DHS Announcement of Proposed Rule Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure to Replace Duration of Status (D/S)

The U.S. Department of Homeland Security (DHS) published a proposed rule on September 25, 2020 that would eliminate “duration of status” (D/S) for F students and their dependents, and J students and scholars and their dependents. D/S would be replaced with a fixed period of time determined before arrival. The proposed rule has a 30-day period for comments from the public after which all comments are considered before a final rule is crafted.

Summary of Current Regulations Related to Duration of Status (D/S)

Under current regulations, F-1 and J-1 students and scholars, as well as their visa dependents, are admitted to the U.S. for duration of status (D/S), which means they can stay here for the duration of their I-20/DS-2019, plus any applicable grace periods, as long as they are following all compliance requirements and maintaining their legal status.

Any extensions of stay (extensions of I-20/DS-2019) are processed by the university sponsoring their visa, ensuring compliance with the F-1 or J-1 regulations. We understand that students may need more time to complete their programs for various reasons - research delays and changes, academic program and degree level changes, medical reasons, participating in F-1 Optional Practical Training or J-1 Academic Training, to name a few. J scholars (researchers and professors) may have their DS-2019 extended if they need additional time to complete the goals of their approved Exchange Visitor program.

What would the proposed rule change?
The proposed rule does not change current visa holders’ immigration status. Here are the major changes that would take place if finalized:

- D/S would be replaced with a fixed period of either two or four years upon admission to the U.S. with a requirement to apply for an extension of stay from USCIS if needed.
- The 60-day grace period for F-1 students after completion of a program or OPT would be reduced from 60 days to 30 days. (The 30-day grace period for J-1 exchange visitors would remain the same.)
- The time period for submission of an Optional Practical Training (OPT) application would be increased from 90 days to 120 days before the program end date on the I-20.

We will update our website as more information becomes available.

For more information and news about the proposed rule, visit the following external websites:

- Article about the rule in The Chronicle of Higher Education
- Summary of the rule from The Association of International Educators (NAFSA)
- The international student section of the Presidents’ Alliance on Higher Education and Immigration where we expect more information to be posted