October 22, 2020

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


Dear Ms. Hageman:

The National Postdoctoral Association (NPA) is a nonprofit membership organization representing more than 18,000 postdoctoral scholar members and 215 research institution members in academia and industry across the United States. Founded in 2003, the mission of the NPA is to improve the postdoctoral experience by supporting a culture of enhanced professional growth. At the individual, organizational, and national levels, we facilitate connections, raise awareness, and collaborate with stakeholders in the postdoctoral community.


We urge that the proposed rule be withdrawn in its entirety, and that admission for the duration of status remain in effect for the below reasons.
1. **International postdoctoral scholars contribute immensely to our campuses, communities, and country**
   - Postdoctoral scholars are highly-educated, highly-skilled members of local and national communities that drive innovation across the nation.
   - Tens of thousands of international postdoctoral scholars across our 215 member institutions are leaders in early-stage research across dozens of disciplines. At any given time, there are more than 80,000 postdoctoral scholars leading innovative, early-stage research across the U.S.
   - The work of postdoctoral scholars creates massive innovation in the U.S., placing our country at a competitive advantage and driving jobs and economic growth.

2. **SEVIS is already sufficient to accomplish DHS's goals, so the proposed rule is duplicative, wasteful, and unnecessary.**
   - SEVIS gives DHS immediate access to detailed information related to almost every event that could impact a postdoctoral scholar’s compliance with the regulations.
   - In the course of an extension of stay application, postdoctoral scholars would have to submit information that they would have to get from their schools or programs—information or documentation that the schools and programs already provide directly through SEVIS or are required to retain by regulation. Making a postdoctoral scholar submit to USCIS this same information that DHS already has access to is administratively duplicative and wasteful.
   - DHS can effectively enforce the current immigration laws by wisely using its resources to engage in data-driven initiatives that focus on risk factors, rather than subjecting entire nonimmigrant categories to an expensive, cumbersome, and time-consuming extension of stay process that largely duplicates the efforts that schools and exchange visitor programs will continue to make to comply with heavy SEVIS reporting obligations.

3. **The proposed date-specific admission does not conform to the postdoctoral scholar course of work, harms their ability to rely on duration of status, and creates significant bureaucratic burdens on postdoctoral scholars.**
   - The rule does not provide an admission period beyond 2- or 4-years and jeopardizes the ability of students to complete programs in the U.S. and transition smoothly from student status to that of a postdoctoral scholar.
   - The rule fails to recognize today’s reality of the time needed for the work of postdoctoral scholars, many of whom require 5 years to complete their postdoctoral work. Currently, the J-1 Research Scholar visa allows up to 5 years of admission for this research. Shortening the time periods of admission (as proposed) will negatively affect the ability for postdoctoral scholars to properly complete their research experience in the U.S.
Postdoctoral scholars on J-1 Research Scholar Program visas undertake their research in the U.S. based on the issuance of Form DS-2019 which is generally administered by their research entity. Due to the nature of scientific research projects, issuance of the DS-2019 is often tied to project/funding timelines, which in many instances, creates the need for short turnaround times for issuance of a DS-2019 to a postdoc to authorize ongoing J-1 status. A requirement that a DS-2019 has to be issued, and filed with Form I-539 to USCIS for adjudication of "extension of stay", will create a logistical and bureaucratic burden for universities and research institutions, as well as postdoctoral scholars themselves. When viewed in conjunction with I-539 processing times, and the inability of USCIS to timely adjudicate such cases, this unnecessary burden could lead to a loss of the scholars’ authorization to continue their critical research in the U.S. If such applications are unable to be timely adjudicated (and an extension of stay issued), then postdoctoral scholars would be forced to either wait inside the US without the ability to work; or, "depart" the United States and obtain a new visa from an embassy or consulate before reentering to continue their research. This will negatively affect the postdoctoral scholar's ability to continue their research in a seamless manner and create personnel issues within the research projects.

By placing such barriers on highly qualified individuals, this will discourage international students to choose U.S. institutions, and the pipeline of international postdoctoral scholars would be significantly diminished.

4. The proposed rule ignores DHS/USCIS’s inability to timely process extension applications to ensure institutions and postdoctoral scholars are able to efficiently move forward.

- The rule is logistically unworkable because of the uncertainty and length of processing times for extension of status applications.
- We anticipate that the extensions and authorizations required by the rule will create additional backlogs within USCIS, which will in turn result in extended adjudication timelines, resulting in uncertainty, disruption, and potential harm to the postdoctoral scholars and their research institutions.
- Increasing the number of applications that will be required to be submitted to USCIS at a time when the agency is handling a significant backlog and funding crisis would have an immediate detrimental impact not only to international postdoctoral scholars, but will serve to create additional burdens on the entire legal immigration system as a whole and could drive postdoctoral scholars away from choosing the U.S.

5. This rule makes US postdoctoral scholar opportunities less competitive internationally.

- The uncertainty and administrative burdens this rule will place on individuals (and the universities and research institutions where the postdocs engage in research) will discourage international postdoctoral scholars from applying to higher education and

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research institutions in the U.S., will make it less likely for them to accept offers from institutions in the U.S., and for those who are here, will make it more uncertain for employers to hire them.

- The specialized expertise of international postdoctoral scholars is often intentionally recruited to enhance the research impact and output of U.S. organizations, resulting in beneficial cross-border research collaborations. This rule hampers the ability of U.S. institutions to look globally for skills and expertise that enable innovation in the U.S.

- If international postdoctoral scholars are not able to transfer to other programs easily (if at all), and/or if their extensions of stay are not approved in a timely manner (as outlined above), and must either spend periods of time unable to work, or leave the United States as a result, this will make the U.S. a less attractive option for these highly educated and qualified professionals.

- If U.S. academic and research institutions are unable to provide incoming or prospective postdoctoral scholars with the confidence that they will be able to complete their entire academic program with said institution, and/or place additional burdens on their ability to transfer to other research institutions while they are here, they may decide to study in another country as a consequence. The U.S. will then lose a critical pipeline of advanced knowledge and talent in STEM and other fields to competitor nations.

- The proposed rule fundamentally alters the agreement between postdoctoral scholars and their institutions midway through their research. Other countries see the value of international postdoctoral scholars and have policies to attract and retain them. It is a mistake to create yet another hurdle for these individuals to study, and undertake high level research in the U.S.

On behalf of our more than 18,000 members, thank you for considering these comments and recognizing our high level of concern raised by the proposed rule.

Thomas P. Kimbis, Esq.
Executive Director & Chief Executive Officer

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