enrollment.		RIA A.4.
Small Business	Some small businesses will incur incremental costs to comply with the final rule.		Regulatory Flexibility Analysis.
Wages	N/A.	N/A.	N/A.
Growth	N/A.	N/A.	N/A.

B. Final Regulatory Flexibility Act Analysis

The RFA, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” is comprised of small business, not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000. DHS has prepared a full initial regulatory flexibility analysis (IRFA), which can be found in the docket for this rulemaking or by searching for RIN 1653–AA95 on www.regulations.gov. A summary of the final regulatory flexibility analysis (FRFA) follows.

DHS performed an FRFA of the impacts on small entities from this rule in the first year of the analysis and found that it may affect an estimated 7,744 U.S. entities (6,541 SEVP-certified

institutions (schools), and 1,203 J exchange visitor program sponsors). DHS analyzed all the entities that would be affected by the rule and DHS found that 78 percent of SEVP-certified institutions and 62 percent of J exchange visitor program sponsors would be considered small entities.

Under the final rule, DSOs and ROs will have to spend approximately 135 hours for rule familiarization and adaptation in the first year after the rule takes effect. For each DSO, rule familiarization would cost \$6,735 in the first year after the rule takes effect. Further, each year DSOs/ROs will spend approximately 3 hours per F-1/J-1 EOS request to review the Form I-539 completed by the F-1/J-1 nonimmigrant, update the SEVIS record and track EOS requests, and advise the F-1/J-1 nonimmigrant about the extension process and the requirements to file an EOS with USCIS. DHS also accounted for additional advising costs

for each F school when the rule takes effect by multiplying the school-level average annual enrollment by a cost of \$50 per existing F-1 student (1 hour × \$49.89 loaded wage rate). Additionally, HR staff will spend approximately 1.5 hours per F-1 EOS request to track form updates related to each EOS request and avoid inadvertent unauthorized employment due to form discrepancies with the I-9. The DSO cost per EOS request is \$233.

DHS estimates that 73.4 percent of small schools will experience an impact less than or equal to one percent of their annual revenue. DHS estimates that the majority of small J sponsors would experience an impact less than or equal to one percent of their annual revenue.

C. Small Business Regulatory Enforcement Fairness Act of 1996

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–

121, we want to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult ICE using the contact information provided in the **FOR FURTHER INFORMATION CONTACT** section above.

D. Congressional Review Act

This final rule is a major rule as defined by 5 U.S.C. 804, also known as the “Congressional Review Act,” as enacted in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, 110 Stat. 847, 868 *et seq.* Accordingly, this rule, if enacted as a final rule, will be effective at least 60 days after the date on which Congress receives a report submitted by DHS under the Congressional Review Act, or 60 days after the final rule’s publication, whichever is later.

E. Unfunded Mandates Reform Act

The Unfunded Mandate Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on state, local, and tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by state, local, and tribal governments, in the aggregate, or by the private sector. The value equivalent of \$100 million in 1995 adjusted for inflation to 2024 levels by the Consumer Price Index for All Urban Consumers is \$193 million. This rule exceeds the \$100 million expenditure threshold in the first year of implementation (adjusted for inflation) and therefore DHS is providing this UMRA analysis.

1. An Identification of the Provision of Federal Law Under Which the Rule Is Being Promulgated

The authority of the Secretary for these regulatory amendments is found in various sections of the INA, 8 U.S.C. 1101 *et seq.*, and the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.* The Authority sections for 8 CFR parts 214, 248, and 274a provide a detailed list of the specific authorities. General authority for issuing the final rule is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the

Secretary to administer and enforce the immigration and nationality laws. Further authority for the regulatory amendments in the final rule is found in Section III, Subpart A.

2. A Qualitative and Quantitative Assessment of the Anticipated Costs and Benefits of the Federal Mandate, Including the Costs and Benefits to State, Local, and Tribal Governments or the Private Sector, as Well as the Effect of the Federal Mandate on Health, Safety, and the Natural Environment

The affected population of the rule are the F, J, and I visa holders, and the educational institutions and sponsors responsible for the visa holders. The major costs associated with this rule are the familiarization and advising burden incurred in year 1, EOS filing costs for visa holders, and DSO/RO burden for assisting with EOS requests. The familiarization and advising burden applies to the full population, however in different amounts. The DSOs/ROs are expected to take on more familiarization burden as they are expected to advise the F and J nonimmigrants. The DSO/RO burden for EOS requests will be borne by the educational institutions and sponsors, while the EOS filing costs will be borne by the visa holders. Familiarization costs are only accrued in the first year, and the advising burden for educational institutions and sponsors responsible for F and J visa holders is scaled to the number of F and J visa holders. Institutions that choose to engage with large numbers of F and J visa holders will incur more costs related to familiarization and adaptation. These familiarization and adaptation costs are expected to decrease after first year the rule is in effect. Educational institutions and sponsors will only accrue EOS processing costs if they enroll nonimmigrants who remain in the country beyond their program length or 4 years, whichever is shorter. Nonimmigrants who remain in the country for their allotted program length (if less than 4 years) or 4 years will not be required to file an EOS request, and not incur costs related to this rule. Only the visa holders filing EOS requests will incur these costs. DHS presents the impacts of these provisions more fully in the RIA, which is available in the docket for this final rule on www.regulations.gov.

DHS does not believe that this rule will have any impact on health or safety. The impact of this rule on environmental issues is discussed more fully in Review under the National Environmental Policy Act (NEPA), Section VI, subpart J of this final rule.

3. Estimates by the Agency, if and to the Extent That the Agency Determines That Accurate Estimates Are Reasonably Feasible of Future Compliance Costs of the Federal Mandate and Any Disproportionate Budgetary Effects of the Federal Mandate Upon Any Particular Regions of the Nation or Particular State, Local, or Tribal Governments, Urban or Rural or Other Types of Communities, or Particular Segments of the Private Sector

DHS has provided compliance costs of the main provisions that may indirectly trigger Federal mandates in the full RIA discussion of each provision published with this final rule as well as in the FRFA. DHS reiterates that state and private sector entities make the cost-benefit decisions of whether to expend finances to engage with foreign nonimmigrants participating in the F, J, or I visa programs, and that nonimmigrant visa holders make the decision to incur costs associated with this rule if they choose to apply for an EOS.

4. Estimates by the Agency of the Effect on the National Economy, Such as the Effect on Productivity, Economic Growth, Full Employment, Creation of Productive Jobs, and International Competitiveness of United States Goods and Services, if and to the Extent That the Agency in Its Sole Discretion Determines That Accurate Estimates Are Reasonably Feasible and That Such Effect Is Relevant and Material

DHS has provided discussions of the effect of this rule on the economy in Section IV, Subsection Q of the final rule and in the final rule RIA available in the docket.

5. A Description of the Extent of the Agency’s Prior Consultation With Elected Representatives (Under Section 204) of the Affected State, Local, and Tribal Governments; a Summary of the Comments and Concerns That Were Presented by State, Local, or Tribal Governments Either Orally or in Writing to the Agency; and a Summary of the Agency’s Evaluation of those Comments and Concerns

DHS did not consult with elected representatives of the affected State, local, and tribal governments. After the publication of the proposed rule, DHS did receive public comments from state and local educational institutions and responded to those comments. These comments were concerned with the impacts of this rule on higher education, including enrollment impacts, costs of EOS requests, and additional burden on DSOs. These comments were

summarized in Section IV of this rule, and impacts on higher education were specifically summarized and responded to in Section IV.B.4.

F. Paperwork Reduction Act—Collection of Information

Under the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995) (PRA), all Departments are required to submit to OMB, for review and approval, any reporting or recordkeeping requirements inherent in a rule. To conform with the requirements set forth by the PRA, on August 28, 2025, at 90 FR 42070, DHS, USCIS and ICE requested comments on the following information collections. Several comments were received on these information collections during the comment period. ICE responded to these comments above in Section IV above. Each of the forms will require non-substantive edits to comply with this rulemaking. Accordingly, ICE has submitted PRA Change Worksheet, Form OMB 83–C, and amended information collection instruments to OMB for review and approval in accordance with the PRA. Any change in the number of respondents and public burden is reflected below. At this time, the following forms are not open for comment.

ICE Forms I–20 and I–17

Overview of information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Student and Exchange Visitor Information System (SEVIS).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–20 and I–17, ICE.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary Non-profit institutions and individuals or households. SEVIS is an internet-based data entry, collection and reporting system. It collects information on SEVP-certified school via the Form I–17, “Petition for Approval of School for Attendance by Nonimmigrant Student,” and collects information on the F and M nonimmigrant students that the SEVP-certified schools admit into their programs of study via the Forms I–20s: “Certificate of Eligibility for Nonimmigrant (F–1) Students Status—For Academic and Language Students” and “Certificate of Eligibility for Nonimmigrant (M–1) Students Status—For Vocational Students.” Revisions to the SEVIS collections include substantive and non-substantive

changes to SEVIS to support additional recordkeeping and reporting requirements associated with recommendations for an F–1 student EOS. The revision is to add fields to facilitate a DSO recommendation for an F nonimmigrant student’s EOS, update the list of educational levels, and update the Form I–20 instructions page.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information requests Form I–17 and Form I–20 is 20,890. The estimated hour burden per response is 42.8 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection of information in hours is 894,106.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$49,956,309.

USCIS Forms I–539 and I–539A

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Extend/Change Nonimmigrant Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–539 and I–539A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form will be used for nonimmigrants to apply for an EOS, for a change to another nonimmigrant classification, or for obtaining V nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–539 (paper) is 459,860 and the estimated hour burden per response is 1.667 hours; the estimated total number of respondents for the information collection Form I–539 (e-file) is 197,083 and the estimated hour burden per response is 1 hours; the estimated total number of respondents for the information collection Supplement A is 207,600 and the estimated hour burden per response is .35 hours; the estimated total number of respondents providing biometrics is 864,543 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection of information in hours is 2,047,845.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$83,736,379.

USCIS Form I–765

Under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–12, DHS must submit to OMB, for review and approval, any reporting requirements inherent in a rule unless they are exempt. Although this rule does not impose any new reporting or recordkeeping requirements under the PRA for this information collection, this rule will require non-substantive edits to USCIS Form I–765, Application for Employment Authorization. Accordingly, USCIS has submitted a Paperwork Reduction Act Change Worksheet, Form OMB 83–C, and amended information collection instruments to OMB for review and approval in accordance with the PRA.

G. Executive Order 13132: Federalism

This final rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. DHS does not expect that this final rule will impose substantial direct compliance costs on State and local governments or preempt State law. Therefore, in accordance with section 6 of Executive Order 13132, *Federalism*, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

H. Executive Order 12988: Civil Justice Reform

This final rule meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, *Civil Justice Reform*, to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

DHS has analyzed this final rule under Executive Order 13211, *Actions Concerning Regulations That*

Significantly Affect Energy Supply, Distribution, or Use. DHS has determined that it is not a “significant energy action” under that order because it is a “significant regulatory action” under Executive Order 12866 but is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

J. National Environmental Policy Act (NEPA)

DHS and its components analyze final actions to determine whether the National Environmental Policy Act of 1969 (“NEPA”), 42 U.S.C. 4321 *et seq.*, applies to them and, if so, what degree of analysis is required. DHS Directive 023–01 Rev. 01³⁵⁰ and Instruction Manual 023–01–001–01 Rev. 01 (Instruction Manual)³⁵¹ establish the policies and procedures that DHS and its components use to comply with NEPA.

NEPA allows Federal agencies to establish categories of actions (“categorical exclusions”) that experience has shown do not, individually or cumulatively, have a significant effect on the human environment and, therefore, do not require an environmental assessment (EA) or environmental impact statement (EIS).³⁵² An agency is not required to prepare an EA or EIS for a proposed action “if the proposed agency action is excluded pursuant to one of the agency’s categorical exclusions.” See 42 U.S.C. 4336(a)(2), 4336e(1). The Instruction Manual, Appendix A, Table 1, lists the DHS Categorical Exclusions.³⁵³

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.³⁵⁴ DHS is amending its regulations to eliminate the practice of admitting F–1

nonimmigrant students, I nonimmigrant representatives of information media, and J–1 exchange visitors (and F–2/J–2 family members) for D/S. The final rule would provide for nonimmigrants seeking entry under F, J, or I visas to be admitted for the period required to complete their academic program, foreign information media employment, or exchange program, not to exceed the periods of time defined in this final rule. The final rule would also require nonimmigrants seeking to continue their studies, foreign information media employment, or exchange program beyond the admission period granted at entry to apply for extension.

DHS has analyzed this final rule under MD 023–01 Rev. 01 and IM 023–01–001–01 Rev. 01. DHS has determined that this final rulemaking action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This final rule completely fits within the Categorical Exclusion found in IM 023–01–001–01 Rev. 01, Appendix A, Table 1, number A3(d): “Promulgation of rules. that interpret or amend an existing regulation without changing its environmental effect.” This final rule is not part of a larger action. This final rule presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, this final rule is categorically excluded from further NEPA review.

DHS seeks any comments or information that may lead to the discovery of any significant environmental effects from this final rule.

K. Executive Order 13175: Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

L. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

This final rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights*.

M. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, *Protection of Children from Environmental Health Risks and Safety Risks*, requires agencies to consider the impacts of environmental health risk or safety risk that may disproportionately affect children. DHS has reviewed this final rule and determined that even though this rule is an economically significant rule, it would not create an environmental risk to health or risk to safety that might disproportionately affect children. Therefore, DHS has not prepared a statement under this executive order.

N. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards will be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

O. Family Assessment

DHS has determined that this action will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 248

Aliens, Reporting and recordkeeping requirements.

³⁵⁰ Dep’t of Homeland Sec., *Implementation of the National Environmental Policy Act*, Directive 023–01, Revision 01 (Oct. 31, 2014), https://www.dhs.gov/sites/default/files/publications/mgmt/environmental-management/mgmt-dir_023-01-implementation-national-environmental-policy-act_revision-01.pdf.

³⁵¹ Dep’t of Homeland Sec., *Implementation of the National Environmental Policy Act (NEPA)*, Instruction Manual 023–01–001–01, Rev 01 (Nov. 6, 2014).

³⁵² See 42 U.S.C. 4336c.

³⁵³ See Appendix A, Table 1.

³⁵⁴ Dep’t of Homeland Sec., Instruction Manual, *supra* note 351.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Penalties, Reporting and recordkeeping requirements, Students.

Regulatory Amendments

For the reasons stated in the preamble, DHS amends parts 214, 248, and 274a of chapter I, subchapter B, of title 8 of the Code of Federal Regulations as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1188, 1221, 1281, 1282, 1301–1305, 1357, and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

■ 2. Section 214.1 is amended by:

- a. Adding paragraph (a)(4);
- b. Revising paragraphs (b) heading, (b)(1) introductory text, (b)(2) introductory text, and (b)(3) introductory text;
- c. Removing paragraph (b)(4);
- d. Revising paragraphs (c)(2) and (c)(3)(v); and
- e. Adding paragraphs (c)(8) and (m).

The additions and revisions read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

(a) * * *

(4) *Requirements for admission of aliens under section 101(a)(15)(F) and (J).* Aliens applying for admission as F or J nonimmigrants after September 15, 2026, will be inspected and may be admitted into the United States, if in possession of a valid Form I–20 or Form DS–2019, or successor form, and otherwise eligible, and subject to the following:

(i) *Aliens applying for admission as F nonimmigrants.* (A) Aliens seeking admission to the United States, including those seeking admission with a properly filed pending application for an extension of stay, as an F nonimmigrant after a previously authorized period of admission as an F nonimmigrant expired, may be admitted for a maximum period of 4 years or the length of program as specified on Form I–20, whichever is shorter, plus

additional 30 day periods for arrival and departure as provided in § 214.2(f)(5)(i);

(B) Aliens seeking admission to the United States as an F nonimmigrant with a properly filed pending application for extension of stay as an F nonimmigrant may, if they have time remaining on the period of stay authorized prior to departure, be admitted for a period up to the unexpired period of stay authorized prior to the alien's departure, plus an additional 30 days as provided in § 214.2(f)(5)(v), subject to the requirements in paragraph (c)(8) of this section, or if the alien seeks admission with a Form I–20 for a program end date beyond their previously authorized period of admission, the alien may be admitted for the period specified in § 214.2(f)(5), subject to the requirements in paragraph (c)(8) of this section; and

(C) Aliens seeking admission to the United States as an F nonimmigrant with an approved extension of stay for F nonimmigrant status may be admitted until the expiration of the approved extension of stay, plus an additional 30 days, as provided in § 214.2(f)(5)(v).

(ii) *Aliens applying for admission as J nonimmigrants.* (A) Aliens seeking admission to the United States, including those seeking admission with a properly filed, pending application for an extension of stay as a J nonimmigrant after a previously authorized period of admission as a J nonimmigrant expired, may be admitted for the period specified in § 214.2(j)(1)(ii);

(B) Aliens seeking admission to the United States as a J nonimmigrant with a properly filed pending extension of stay as a J nonimmigrant may, if they have time remaining on the period of stay authorized prior to departure, be admitted for a period up to the unexpired period of stay authorized prior to the alien's departure, plus an additional 30 days as provided in § 214.2(j)(1)(ii)(C), subject to the requirements in paragraph (c)(8) of this section; and

(C) Aliens seeking admission to the United States as a J nonimmigrant with an approved extension of stay in J nonimmigrant status may be admitted up to the expiration of the approved extension of stay, plus an additional 30 days as provided in § 214.2(j)(1)(ii)(C).

(iii) *Post-completion optional practical training (OPT) and Science, Technology, Engineering and*

Mathematics (STEM) OPT extension.

Aliens seeking admission to the United States as an F nonimmigrant to pursue post-completion OPT or a STEM OPT extension may be admitted until the end date of the approved employment authorization for post-completion OPT or STEM OPT, or if the Application for Employment Authorization, Form I–765 (or successor form) for post-completion OPT or STEM OPT is still pending with USCIS, as evidenced by a notice issued by USCIS indicating receipt of such application, until the Designated School Official's recommended employment end date for post-completion OPT or STEM OPT specified on the Form I–20, subject to the requirements in paragraphs (c)(8) of this section and 8 CFR 274a.12(b)(6)(iv), plus a 30-day period as provided in § 214.2(f)(5)(v).

(b) *Admission of nonimmigrants under section 101(a)(15)(F), (J), or (M) whose visa validity is considered automatically extended to complete unexpired periods of previous admission or extension of stay—(1) Section 101(a)(15)(F).* The inspecting immigration officer may admit, up to the unexpired period of stay authorized prior to the alien's departure, any nonimmigrant alien whose nonimmigrant visa validity is considered automatically extended pursuant to 22 CFR 41.112(d) and who is applying for admission under section 101(a)(15)(F) of the Act, if the alien:

* * * * *

(2) *Section 101(a)(15)(J).* The inspecting immigration officer may admit, up to the unexpired period of stay authorized prior to the alien's departure, any nonimmigrant alien whose nonimmigrant visa validity is considered automatically extended pursuant to 22 CFR 41.112(d) and who is applying for admission under section 101(a)(15)(J) of the Act, if the alien:

* * * * *

(3) *Section 101(a)(15)(M).* The inspecting immigration officer may admit, up to the unexpired period of stay authorized prior to the alien's departure, any nonimmigrant alien whose nonimmigrant visa validity is considered automatically extended pursuant to 22 CFR 41.112(d) and who is applying for admission under section 101(a)(15)(M) of the Act, if the alien:

* * * * *

(c) * * *

(2) *Filing for an extension of stay.* Any other nonimmigrant who seeks to extend his or her stay beyond the currently authorized period of admission must apply for an extension of stay by filing an extension request in the manner and on the form prescribed

by USCIS, together with the required fees and all initial evidence specified in the applicable provisions of § 214.2, and in the form instructions, including the submission of any biometrics required by 8 CFR 103.16. More than one person may be included in an application if the co-applicants are all members of a single-family unit and either all hold the same nonimmigrant status, or one holds a nonimmigrant status, and the other co-applicants are his or her spouse and/or children who hold derivative nonimmigrant status based on his or her status. Extensions granted to members of a family unit must be for the same period of time. The shortest period granted to any member of the family will be granted to all members of the family. In order to be eligible for an extension of stay, nonimmigrant aliens in K-3/K-4 status must do so in accordance with § 214.2(k)(10).

(3) * * *

(v) Any nonimmigrant admitted for duration of status, except those who fall under paragraph (m) of this section;

* * * * *

(8) *Abandonment of extension of stay and pending employment authorization applications for F, I, and J nonimmigrant aliens.* (i) If an alien in F, I, or J nonimmigrant status timely files an application for an extension of stay, USCIS will not consider the application abandoned if the alien departs the United States while the application is pending, provided that when the alien seeks admission, the previously authorized period of admission has not expired, and the alien seeks admission for the balance of the previously authorized admission period.

(ii) An application for extension of stay in F, I, or J nonimmigrant status may be deemed abandoned if an alien departs the United States and seeks admission with a Form I-20 or DS-2019 for a program end date beyond their previously authorized period of admission while the application for an extension of stay is pending. USCIS will not consider as abandoned any corresponding applications for employment authorization.

(iii) When an alien described in paragraph (c)(8)(i) or (ii) of this section departs, the alien should travel with a copy of their Form I-797C, Notice of Action, or successor form, which confirms the receipt of either their Form I-539, Application to Extend/Change Nonimmigrant Status, or Form I-765, Application for Employment Authorization, along with proposed length of stay as evidenced by the Form

I-20, DS-2019, or letter of employment for a foreign media organization.

* * * * *

(m) *Transition period from duration of status to a fixed admission date—*(1) *Transition from duration of status admission to a fixed admission period for aliens properly maintaining F and J status on September 15, 2026.* Aliens with F or J status who are properly maintaining their status on September 15, 2026, and who were admitted for duration of status are authorized to remain in the United States in F or J nonimmigrant status until the later date of either the expiration date on an Employment Authorization Document, Form I-766, or successor form, or the program end date noted on their Form I-20 or Form DS-2019, as applicable, not to exceed a period of 4 years from September 15, 2026, plus the departure period of 60 days for F nonimmigrants, which is November 14, 2030, and 30 days for J nonimmigrants, which is October 15, 2030. Subject to 8 CFR 274a.14, any authorized employment or training continues until the program end date on such F or J nonimmigrant's Form I-20 or DS-2019, as applicable and as endorsed by the designated school official or responsible officer for employment or training, or expiration date on the alien's Employment Authorization Document, Form I-766, or successor form. Aliens who need additional time to complete their current program of study, including requests for post-completion optional practical training (OPT) and the Science, Technology, Engineering and Mathematics (STEM) OPT extension, or exchange visitor program, including academic training, or would like to start a new program of study or exchange visitor program must apply for an extension of stay with USCIS in accordance with paragraph (c)(2) of this section for an admission period to a fixed date.

(i) Notwithstanding this paragraph (m)(1), an F-1 student recommended for post-completion OPT who files before his or her period of admission expires, including the 60 day departure period, an Application for Employment Authorization, Form I-765, or successor form on the form and in the manner designated by USCIS, with the required fee, as described in the form's instructions, on or before March 18, 2027, is not required to file an Application to Extend/Change Nonimmigrant Status, Form I-539, or successor form for the requested period of post-completion OPT. An F-1 student recommended for STEM OPT who files, prior to the expiration of his or her

current OPT Employment Authorization Document, Form I-766, or successor form, an Application for Employment Authorization, Form I-765, or successor form on or before March 18, 2027, is not required to file an Application to Extend/Change Nonimmigrant Status, Form I-539, or successor form for the requested period of STEM OPT. If the alien's application for post-completion OPT or STEM OPT employment authorization is approved, the alien will be authorized to remain in the United States in F status until the expiration date of the Employment Authorization Document, plus 60 days. If the employment authorization application is denied, the F-1 student would continue to be authorized to remain in the United States until the program end date listed on their Form I-20, valid on September 15, 2026, plus 60 days, as long as he or she continues to pursue a full course of study and otherwise meets the requirements for F-1 status, or until the end date of the Employment Authorization Document for post-completion OPT, as long as he or she continues to meet the requirements for F-1 status, plus 60 days.

(ii) An F-1 student described in this paragraph (m)(1) who departs the United States before filing the application for post-completion OPT or STEM OPT, and is admitted to the United States with a fixed period of admission is required to file both an Application for Employment Authorization, Form I-765, or successor form and an Application to Extend/Change Nonimmigrant Status, Form I-539, or successor form pursuant to § 214.2(f)(11)(i)(B)(2) or (f)(11)(i)(C). An alien described in this section who departs the United States while the Application for Employment Authorization, Form I-765, or successor form is pending or once approved will be admitted pursuant to paragraph (a) of this section.

(iii) DHS reserves the discretion to extend the period exempting the filing of the Application to Extend/Change Nonimmigrant Status, Form I-539, or successor form beyond March 18, 2027, in 6-month increments by publication of a notification in the **Federal Register**.

(2) *Pending employment authorization applications with USCIS on September 15, 2026, filed by F-1 students.* F-1 students described in paragraph (m)(1) of this section who have timely and properly filed applications for employment authorization pending with USCIS on September 15, 2026, do not have to file for an extension or re-file such applications for employment

authorization, unless otherwise requested by USCIS.

(i) If the F–1 student's application for post-completion OPT or STEM OPT employment authorization is approved, the F–1 student will be authorized to remain in the United States in F status until the expiration date of the Employment Authorization Document, plus 60 days. If the employment authorization application is denied, the F–1 student would continue to be authorized to remain in the United States until the program end date listed on their Form I–20, plus 60 days, as long as he or she continues to pursue a full course of study and otherwise meets the requirements for F–1 status.

(ii) F–1 students with pending employment authorization applications, other than post-completion OPT and STEM OPT, who continue to pursue a full course of study and otherwise meet the requirements for F–1 status, continue to be authorized to remain in the United States until the program end date listed on the Form I–20, plus 60 days, regardless of whether the employment authorization application is approved or denied.

(3) *Transition from duration of status admission to a fixed admission period for aliens with I status present in the United States* on September 15, 2026. Except for those aliens described in § 214.2(i)(3)(ii), aliens in I nonimmigrant status who are properly maintaining their status on September 15, 2026, and who were admitted for duration of status are authorized to remain in the United States in I nonimmigrant status for a period necessary to complete their activity, not to exceed May 13, 2027, with the exception of aliens in I nonimmigrant status presenting with passports described in § 214.2(i)(3)(ii), who are authorized to remain in the United States in I nonimmigrant status for a period necessary to complete their activity, not to exceed December 14, 2026. Aliens who need additional time to complete their employment beyond May 13, 2027, or December 14, 2026, as applicable, must apply for an extension of stay with USCIS in accordance with paragraph (c)(2) of this section and § 214.2(i)(5).

(4) *Severability*. The provisions in this paragraph (m) are intended to be independent severable parts. In the event that any provision in this paragraph (m) is not implemented, DHS intends that the remaining provisions be implemented as an independent rule.

■ 3. Section 214.2 is amended by:

■ a. In table 1 to the section, revising entry (j);

- b. In table 2 to paragraph (f):
- i. Revising entries (5) and (8); and
- ii. Adding entry (20);
- c. Revising paragraph (f)(5) heading and paragraphs (f)(5)(i) and (ii);
- d. Redesignating paragraphs (f)(5)(iii) through (vi) as paragraphs (f)(5)(iv) through (vii), respectively;
- e. Adding a new paragraph (f)(5)(iii);
- f. Revising newly redesignated paragraphs (f)(5)(v) and (vii);
- g. Adding paragraph (f)(5)(viii);
- h. Revising paragraphs (f)(7) and (8) and (f)(10)(ii)(D);
- i. In paragraph (f)(11)(i)(B)(2), removing the number “60” and adding, in its place, the number “30”;
- j. In paragraph (f)(11)(i)(D), removing the number “60” and adding, in its place, the number “30”;
- k. In paragraph (f)(18)(iii), removing the words “duration of status and” from the last sentence;
- l. Adding paragraph (f)(20);
- m. Revising paragraphs (i), (j) heading, and (j)(1)(ii) and (iv) through (viii); and
- n. Adding paragraphs (j)(1)(ix) and (j)(6).

The revisions and additions read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

Table 1 to § 214.2—Section Contents

* * * * *

(j) Exchange visitors

* * * * *

(f) * * *

Table 2 to Paragraph (f)—Paragraph Contents

* * * * *

(5) Period of stay

* * * * *

(8) School transfer and change of educational objectives

* * * * *

(20) Severability

* * * * *

(5) *Period of stay*—(i) *General*. An F–1 student is admitted for a fixed period of time, which is the period necessary to complete the course of study indicated on the Form I–20, or successor form, not to exceed a period of 4 years, plus additional times noted in this paragraph (f)(5)(i). A continuing F–1 student may be granted additional time to complete their program of study, as described in paragraphs (f)(7) and (f)(8)(iv) of this section, begin a new program of study, as described in paragraphs (f)(5)(ii)(D) and (f)(7) of this section, or following the completion of studies to engage in post-completion optional practical training (OPT) and the Science, Technology, Engineering and Mathematics (STEM) extension of

OPT, as described in paragraph (f)(5)(i)(D) of this section. An F–1 student described in this section may be admitted for a period of up to 30 days before the indicated report date or program start date listed on the Form I–20 or successor form. An alien described in this paragraph (f)(5)(i) may remain in the United States for an additional 30 days as provided in paragraph (f)(5)(v) of this section. The 30-day period before the indicated report date or program start date and 30 additional days following the program end date or the 4-year maximum period of admission do not count toward the maximum length of stay. The admission periods described in this paragraph (f)(5)(i) are subject to the following exceptions:

(A) F–1 students whose course of study is in an English language training program are restricted to a maximum of admission period of 24 months, plus an additional 30-day period of stay for the purposes of departure or to otherwise seek to maintain lawful status.

(B) Border commuter students under the provisions in paragraph (f)(18) of this section may be admitted for the applicable period described under paragraph (f)(18).

(C) F–1 students attending a public high school, which may also include a charter school or other similar school funded by U.S. taxpayers, are restricted to an aggregate of no more than 12 months to complete their course of study, including any school breaks and annual vacations.

(D) Students with pending employment authorization applications who are admitted based on the designated school official's recommended employment end date for post-completion OPT or STEM OPT as specified on their Form I–20, with a notice issued by USCIS indicating receipt of the Application for Employment Authorization, Form I–765, or successor form for post-completion OPT or STEM OPT, who cease employment pursuant to an Employment Authorization Document (EAD) that expires before the alien's fixed date of admission as noted on their Arrival/Departure Record, Form I–94, or successor form, will be considered to be in the United States in a period of authorized stay from the date of the expiration noted on their EAD until the fixed date of admission as noted on their Form I–94.

(E) The authorized period of stay for F–2 dependents may not exceed the authorized period of stay of the principal F–1 student.

(ii) *School transfer and change of educational objectives*. (A) An F–1 student at any level below the graduate

degree level may not transfer or change educational objectives, *i.e.*, majors or educational levels, within the first academic year of a program of study, unless an exception is authorized by SEVP for extenuating circumstances that may include, but are not limited to, a school closure or a school's prolonged inability to hold in-person classes due to a natural disaster, a student needing to change schools to complete elementary or secondary education, or other cause. An F-1 student at the graduate degree level or above may not change educational objectives at any point during their program of study. An F-1 student at the graduate degree level or above may not transfer at any point during their program of study, unless an exception is authorized by SEVP for extenuating circumstances that may include, but are not limited to, a school closure or a school's prolonged inability to hold in-person classes due to a natural disaster or other cause.

(B) An F-1 student who has completed a program in the United States at one educational level and begins a new program at a higher educational level is considered to be maintaining F-1 status if otherwise complying with requirements under this paragraph (f).

(C) An alien who has completed a program after September 15, 2026, in the United States as an F-1 student at one educational level may not maintain, be admitted, or otherwise be provided F-1 status through a program at the same educational level or a lower educational level.

(D) When seeking a change in educational objectives, F-1 students referenced in paragraphs (f)(5)(ii)(A) through (C) of this section must, if seeking an extension of stay, apply for an extension of stay on the form designated by USCIS, with the required fee and in accordance with the form instructions, including any biometrics required by 8 CFR 103.16.

(E) Until September 14, 2028, DHS may delay or suspend the implementation of paragraphs (f)(5)(ii)(A) through (C) of this section, in its discretion, if it determines that implementation is infeasible for any reason. If DHS delays or suspends any provisions in paragraphs (f)(5)(ii)(A) through (C) governing the change in educational objectives, DHS will make an announcement of the delay or suspension by publication of a notification in the **Federal Register** and on SEVP's website at <https://www.studyinthestates.dhs.gov> (or successor uniform resource locator). DHS thereafter will announce the implementation dates of a delayed or

suspended educational objective provision on the SEVP website at <https://www.studyinthestates.dhs.gov> (or successor uniform resource locator), at least 30 calendar days in advance.

(iii) *Report date on Form I-20 or successor form.* When determining the report date on the Form I-20 or successor form, the designated school official may choose a reasonable date to accommodate a student's need to be in attendance for required activities at the school prior to the actual start of classes. Such required activities may include, but are not limited to, research projects and orientation sessions. However, for purposes of employment, the designated school official may not indicate a report date more than 30 days prior to the start of classes.

* * * * *

(v) *Period of preparation for departure or to otherwise maintain lawful status in the United States.* An F-1 student who has completed a course of study and any authorized practical training will be allowed an additional 30-day period from the program end date or the 4 year maximum period of admission, or the end date of the approved employment authorization for post-completion OPT or STEM OPT, as applicable, to prepare for departure from the United States, or to otherwise seek to maintain lawful status, including timely filing an extension of stay application in accordance with paragraph (f)(7) of this section and § 214.1 or timely filing a change of status application in accordance with 8 CFR 248.1(a). The 30-day period will be reflected on the F-1 student's Arrival/Departure Record, Form I-94, or successor form. However, if the F-1 student ends his or her study or training prior to expiration of his or her period of admission, the F-1 student, and any eligible dependents, must, within 30 days from the end date of the study or training, depart the United States or otherwise seek to maintain lawful status. An F-1 student authorized by the designated school official to withdraw from classes will be allowed a 15-day period from the date of the withdrawal to depart the United States. An F-1 student who fails to maintain a full course of study or otherwise fails to maintain status is not eligible for any additional period of time for departure and must leave the country immediately.

* * * * *

(vii) *Extension of status and grant of employment authorization.* (A) The status, and any employment authorization granted under 8 CFR 274a.12(c)(3)(i)(B) or (C), of an F-1 student who is the beneficiary of an H-

1B petition subject to section 214(g)(1)(A) of the Act (8 U.S.C. 1184(g)(1)(A)) requesting a change of status will be automatically extended until April 1 of the fiscal year for which such H-1B status is being requested or until the validity start date of the approved petition, whichever is earlier, where such petition:

(1) Has been timely filed;

(2) Requests an H-1B employment start date in the fiscal year for which such H-1B status is being requested consistent with paragraph (h)(2)(i)(I) of this section; and

(3) Is nonfrivolous.

(B) The automatic extension of an F-1 student's status and employment authorization under paragraph (f)(5)(vii)(A) of this section shall automatically terminate upon the rejection, denial, revocation, or withdrawal of the H-1B petition filed on such F-1 student's behalf, or upon the denial or withdrawal of the request for change of nonimmigrant status, even if the H-1B petition filed on the F-1 student's behalf is approved for consular processing.

(C) In order to obtain the automatic extension of stay and employment authorization under paragraph (f)(5)(vii)(A) of this section, the F-1 student, consistent with 8 CFR part 248, must not have violated the terms or conditions of his or her nonimmigrant status.

(D) An automatic extension of an F-1 student's status under paragraph (f)(5)(vii)(A) of this section also applies to the status of any F-2 dependent aliens.

(viii) *Automatic extension of the authorized period of stay and employment authorization while extension of stay and employment authorization applications are pending.* An F-1 student whose status as indicated on the Arrival/Departure Record, Form I-94, or successor form has expired will be considered to be in a period of authorized stay if he or she has timely filed an extension of stay application pursuant to paragraph (f)(7) of this section until USCIS issues a decision on the extension of stay application. Subject to paragraphs (f)(9)(i) and (ii) and (f)(10)(i) of this section and 8 CFR 274a.12(b)(6)(i) and (iii) and (c)(3)(iii), an F-1 student's current on-campus, curricular practical training (CPT), and severe economic hardship authorized employment is automatically extended during the pendency of the extension of stay application, but such automatic extension may not exceed 240 days beginning from the end date of his or her period of admission as indicated on

the alien's Arrival/Departure Record, Form I-94, or successor form. However, severe economic hardship employment authorization resulting from emergent circumstances under paragraph (f)(5)(vi) of this section is automatically extended for up to 240 days or until the end date stated in the **Federal Register** notification announcing the suspension of certain requirements, whichever is earlier. If an F-1 student files an extension of stay application during the 30-day period provided in paragraph (f)(5)(v) of this section, he or she does not receive an automatic extension of authorized employment, including on-campus, CPT, and severe economic hardship, and must wait for approval of the extension of stay application (and employment authorization application, if required) before engaging in CPT or employment. For purposes of employment eligibility verification (Form I-9) under 8 CFR 274a.2(b)(1)(v), for CPT under paragraph (f)(10)(i) of this section, on-campus employment under paragraph (f)(9)(i) of this section, and severe economic hardship employment authorization resulting from emergent circumstances under paragraph (f)(5)(vi) of this section, the alien's authorized employment period, which ends 30 days before their Form I-94 or successor form admit until date, or Employment Authorization Document, Form I-766 or successor form, based on severe economic hardship, when combined with a notice issued by USCIS indicating receipt of an extension of stay application, is considered unexpired for up to 240 days or until USCIS issues a decision on the extension of stay application, or for CPT, until the CPT end date authorized by the designated school official on the Form I-20 or successor form, whichever is earlier, or for severe economic hardship employment based on emergent circumstances under paragraph (f)(5)(vi) of this section, the end date stated in the **Federal Register** notification announcing suspension of certain requirements, whichever is less.

* * * * *

(7) *Extension of stay*—(i) *Eligibility*. USCIS may grant an extension of stay to an F-1 student who has maintained his or her F-1 status, but who is unable to complete his or her program by the end of his or her authorized period of admission. Such student may be eligible for an extension if the designated school official issues a new Form I-20 or successor form certifying that the student is eligible under this paragraph (f)(7)(i). An F-1 student may be granted an extension if it is established that the student:

(A) Has continually maintained lawful status;

(B) Is currently pursuing a full course of study; and

(C) Has one of the following:

(1) A currently issued Form I-20, or successor form, indicating additional time is left to complete his or her program of study; or

(2) Documentation demonstrating the request for an extension is based on one of the following reasons:

(i) A compelling academic reason, such as a change of major or research topic or unexpected research problems. Unexpected research problems are those caused by an unexpected change in faculty advisor, need to refine an investigatory topic based on initial research, research funding delays, and similar issues. Delays including, but not limited to, those caused by academic probation or suspension or a student's repeated inability or unwillingness to complete his or her course of study are not acceptable reasons for an extension;

(ii) A documented illness or medical condition that is a compelling medical reason, such as a serious injury, that is supported by medical documentation from a licensed medical doctor, a licensed doctor of osteopathy, a licensed psychologist, or a licensed clinical psychologist; or

(iii) Circumstances beyond the student's control, including a natural disaster, national health crisis, or the closure of an institution.

(ii) *SEVIS update*. The Form I-20 or successor form must be endorsed with the designated school official recommendation and new program end date for submission to USCIS.

(iii) *USCIS application*—(A) *Form*. An F-1 student must file an extension of stay application using the form and in the manner designated by USCIS, including submitting the updated, properly endorsed Form I-20 or successor form; submitting evidence of sufficient funds to cover expenses; appearing for any biometrics collection required by 8 CFR 103.16; and remitting the appropriate fee. The F-1 student must be maintaining his or her status and must never have engaged in any unauthorized employment.

(B) *Timely filing*. An extension of stay application is considered timely filed if the receipt date, pursuant to 8 CFR 103.2(a)(7), is on or before the date the authorized period of stay expires, which includes the 30-day period provided in paragraph (f)(5)(v) of this section. USCIS must receive the extension application on or before the expiration of the authorized period of stay, including the 30-day period provided in paragraph (f)(5)(v) of this section that is allowed

after the completion of studies or any authorized practical training. If the extension of stay application is received during the 30-day period provided in paragraph (f)(5)(v) of this section, the F-1 student is authorized to continue a full course of study but may not continue or begin engaging in practical training or other employment.

Notwithstanding § 214.1(c)(4), USCIS must receive the extension of stay application on or before the expiration of the previously authorized period of stay.

(iv) *Dependents*. An F-2 spouse and unmarried children under the age of 21 seeking to accompany the principal F-1 student during the additional period of admission must either be included on the principal F-1 student's application for an extension of stay or file their own extension of stay application on the form designated by USCIS. The application must be submitted using the form and in the manner designated by USCIS, including submitting the updated, properly endorsed Form I-20, or successor form; submitting evidence of sufficient funds to cover expenses; appearing for any biometrics collection required by 8 CFR 103.16; and remitting the appropriate fee. The F-2 dependents must demonstrate the qualifying relationship with the principal F-1 student, be maintaining his or her status, and must not have engaged in any unauthorized employment.

(v) *Practical training*. If seeking an extension of stay to engage in any type of practical training, the alien in F-1 status also must have a valid, properly endorsed Form I-20 and be eligible to receive the specific type of practical training requested.

(vi) *Period of stay*. If an application for extension is granted, the F-1 student and the student's F-2 spouse and children, if applicable, are to be given an extension of stay for the period of time necessary to complete the program as listed on the F-1 student's Form I-20, or successor form, or requested practical training, not to exceed 4 years. The 30-day period before the indicated report date or program start date and 30 additional days following the program end date or the 4-year maximum period of admission do not count toward the maximum length of an extension. Extensions of stay for F-2 dependents may not exceed the authorized admission period of the principal F-1 student.

(vii) *Denials*. If an F-1 student's extension of stay application is denied and the F-1 student's authorized admission period has expired, the F-1 student and his or her dependents must immediately depart the United States.

(viii) *Late requests of extension of current program end date.* If the designated school official enters an extension of the program end date in SEVIS after the end date noted on the most recent Form I-20 or successor form has passed, the F-1 student must file a request for reinstatement of F-1 status in the manner and on the form designated by USCIS, with the required fee, including any biometrics required by 8 CFR 103.16. F-2 dependents seeking to accompany the F-1 principal student must file applications for an extension of stay or reinstatement, as applicable.

(8) *School transfer and change of educational objectives—(i) Eligibility.* An F-1 student may change educational objectives or transfer to SEVP-certified schools if he or she is maintaining status as described in paragraphs (f)(5)(ii)(A) through (D) of this section. “Educational objectives” refers to an F-1 student’s educational level or major. An F-1 student changing educational objectives or transferring to an SEVP-certified school also must meet the following requirements:

(A) The student is currently maintaining status;

(B) To be eligible to transfer, the student must:

(1) Have been pursuing a full course of study, unless a reduced course load was properly authorized under this paragraph (f);

(2) Have completed a degree program; or

(3) Be currently completing or have completed post-completion or STEM optional practical training (OPT);

(C) The student is not currently in a graduate level program of study, unless an exception has been authorized by SEVP for extenuating circumstances under paragraph (f)(5)(ii)(A) of this section;

(D) The student has completed his or her first academic year of a program of study at the school that initially issued his or her Form I-20 or successor form, unless an exception has been authorized by SEVP for extenuating circumstances under paragraph (f)(5)(ii)(A) of this section;

(E) The student has not been placed on academic probation or school suspension;

(F) The student does not have a pattern of behavior demonstrating a repeated inability or unwillingness to complete his or her course of study;

(G) The student will begin classes at the transfer school or program within 5 months of transferring out of the current school or within 5 months of the program completion date on his or her

current Form I-20, or successor form, whichever is earlier; and

(H) If the F-1 student is authorized to engage in post-completion or STEM OPT, he or she must be able to begin or resume classes within 5 months of transferring out of the school that recommended the post-completion or STEM OPT or the date the post-completion or STEM OPT authorization ends, whichever is earlier.

(ii) *Transfer procedure.* An F-1 student must first notify the student’s current school (“transfer-out school”) of the intent to transfer and indicate the school to which the student intends to transfer (the “transfer-in school”). Upon notification by the student, the transfer-out school will update the student’s record in SEVIS as a “transfer-out” and indicate the transfer-in school and a release date. The release date will be the current semester or session completion date, or the date of expected transfer if earlier than the completion date of the established academic cycle. The transfer-out school will retain control over the student’s record in SEVIS until the student completes the current term or reaches the release date, whichever is earlier. At the request of the student, the designated school official of the current school may cancel the transfer request at any time prior to the release date. As of the release date specified by the current designated school official, the transfer-in school will be granted full access to the student’s SEVIS record and then becomes responsible for that student. The student should then obtain a valid Form I-20 or successor form from the transfer-in school.

(iii) *Change of education level procedures.* A change of education level can be accomplished according to the transfer procedures outlined in paragraph (f)(8)(ii) of this section.

(iv) *Extension of stay.* If the new program to which the student transferred will not be completed within the authorized period of stay established in paragraph (f)(5)(i) of this section, the F-1 student must apply to USCIS for an extension of stay in the manner and using the form designated by USCIS, with the required fee and in accordance with form instructions, including any biometrics required by 8 CFR 103.16, together with a valid, properly endorsed Form I-20 or successor form indicating the new program end date. Upon approval of the extension of stay application, USCIS will transmit the approval to SEVIS. If the application is denied, the student is out of status, and the student’s record must be terminated in SEVIS.

* * * * *

(10) * * *

(ii) * * *

(D) *Extension of stay for post-completion optional practical training (OPT).* Unless described in § 214.1(m)(1)(i), an F-1 student recommended for post-completion OPT must apply for an employment authorization and either apply for an extension of stay with USCIS or seek admission through CBP after travel abroad and may not engage in post-completion OPT unless such employment authorization is granted. If the application for post-completion OPT is granted along with an extension of stay or admission through CBP after travel abroad, the student extension will include the additional 30-day period provided in paragraph (f)(5)(v) of this section for departure following the expiration of the time approved to complete post-completion OPT.

* * * * *

(20) *Severability.* The provisions in paragraph (f) of this section are intended to be independent severable parts. In the event that any provision in this paragraph (f) is not implemented, DHS intends that the remaining provisions be implemented as an independent rule.

* * * * *

(i) *Representatives of information media—(1) Foreign media organization.* A foreign information media organization is an organization engaged in the regular gathering, production, or dissemination via print, radio, television, internet distribution, or other media, of journalistic information and has a home office in a foreign country.

(2) *Evidence.* Aliens applying for I nonimmigrant status must:

(i) Demonstrate that the foreign media organization that the alien represents has a home office in a foreign country, and that the home office will continue to operate in the foreign country while the alien is in the United States; and

(ii) Provide a letter from the employing foreign media organization or, if self-employed or freelancing, an attestation from the alien, that verifies the employment, establishes that the alien is a representative of that media organization, and describes the remuneration and work to be performed.

(3) *Admission—(i) Length of admission.* Generally, aliens seeking admission in I nonimmigrant status may be admitted for a period of time necessary to complete the planned activities or assignments consistent with the I classification, not to exceed 240 days unless paragraph (i)(3)(ii) of this section applies.

(ii) *Foreign nationals travelling on a passport issued by the People’s Republic*

of China (with the exception of Hong Kong Special Administrative Region passport holders and Macau Special Administrative Region passport holders). An alien who presents a passport from the People's Republic of China (with the exception of Hong Kong Special Administrative Region passport holders and Macau Special Administrative Region passport holders), may be admitted until the activities or assignments consistent with the I classification are completed, not to exceed 90 days.

(4) *Change in activity.* Aliens admitted pursuant to section 101(a)(15)(I) of the Act may not change the information medium or employer until they obtain permission from USCIS. Aliens must request permission by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, as appropriate.

(5) *Extensions of stay—(i) Eligibility; effect of timely filing.* (A) Aliens in I nonimmigrant status may be eligible for extensions of stay, each of up to 240 days or until the activities or assignments consistent with the I classification are completed, whichever is shorter (except for aliens who present a passport from the People's Republic of China, with the exception of Hong Kong Special Administrative Region passport holders and Macau Special Administrative Region passport holders, who may be eligible for extensions of stay, each up to 90 days or until the activities or assignments consistent with the I classification are completed, whichever is shorter).

(B) To request an extension of stay, aliens in I nonimmigrant status must file an application to extend their stay by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, and provide all the evidence required in paragraph (i)(2) of this section, as appropriate. An alien whose I nonimmigrant status, as indicated on the alien's Arrival/Departure Record, Form I-94, has expired but who has timely filed an extension of stay application is authorized to continue engaging in activities consistent with the I classification on the day after the Form I-94 expired, for a period of up to 240 days, as provided in 8 CFR 274a.12(b)(20). Such authorization shall be subject to any conditions and limitations of the initial authorization.

(C) If an extension of stay application remains pending at the end of this 240-day period, the I nonimmigrant alien,

whose status has expired, may remain in the United States so long as the extension of stay application is pending, he or she has timely filed a subsequent extension of stay request to remain beyond the period requested in the preceding request, and he or she does not otherwise violate the terms of his or her authorized period of stay. The alien, however, must cease working until his or her initial extension of stay application is approved. USCIS will deny the extension of stay application if the alien did not cease working after the 240-day period and before the extension of stay request was approved.

(ii) *Dependents accompanying or following to join the principal I representative of foreign information media.* A spouse or unmarried children under the age of 21 of an alien in I nonimmigrant status may be eligible for extensions of stay. The dependent applicant must either be included on the primary applicant's request for an extension of stay or file his or her own extension of stay application on the form designated by USCIS in accordance with paragraph (i)(5)(i) or (iii) of this section. The dependents must demonstrate the qualifying relationship with the principal I representative of foreign information media, be maintaining status, and must not have engaged in any unauthorized employment. Extensions of stay for I dependents may not exceed the authorized admission period of the principal I representative of foreign information media.

(iii) *Aliens with a passport from People's Republic of China.* (A) In the case of an alien who presents a passport issued by the People's Republic of China (other than a Hong Kong Special Administrative Region passport or a Macau Special Administrative Region passport), an extension of stay may be authorized until the activities or assignments consistent with the I classification are completed, not to exceed the maximum period of stay of 90 days. To request an extension of stay, these aliens must file an application to extend their stay by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, as appropriate. Notwithstanding paragraph (i)(5)(i) of this section and 8 CFR 274a.12(b)(20), an alien in I nonimmigrant status who is described in paragraph (i)(3)(ii) of this section whose status, as indicated on the alien's Arrival/Departure Record, Form I-94, has expired but who has timely filed an extension of stay application is authorized to continue engaging in

activities consistent with the I classification and continue employment with the same employer on the day after the status indicated on the Form I-94 expired, for a period of up to 90 days. Such authorization shall be subject to any conditions and limitations of the initial authorization.

(B) If an extension of stay application remains pending at the end of this 90-day period, the I nonimmigrant alien, whose status has expired, may remain in the United States so long as the extension of stay application is pending, he or she has timely filed a subsequent extension of stay request to remain beyond the period requested in the preceding request, and he or she does not otherwise violate the terms of his or her authorized period of stay. The alien, however, must cease working until his or her initial extension of stay application is approved. USCIS may deny the extension of stay application if the alien did not cease working after the 90-day period and before the extension of stay request was approved.

(iv) *Documentation.* The facially expired Arrival/Departure Record, Form I-94, or successor form of an alien described in paragraphs (i)(5)(i) through (iii) of this section is considered unexpired when combined with a USCIS receipt notice indicating receipt of a timely filed extension of stay application. An application is considered timely filed if the receipt notice for the application is on or before the date the admission period expires. Such extension may not exceed the earlier of 240 days (90 days for aliens who present a passport issued by the People's Republic of China (with the exception of Hong Kong Special Administrative Region passport holders and Macau Special Administrative Region passport holders)) as provided in 8 CFR 274a.12(b)(20), or the date of denial of the alien's application for an extension of stay.

(6) *Denials.* If an alien's extension of stay application is denied and the alien's authorized admission period has expired, the alien and his or her dependents must immediately depart the United States.

(7) *Change of status.* An alien seeking to change from a different nonimmigrant status to, if eligible, an I nonimmigrant status as described in this section, may be granted a period of stay until the activities or assignments consistent with the I classification are completed, not to exceed the maximum period of stay stated in paragraph (i)(3) of this section. To request a change from a different nonimmigrant status to an I nonimmigrant status as described in this section, an alien must file an

application to change his or her status by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, as appropriate.

(8) *Severability.* The provisions in this paragraph (i) are intended to be independent severable parts. In the event that any provision in this paragraph (i) is not implemented, DHS intends that the remaining provisions be implemented as an independent rule.

(j) *Exchange visitors*—(1) * * *

(ii) *Admission period and period of stay*—(A) *J-1 exchange visitor.* A J-1 exchange visitor may be admitted for the duration of the exchange visitor program, as stated by the program end date noted on Form DS-2019 or successor form, not to exceed a period of 4 years.

(B) *J-2 accompanying dependents.* The authorized period of initial admission for a J-2 spouse and unmarried children under the age of 21 may not exceed the period of authorized admission of the principal J-1 exchange visitor.

(C) *Period of stay.* A J-1 exchange visitor and J-2 spouse and unmarried children under the age of 21 may be admitted for a period up to 30 days before the report date or start of the approved program listed on Form DS-2019 or successor form. The dependents accompanying a J-1 exchange visitor are eligible for admission in J-2 status if the exchange visitor is admitted in J-1 status. A J-1 exchange visitor and J-2 accompanying dependents may remain in the United States for a period of 30 days from the program end date or the 4-year maximum period of admission, whichever is earlier, for the purposes of departure or to otherwise seek to maintain lawful status. The 30-day period will be reflected on the alien's Arrival/Departure Record, Form I-94 or successor form. If the program end date is shortened, the J-1 exchange visitor and any J-2 accompanying dependents must leave the United States within 30 days from the new program end date or otherwise seek to maintain lawful status in that 30-day period. The 30-day period before the indicated report date or program start date and 30 additional days following the program end date or the 4-year maximum period of admission do not count towards the maximum period of admission.

* * * * *

(iv) *Extension of stay.* A program end date as indicated on the Form DS-2019 or successor form, standing alone, does not allow aliens with J status to remain in the United States in lawful status. An

alien in J-1 status seeking to extend his or her stay beyond the currently authorized period of admission must apply for an extension of stay, including if a sponsor issues a Form DS-2019 or successor form extending an alien's program end date for any reason, including for a request for reinstatement, academic training, change of program, or program extension or the alien requires additional time to complete his or her program.

(A) *Form.* To request an extension of stay, an alien in J status must file an extension of stay application on the form and in the manner designated by USCIS, including submitting the valid Form DS-2019 or successor form, appearing for any biometrics collection required by 8 CFR 103.16, and remitting the appropriate fee.

(B) *Timely filing.* An extension of stay application is considered timely filed if the receipt date, pursuant to 8 CFR 103.2(a)(7), is on or before the date the authorized admission period expires. USCIS must receive the extension of stay application on or before the expiration of the authorized period of admission, which includes the 30-day period of preparation for departure. If the extension application is received during the 30-day period provided in paragraph (j)(1)(ii)(C) of this section following the completion of the exchange visitor program, the alien in J-1 status may continue to participate in his or her exchange visitor program.

(C) *Length of extensions.* Subject to the restrictions in the regulations at 22 CFR part 62, extensions of stay may be granted for a period up to the length of the program, as listed on the Form DS-2019, or successor form, not to exceed 4-years, unless the J-1 exchange visitor is otherwise restricted by regulations at 22 CFR part 62. The 30-day period before the indicated report date or program start date and 30 additional days following the program end date or the maximum period of admission do not count towards the maximum length of an extension.

(D) *Late requests for extension of current program end date.* If the responsible officer must update the program status or program end date for an exchange visitor after the program end date listed on the most recent Form DS-2019 (or its successor), the sponsor is required to submit the necessary correction or reinstatement in the manner and timeframe required by the Department of State. Once the record is corrected or reinstated, the J-1 exchange visitor must submit a request for an extension of stay to USCIS within 30 days of the status update.

(E) *Dependents.* A J-2 spouse and unmarried children under the age of 21 seeking to accompany the J-1 exchange visitor during the additional period of admission must either be included on the primary applicant's request for extension or file their own extension of stay applications on the form designated by USCIS, including any biometrics required by 8 CFR 103.16. USCIS must receive the extension of stay applications on or before the expiration of the previously authorized period of admission, including the 30-day period following the completion of the program provided in paragraph (j)(1)(ii)(C) of this section, as indicated on the J-2 dependent's Form I-94 or successor form. J-2 dependents must demonstrate the qualifying relationship with the principal J-1 exchange visitor, be maintaining status, and not have engaged in any unauthorized employment. Extensions of stay for J-2 dependents may not exceed the authorized admission period of the principal J-1 exchange visitor.

(F) *Denials.* If an alien's extension of stay application is denied, and the alien's authorized admission period has expired, he or she and his or her dependents must immediately depart the United States.

(v) *Employment of J-2 dependents.* The accompanying spouse or unmarried children under the age of 21 of a J-1 exchange visitor may only engage in employment if authorized by USCIS. The employment authorization is valid only if the J-1 is maintaining status, and the J-2 employment authorization dates may not exceed the J-1 principal alien's authorized stay as indicated on Form I-94. An application for employment authorization must be filed in the manner prescribed by USCIS, together with the required fee and any additional evidence required in the filing instructions. Income from the J-2 dependent's employment may be used to support the family's customary recreational and cultural activities and related travel, among other things. Employment will not be authorized if this income is needed to support the J-1 principal exchange visitor. If the requested period of employment authorization exceeds the current admission period, the J-2 dependent must file an extension of stay application or be included in the J-1 principal's extension of stay application, in addition to the application for employment authorization, in the manner designated by USCIS, with the required fee and in accordance with form instructions.

(vi) *Automatic extension of J-1 authorized period of stay and grant of*

employment authorization for aliens who are the beneficiaries of a cap-subject H-1B petition. USCIS may, by notification in the **Federal Register**, at any time it determines that the H-1B numerical limitation as described in section 214(g)(1)(A) of the Act will likely be reached prior to the end of a current fiscal year, extend for such a period of time as deemed necessary to complete the adjudication of the H-1B petition, the status of any J-1 alien on behalf of whom an employer has timely filed an H-1B petition requesting change of status. The alien, in accordance with 8 CFR part 248, must not have violated the terms of his or her nonimmigrant stay and not be subject to the 2-year foreign residence requirement at section 212(e) of the Act. Any J-1 exchange visitor whose status has been extended shall be considered to be maintaining lawful nonimmigrant status for all purposes under the Act, provided that the alien does not violate the terms and conditions of his or her J nonimmigrant stay. An extension made under this paragraph (j)(1)(vi) also applies to the J-2 dependent alien.

(vii) *Pending extension of stay applications and employment authorization.* (A) An alien whose J-1 status, as indicated on the alien's Arrival/Departure Record, Form I-94, has expired but who has timely filed an extension of stay application is authorized to continue engaging in authorized employment and activities consistent with pursuing the terms and conditions of the alien's program objectives and including authorized training, beginning on the day after the admission period expires, for a period of up to 240 days as provided in 8 CFR 274a.12(b)(20). Notwithstanding 8 CFR 274a.12(b)(20), an alien whose J-1 status, as indicated on the alien's Arrival/Departure Record, Form I-94, has expired but who has timely filed an extension of stay application on or before March 18, 2027, is authorized to continue engaging in authorized employment and activities consistent with pursuing the terms and conditions of the alien's program objectives, including authorized training and activities pursuant to a new or transferred program, while the extension of stay application is pending with USCIS, not to exceed the program end date on the Form DS-2019 (or successor form) filed with the pending application. Such authorization may be subject to any conditions and limitations of the initial authorization. If the extension of stay application remains pending beyond the Form DS-2019 (or successor form) end date filed

with the application, the alien, whose status has expired, may remain in the United States and continue engaging in activities consistent with pursuing the terms and conditions of the alien's program objectives and including authorized training, but not including employment, so long as the extension of stay application is pending and he or she has filed a subsequent extension of stay request with a Form DS-2019 (or successor form) indicating an end date beyond the Form DS-2019 (or successor form) end date requested in the preceding extension of stay request. DHS reserves the discretion to extend the period permitting an alien in J-1 status to continue engaging in activities consistent with pursuing the terms and conditions of the alien's program objectives and including authorized training, up to the end date of the Form DS-2019 (or successor form) so long as the extension of stay application is pending, beyond March 18, 2027, in 6-month increments by publication of a notification in the **Federal Register**. Consistent with paragraph (j)(1)(iv)(E) of this section, the denial of an extension of stay application requires the alien to cease activities and depart the United States immediately.

(B) The facially expired Arrival/Departure Record, Form I-94, or successor form of an alien described in paragraph (j)(1)(vii)(A) of this section is considered unexpired when combined with a USCIS receipt notice indicating receipt of a timely filed extension of stay application and a valid Form DS-2019, or successor form, indicating the duration of the program. An application is considered timely filed if the receipt notice for the application is on or before the date the admission period expires. Such extension may not exceed the earlier of 240 days, as provided in 8 CFR 274a.12(b)(20), or for those extension of stay applications filed on or before March 18, 2027, the end date of the Form DS-2019 (or successor form) filed with the application, or the date of denial of the alien's application for an extension of stay.

(C) An alien in J-2 status whose admission period has expired (as indicated on his or her Form I-94) may not engage in employment until USCIS approves his or her application for employment authorization.

(viii) *Use of SEVIS.* The use of the Student and Exchange Visitor Information System (SEVIS) is mandatory for designated program sponsors. All designated program sponsors must issue a SEVIS Form DS-2019 to any exchange visitor requiring a reportable action (e.g., program extensions and requests for employment

authorization), or for any aliens who must obtain a new nonimmigrant J visa. As of 2003, the records of all current or continuing exchange visitors must be entered in SEVIS.

(ix) *Current name and address.* A J-1 exchange visitor must inform DHS and the responsible officer of the exchange visitor program of any legal changes to his or her name or of any change of address within 10 calendar days of the change, in a manner prescribed by the program sponsor. A J-1 exchange visitor enrolled in a SEVIS program can satisfy the reporting requirement in 8 CFR 265.1 by providing a notice of a change of address within 10 calendar days to the responsible officer, who in turn shall enter the information in SEVIS within 10 business days of notification by the exchange visitor. In cases where an exchange visitor provides the sponsor a mailing address that is different than his or her actual physical address, he or she is responsible for providing the sponsor his or her actual physical location of residence. The exchange visitor program sponsor is responsible for maintaining a record of, and must provide upon request from DHS, the actual physical location where the exchange visitor resides.

(6) *Severability.* The provisions in this paragraph (j) are intended to be independent severable parts. In the event that any provision in this paragraph (j) is not implemented, DHS intends that the remaining provisions be implemented as an independent rule.

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

■ 4. The authority citation for part 248 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1258; 8 CFR part 2.

■ 5. Section 248.1 is amended by:

■ a. Redesignating paragraph (e) as paragraph (g); and

■ b. Adding a new paragraph (e) and paragraph (f).

The additions read as follows:

§ 248.1 Eligibility.

(e) *Admission of aliens under section 101(a)(15)(F) and (J) previously granted duration of status.* Aliens who were granted a change to F or J status prior to September 15, 2026, and who departed the United States and are applying for admission on or after September 15, 2026, will be inspected and may be admitted into the United States up to the program end date as noted on the Form I-20 or Form DS-

2019 not to exceed a period of 4 years. To be admitted into the United States, all aliens must be eligible for the requested status and possess the proper documentation, including a valid passport, valid nonimmigrant visa, if required, and valid Form I-20 or Form DS-2019 or successor form.

(f) *Abandonment of change of status application.* If an alien timely files an application to change to another nonimmigrant status but departs the United States while the application is pending, USCIS will consider the change of status application abandoned.

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PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 6. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1105a, 1324a; 48 U.S.C. 1806; 28 U.S.C. 2461; 8 CFR part 2.

■ 7. Section 274a.12 is amended by:

■ a. In paragraph (b)(6)(v):

■ i. Removing the words “duration of”; and

■ ii. Removing the citation “8 CFR 214.2(f)(5)(vi)” and adding, in its place, the citation “8 CFR 214.2(f)(5)(vii)”; and

■ b. Revising paragraphs (b)(10) and (c)(3)(iii).

The revisions read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(b) * * *

(10) An alien who is a foreign information media representative in I status under 8 CFR 214.2(i) may be employed pursuant to the requirements of 8 CFR 214.2(i). Employment authorization does not extend to the dependents of a foreign information media representative.

* * * * *

(c) * * *

(3) * * *

(iii) Is seeking employment because of severe economic hardship pursuant to 8 CFR 214.2(f)(9)(ii)(C) and has an Employment Authorization Document, Form I-766 or successor form, based on severe economic hardship pursuant to 8 CFR 214.2(f)(9)(ii)(C), and whose timely filed application for employment authorization and application for

extension of stay, both filed on applicable forms and in the manner designated by USCIS, with the required fees, as described in the form's instructions, are pending, is authorized to engage in employment beginning on the expiration date of the Employment Authorization Document issued under paragraph (c)(3)(i)(B) of this section and ending on the date of USCIS' written decision on the current Application for Employment Authorization, Form I-765, or successor form, but not to exceed 240 days. For this same period, such Employment Authorization Document, Form I-766 or successor form, is automatically extended and is considered unexpired when combined with a Certificate of Eligibility for Nonimmigrant (F-1/M-1) Students, Form I-20 or successor form, endorsed by the Designated School Official recommending such an extension.

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Markwayne Mullin,

Secretary, U.S. Department of Homeland Security.

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