

Tips on Writing Comments for the DHS Proposed Rule Eliminating Duration of Status

The Department of Homeland Security's ("DHS") [proposed rule](#) to place fixed time limits on J, F, and I visas is the latest in the Trump administration's relentless attacks on international students. If implemented, the rule will make the United States more inhospitable to international students causing harm to current and future international students, our institutions of higher education, and our communities. But there are things we can do to fight back. One way to do this is to submit public comments arguing why DHS should not adopt the rule.

Before DHS can implement its proposed rule, the agency must comply with the procedures outlined in the Administrative Procedures Act ("APA"), which requires an agency to publish a Notice of Proposed Rulemaking ("NPRM") and then accept public comments on the proposed rule for a period of at least 30 days. In this case, that period is scheduled to end on **October 26, 2020**. After that comment period ends, the agency must then consider all of the relevant material presented and respond in some form to all of the comments received and analyze relevant data and materials when it publishes a final rule. This presents an opportunity for those who oppose the rule, because a massive number of comments presenting a diversity of arguments and data about the harmful effects of the proposed rule will dramatically increase the work DHS must do to implement the rule and may provide a basis for a legal challenge if the rule is eventually adopted. Ideally, this administration will not be able to issue a final effective rule before January 2021 and a new administration would have an opportunity to rescind the proposal.

You can submit a comment on the rule's main [page](#) by clicking on "submit a formal comment." Remember that the current deadline is 11:59pm on October 26, 2020 (however, congressional reps, organizations, and individuals can request extensions of the deadline through the same comment function, [here](#) is an example). As of October 5, 2020, there have been approximately 16,000 comments already submitted (you can see this number in the upper right hand corner of the main rule [page](#) and even read through some of the comments already submitted).

Regulations.gov provides tips on comment writing [here](#). Here are some additional guiding principles to consider when writing your comment:

Understand the proposed rule. It is important to first understand the changes that are actually being proposed in order to present accurate arguments about the negative effects the rule will have. The NPRM can be found [here](#), but you will find that it is very long and very technical. Fortunately, there are resources available that have broken down the proposed rule into a format that is easier to digest, including [this FAQ](#) from the Presidents' Alliance and Penn State Law's Center for Immigrants' Rights Clinic. NAFSA and the Presidents' Alliance also have upcoming virtual events coming up where experts will speak about the rule. The Presidents' Alliance will take place on Oct. 1 at 1pm and you can register [here](#). A recording of NAFSA's event will be available [here](#) around Oct. 15.

Be specific. It is helpful to include details and be specific about how the rule would impact you or others. Details and specificity make a comment more persuasive, but they also contribute to the uniqueness of your comment. Unique comments are more difficult for the agency to lump together with others in their

required response and analysis. Keep in mind, however, that the comment text is accessible by the public, so be sure not to disclose any sensitive information you would otherwise be uncomfortable sharing publicly.

Include data and references where possible. The APA requires the agency to consider all relevant data and materials, so including references (or actual copies of) reports, articles, and statistics when possible is a great way to make your comment more substantive and complicate the agency's required analysis. For instance, if you want to say that international students comprise a significant portion of your university's student body, you can add a link to your university's student population statistics. You can also include links to multimedia/video in your comment, but it is not clear whether they will review all multimedia links so don't rely on it. Comments must also be in English or you must provide an English translation.

Think broadly and creatively about the effects of this rule. Including arguments about the effect of the rule that are unique to your experience will give your comment the greatest impact. So try thinking about the ways the rule will be harmful that might not be obvious. Try asking yourself questions about how this rule would affect certain populations, programs, institutions, communities, etc. And, if you are currently an international student, how would this rule have impacted your decision to study in the United States? Did you rely on the prior rule in making that decision?

More is better. Remember that one of the primary goals of commenting is to put as much information into the record as possible, so there is no need to be concise. Go ahead and fully explain your arguments and be as wordy as you want to be. And this principle also applies to the quantity of comments: encourage your friends, colleagues, and neighbors to submit comments too!

Here are some additional arguments/themes to consider when writing your comment:

Reliance – For current international students, the proposed rule would transition from “duration of stay” to fixed term visas by using the current end date on students' I-20 forms *not to exceed 4 years*. For international students early in a PhD program, this rule could shorten the duration of their visas, requiring them to apply for extensions in order to finish their program. The proposed rule argues that 4 years will provide enough notice for these students, but the rule imposes uncertainty on students who have already made the decision to begin a program and have spent significant time, money, and energy to do so. For these students, there is a strong argument to be made that it is unjust to impose new regulations after they have spent resources in reliance on the previous regulations.

Harm to Universities and Programs – If implemented as proposed, the DHS rule would impose a degree of risk and uncertainty as to whether or not an international student will be able to complete an academic program in the United States. Many prospective international students will likely be unwilling to take this risk and instead choose not to study in the U.S. which will reduce international student enrollment at American colleges and universities. In fact, DHS admits in the NPRM ([here](#)) that this is a likely result of the proposed rule. Sharing the many ways that international students provide vital contributions to the academic community, both as workers and as scholars, is a great way to

demonstrate how this rule will harm universities and programs and reduce the quality of education for all students.

Economic Impact – International students contribute so much more to our communities and institutions than financial contributions, but there is no question that this rule will in fact cause significant economic harm to our universities. These arguments can be powerful in the legal analysis, and they inject data and statistics into the analysis which can be effective. NAFSA has estimated that international students contributed \$41 billion and supported 458,290 jobs to the U.S. economy in the 2018-2019 academic year alone. They also have created an [economic value tool](#) which allows you to run a report on the economic impact of international students for your state or region, which is a great way to add a diversity of statistics into the comments.