

National Association of College and University Attorneys Presents:

Immigration Update: Navigating Current and Emerging Developments in Higher Education

Webinar

September 23, 2025

12:00 PM - 2:00 PM Eastern 11:00 AM - 1:00 PM Central 10:00 AM - 12:00 PM Mountain 9:00 AM - 11:00 AM Pacific

Anita Gupta

Managing Attorney of Legal Programs and Initiatives Presidents' Alliance on Higher Education and Immigration

Michael Stokes

Associate General Counsel Bowling Green State University

David Ware

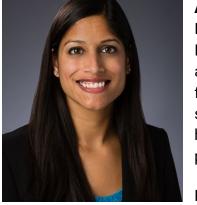
Of Counsel Ware Immigration

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Immigration Update: Navigating Current and Emerging Developments in Higher Education



Anita Gupta is the Managing Attorney of Legal Programs and Initiatives at the Presidents' Alliance on Higher Education and Immigration. She leads the Legal Pathways that Work initiative, which aims to increase access to employment-based immigration pathways for college students and graduates with temporary or precarious statuses. Anita has practiced immigration law for over ten years and has dedicated her career to immigrant rights. She is also an adjunct professor with Villanova University's Immigration Studies program.

Prior to joining the Presidents' Alliance, Anita led the Immigrant Legal Resource Center's removal defense and Texas teams, and she regularly conducted trainings on immigration law, provided legal technical assistance, and authored practice manuals and advisories for immigration and criminal defense practitioners across the country. She also partnered with community advocates and local government officials to pass and implement local policies that reduce the arrest-to-deportation pipeline, such as the first cite and release ordinance in Texas.

Anita previously worked in private practice, specializing in removal defense and humanitarian-based immigration relief, and she was a staff attorney at American Gateways and the National Immigrant Justice Center, where she represented low-income immigrants in a wide variety of matters. Anita earned her Bachelor's degree from the University of Wisconsin-Madison and her law degree from DePaul University.



Michael Stokes is Associate General Counsel at Bowling Green State University. He was born and raised in Detroit and worked his way through college, earning a bachelor's degree from the University of Michigan-Dearborn in 1981 and a master's degree from Wayne State University in 1983. In 1985 he joined the Defense Contract Management Command as a civilian employee and in 1987 was selected for a posting at that agency's office in Canada, remaining there until he went to law school at Ohio State University in 1992.

After being admitted to the bar of the Supreme Court of Ohio in 1995, he spent six years in private legal practice with law firms in Dayton and Toledo, advising clients and handling litigation in various practice areas including employment law, municipal law, and fair housing law.

Michael joined the Ohio Attorney General's office in 2001 and worked there for nearly fifteen years, advising and representing state agencies in litigation and regulatory matters, serving as lead counsel in several jury trials, and participating in the major appeals group. In 2012 he received the AGO's Simon B. Karas Award, which is given in recognition for commitment to public service through the practice of law with integrity and excellence.

He joined Bowling Green State University as an Assistant General Counsel in 2016; became Associate General Counsel in 2017; and served as Interim General Counsel from April 2019 through March 2020. Like many in-house attorneys he is a jack-of-all-trades, but most of his current work is in contracts, immigration/visa law, litigation, policies, and real estate.

Since 2010 Michael has participated in the Ohio Supreme Court's Lawyer to Lawyer Mentoring Program. Other professional contributions include work on NACUA committees and several published articles on legal topics. Notably, a 2015 article in the Cleveland State Law Review, titled The Ruling on a Motion in Limine: Preserving the Issue for Appeal, resulted in a revision to the Ohio Rules of Evidence.



David Ware is Of Counsel at Ware Immigration. He has served on the American Immigration Lawyers' Association's Liaison Committee to the US Department of Labor, as well as the Healthcare Professionals/Physicians Committee.

He also has served for several years on the Advisory Board of the Federal Bar Association's Immigration Law Section, as well at the Editorial Board of NACUA Notes, a publication of the National Association of College and University Attorneys.

He is a member of IMMLAW, the Immigration Lawyers' Consortium, a select group of the finest boutique firms in the US.

He serves on the International Medical Graduate Taskforce, dedicated to improving the legal situation of foreign physicians in the US. Mr. Ware has participated as an expert in several legal proceedings over the decades. Most recently he served as expert in a domestic proceeding where the issue was the nature of Optional Practical Training accorded F-1 students following their studies.

Materials

- I. Presidents' Alliance on Higher Education and Immigration, "VISA Revocation Litigation: AAUP v. Rubio"
- II. Presidents' Alliance on Higher Education and Immigration, "SEVIS Record Termination Litigation"
- III. Presidents' Alliance on Higher Education and Immigration, "Rights & Protections Hub: Guidance for Institutions and Non-Citizens Students"
- IV. Presidents' Alliance on Higher Education and Immigration, "<u>Legal Pathways that Work Initiative Resource Hub</u>"
- V. Presidents' Alliance on Higher Education and Immigration, "Webinar Recording and Resources: Proposed Rule to End Duration of Status: Implications, How to Respond, and What Comes Next" (September 16, 2025)
- VI. Presidents Alliance on Higher Education and Immigration, "International Student Visa Revocations and SEVIS Record Terminations: Guidance for Colleges & Universities" (July 24, 2025)
- VII. Presidents' Alliance on Higher Education and Immigration, Cornell Law School Clinical Programs, and Penn State Dickinson Law Center for Immigrants' Rights Clinic, "Immigration Enforcement on Campuses: What You Need to Know" (Updated June 26, 2025)
- VIII. Aaron Blumberg, Monique A. van Stiphout, Tejal Patel, and Jeff Van Doren, "Proactive Strategies to Mitigate Risk in Uncertain Times and Ensuring Compliance in Higher Education Immigration Programs" (NACUA 2025 Annual Conference)
 - IX. Steve McDonald, "NACUA Current Insights FERPA and Immigration with Steve McDonald: Your FERPA Responsibilities During Times of Increased Immigration Enforcement on Campus" (June 18, 2025)
 - X. Presidents' Alliance on Higher Education and Immigration, Cornell Law School Path2Papers Project, and Penn State Dickinson Law Center for Immigrants' Rights Clinic, "DACA Update: What You Need to Know" (January 21, 2025)

- XI. Presidents' Alliance on Higher Education and Immigration, "Guidance for Higher Education on Immigrant Student Privacy and FERPA" (January 14, 2025)
- XII. National Immigration Law Center, "Warrants and Subpoenas: What to Look Out for and How to Respond" (January 2025)



Attendance Record Webinar

Immigration Update: Navigating Current and Emerging Developments in Higher Education

September 23rd, 2025

If you are an attorney applying for Continuing Legal Education credits (CLEs), you must sign this attendance record to verify your attendance. Please complete and return this form no later than Tuesday, September 30th to the CLE Credit Submission Portal (www.nacua.org/submitCLE).

Organization			
PRINTED Name			
SIGNATURE			
State & Bar Number (If Applying for CI	E)		

*Total CLE Credits = 120 minutes



Name

Certificate of Attendance

Webinar

Immigration Update: Navigating Current and Emerging Developments in Higher Education

September 23rd, 2025

- Attorneys from MD, MA, MI, SD, or DC: These jurisdictions do not have CLE requirements and therefore require no report of attendance or filing.
- Attorneys from all other states: Please complete and return this form no later than Tuesday, September 30th to the CLE Credit Submission Portal (www.nacua.org/submitCLE). Please also remember to sign the attendance record.

NACUA certifies that this program has been presumptively approved and conforms to the standards prescribed by the rules and regulations of the State Bars of AK, AZ, CA, CT, DE, HI, NV, NH, NJ, NM, PA, RI, VT, WV and WY. NACUA will apply for CLE credits from the following states: AL, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MN, MS, MO, MT, NE, NC, ND, OH, OK, OR, SC, TN, TX, UT, VA, WA and WI.

The New York Approved Jurisdiction policy may apply to this program. New York attorneys may apply CLE credit from one of the approved jurisdiction states towards their NY CLE requirement. For more information and to review the policy, please visit www.nycourts.gov/attorneys/cle/approvedjurisdictions.shtml.

Note: Restrictions vary state by state and not all states will accredit this webinar.

Upon receipt of this certificate of attendance and your attendance record, NACUA will process the credits through the applicable state if approved.

Certification

NACUA will apply for a total of 120 minutes. By signing below, I certify that I attended the above activity and request minutes of CLE credits.

State & Bar Number

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Address	Email
Signature	
	Authorized By:
	Amanda McLean
	Amanda McLean
	Meetings and Events Coordinator



CLE Verification CodesWebinar

Immigration Update: Navigating Current and Emerging Developments in Higher Education

September 23, 2025

FOR KANSAS, NEW YORK, OHIO AND PENNSYLVANIA ATTORNEYS ONLY

*This is a supplementary document to keep track of the verification codes for each program. Please complete and return this form no later than Tuesday, September 30th to the CLE Credit Submission Portal (www.nacua.org/submitCLE).

Date / Time	Session Title	Verification Code 1	Verification Code 2
9/23/2025 12:00 PM ET	Immigration Update: Navigating Current and Emerging Developments in Higher Education		

TNACUAWebinar

Immigration Update: Navigating Current and Emerging Developments in Higher Education

Anita Gupta, Managing Attorney of Legal Programs and Initiatives,
Presidents' Alliance on Higher Education and Immigration
Michael Stokes, Associate General Counsel, Bowling Green State University
David Ware, Founding Partner, Ware|Immigration

Agenda

- Introduction
- Undocumented students and DACA recipients
- International students and faculty
- Audience Q&A
- Immigration enforcement on campus & FERPA
- Considerations for the future
- Audience Q&A and Closing Remarks



Deferred Action for Childhood Arrivals (DACA)

- Enacted by President Obama in 2012 via Executive Order
 - Undocumented young people who came to the U.S. before age 16
 - Resided in U.S. continuously since 2007
 - In school, graduated from HS, obtained a GED certificate, or honorably discharged from the military
- Some criminal history bars including felony, "significant misdemeanor," and 3 or more misdemeanors
- Subject to years of litigation. No new approvals of initial applications since 2021.

DACA Litigation & Current Status

- Texas v. United States
- Latest decision: 5th Circuit
- Currently back with S.D. Texas Judge Hanen
- USCIS still renewing previously approved applications
- New applications being accepted but not adjudicated, outside Texas, as per 5th circuit decision.
- Trump Administration can get rid of DACA, as long as APA followed, as per Supreme Court.
- Program historically has enjoyed bipartisan popularity, both in Congress and nationally.

Dreamer Scholarships

- Federal investigations into 5 universities over scholarship exclusively for DACA or undocumented students
- Federal government's arguments: discrimination against US citizens, Title VI (national origin)
- BUT Title VI does not mention immigration status
- National origin ≠ immigration status
- No preemptive compliance

In-State Tuition Executive Orders

February 19: EO directing federal agencies to identify and eliminate uses of taxpayer money that "supports illegal immigration."

April 28: Explicitly targeted the federal law that allows states to provide in-state tuition to undocumented students.

Attacks on In-State Tuition for Undocumented Students

- Florida: repealed in-statute tuition rates for undocumented residents in Feb 2025 via legislation
- Texas: first state to pass in-state tuition law in 2001
 - Now eliminated via coordinated effort between DOJ & State of Texas
 - Intervention motion appeals pending at 5th Circuit
- Oklahoma & Kentucky: Coordinated efforts led to court orders eliminating access. Intervention motion pending in Kentucky.
- Pending challenges: Minnesota, Illinois
- DOJ's arguments: discrimination against U.S. citizens from other states, runs afoul of Immigration Reform & Immigrant Responsibility Act (IRAIIRA), 8 USC 1623

Federal Laws Impacting Dreamers

8 U.S.C. § 1623

A [noncitizen] who is not lawfully present in the United States shall not be eligible for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit in no less an amount, duration, and scope..."

No preemptive compliance

Federal Laws Impacting Dreamers

8 U.S.C. § 1621(d)

This law governs state and local public benefits, including financial aid and in-state tuition.

"A state may provide that a [noncitizen] who is not lawfully present is eligible for any State or local public benefit... only through the enactment of a State law."

Federal law sets boundaries, not a complete ban.

Undocumented Students: Admission

- There is no federal law prohibiting an institution from enrolling any undocumented person.
- Admission of undocumented immigrant students to public postsecondary educational institutions is not one of the benefits regulated by IIRIRA and is not a public benefit under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).
- States that prohibit admission/enrollment in some form:
 - Alabama
 - Georgia
 - South Carolina

Work Visa Pathways

- Non-immigrant (temporary) visas
 - Many types
 - Dual intent = temporary nonimmigrant visa with an intent to apply for lawful permanent residence (H-1B and L-1)
 - Most common: H-1B (for specialty occupations)
 - Higher ed institutions are exempt from annual cap/lottery
 - Other visa types: L-1, O-1, R-1, TN, E-2
- Immigrant visas (green card)
 - PERM process
 - Filed with Department of Labor
 - Longer process

Work Visa Pathways

- On June 18, 2024, the Biden administration announced plans to streamline access to non-immigrant employment-based visas for U.S. college and university graduates, including DACA recipients and other Dreamers, by making the D3 waiver process more accessible.
- On July 15, 2024, the Department of State issued updated policy guidance for consular officers, which is still in effect.
- Several formerly-DACA higher ed employees and alumni have successfully transitioned to work visas, including H-1B and O-1.

Work Visa Pathways: How Campuses Can Engage

- Important opportunity for higher ed institutions
 - Not subject to H-1B cap/lottery
- Implement written affiliation agreements with collaborating nonprofits
- Share existing resources & information about work visa pathways
- Make appropriate referrals to legal consultations for interested employees & prospective hires
- Expand policy of work visa sponsorship to all eligible employees regardless of title/position



SEVIS Terminations

- Most March/April SEVIS terminations and visa revocations have been fixed, but DOS is giving students previously revoked or terminated a hard time getting new visas.
- Institutional lawsuits pending
 - AAUP v. Rubio (D. Mass) challenging "ideological deportation" policy
 - Trial concluded, awaiting decision
 - Presidents' Alliance v. Noem (D. Mass) challenging DHS's visa revocation & SEVIS termination practice

Presidents' Alliance v. Noem

- Initial complaint filed April 25, 2025
- Amended complaint filed June 27, 2025 (after previously terminated SEVIS records were restored)
 - Expanded to include DOS
- Oral argument set for Oct 9
- Relief requested
 - Hold unlawful and set aside the policy under which the mass visa revocations were carried out, and enjoin the government from using this practice again;
 - Order the government to stop sending false and coercive emails to international students; and
 - Hold unlawful and set aside the policy that purports to permit the termination of SEVIS records based solely on visa revocation.

Student Developments

- Proposed rule to terminate Duration of Status and admit students and exchange visitors to a date certain published in Federal Register this morning, <u>90 FR 42070 (August 28, 2025)</u>. Comments end 9/29.
- Change of status, new visas focusing heavily on immigrant intent (Sec. 214b).
- Social media vetting: taking about two weeks or so.
- No huge surge in DS 5525 (extreme vetting).
- Ethical/practical question for attorneys: encourage visa applicants to delete or sanitize social media accounts?

Proposed Rule Abolished D/S for F and J

- Would return F and J entrants to date certain admission, not to exceed four years. 90 FR 42070 (August 28, 2025).
- Stays beyond four years would require EOS application or new visa abroad; study may continue until CIS decision.
- DSO must recommend EOS in US, application on I 539.
- ESL students limited to 2 years.
- No change of major during first year (undergrads).
- No change of program at all for grad students.
- No parallel or "retrograde" degree programs permitted.
- Comment period ends 9/29/25.
- Takeaways: increases institutional liability (more DSO/RO touchpoints); EOS subject to USCIS discretion; more likelihood of ULP, violations of status; hassle, increased expense for students.

Social Media Analysis: Visa Applicants

DOS announcement 6/18/25:

"Under new guidance, we will conduct a comprehensive and thorough vetting, including online presence, of all student and exchange visitor applicants in the F, M, and J nonimmigrant classifications.

To facilitate this vetting, all applicants for F, M, and J nonimmigrant visas will be instructed to adjust the privacy settings on all of their social media profiles to 'public."

- Not clear what exactly would provoke visa denial; "national security", "public safety" are the rationale.
- Likely anything negative about the US or the President; definitely pro-Palestinian/anti-Israel posts are a no-go.
- Takeaways: no significant delays being experienced; not clear if AI used, but that would be a good guess given the volume; one more factor discouraging students from coming to US.
- Should attorneys encourage students to "wipe" social media?

Faculty/Staff Developments

- Suspension of visa issuance to nationals of certain countries
- Visa applicants (J-1 and others) may see increased government scrutiny of their political speech and social media activity
- Proposed legislation affecting F-1 OPT and H-1B cap exemption (discussed later)
- Proposed change to H-1B lottery selection process to prioritize higher salaries and, potentially, higher education levels
- Agency rulemaking agendas include DHS revising eligibility for H-1B cap exemptions; altering rules for CPT and OPT; and making changes to EB-1A (extraordinary ability) and EB-1B (outstanding professors and researchers) provisions – watch for proposed rules
- Track at https://www.reginfo.gov/public/do/eAgendaMain





Immigration Enforcement on Campus

- DHS' Sensitive Locations/Protected Areas policy rescinded on January 20, 2025
- DHS now retains full discretion to conduct enforcement on or near campuses
- Share Know Your Rights information: Rights & Protections Hub on Higher Ed Immigration Portal
- Presidents' Alliance FAQ: Immigration Enforcement on Campuses (updated June 2025)

Institutional Protocols

- Develop & update protocols for responding to DHS presence
 - Designate a first point of contact
 - Develop script for front line staff
 - Verify credentials: request officer ID & any warrants/subpoenas
 - o Documentation: log the encounter, make copies of any documents
- No federal requirement to assist with immigration enforcement actions
- Check local & state laws (may impose additional duties or restrictions)
- Ensure protocols are communicated to campus police, security, and administrators

Public vs. Nonpublic Spaces

- Fourth Amendment establishes the "reasonable expectation of privacy" standard
- Public spaces: open and accessible without restriction
- Nonpublic spaces: access is restricted (ID required, locked doors, monitored entry, etc.)
 - Clearly designate & mark with signage
 - Entry requires consent of authorized official or a valid judicial warrant
 - Includes private residences (dorms, off campus housing, etc.)

Warrants & Legal Authority

- Only a valid judicial warrant authorizes entry or search/seizure of property in nonpublic space
 - Signed by a federal judge or magistrate, not an immigration judge
 - Must be supported by probable cause
- Administrative warrants do not authorize entry into nonpublic spaces without consent
 - o Issued by DHS (ICE/CBP), e.g., Form I-200/I-205
- Search vs. Arrest warrant
 - Know the scopes & limits of each
 - Arrest warrant: limited to locations where the subject is believed to reside and is present at the time (Payton v. New York, 445 U.S. 573 (1980))
 - Search warrant: scope strictly limited to place and items listed in the warrant
- Resource: NILC's Warrants and Subpoenas: What to Look Out for and How to Respond

JUDICIAL WARRANTS v. IMMIGRATION WARRANTS

	UNITED STAT	ES DISTRICT COURT	
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	to small on house the state are removed.) Case No.	
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	SEARCH AND	SEIZURE WARRANT	
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DEPARTMENT OF HOMELAND SECURITY U.S. Immigration and Customs Enforcement WARRANT OF REMOVAL/DEPORTATION To any immigration officer of the United States Department of Homeland Security: (Full name of alien) who entered the United States at (Date of entry) is subject to removal/deportation from the United States based upon a final order by an immigration judge in exclusion, deportation, or removal proceedings a designated official the Board of Immigration Appeals a United States District or Magistrate Court Judg and pursuant to the following provisions of the Immigration and Nationality Ac I, the undersigned officer of the United States, by victure of the power and authority vested in the Secretary of Hornels. Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above named alien pursuant to law, at the expense of: THESE ARE VISUAL CUES THAT THIS IS AN IMMIGRATION WARRANT (Title of immigration officer)

NATIONAL IMMIGRATION LAW CENTER

signed by a judge?

IF THE ANSWER TO ALL OF THESE IS YES, THEN
IT IS LIKELY A VALID JUDICIAL WARRANT

Designate Points of Contact

- Consider campus police as first point of contact for DHS officers
- Train campus policy/security to:
 - Refer DHS officers to Office of General Counsel
 - Distinguish between administrative and judicial warrants
 - Encourage centralized reporting of all DHS encounters
- International students should always keep the following documents with them:
 - Passport and visa (or I-797 approval notice) to show proof of identity and immigration status
 - Unexpired I-20
 - I-94 arrival/departure record
 - Student ID
 - Emergency contacts, including the Designated School Official (DSO)

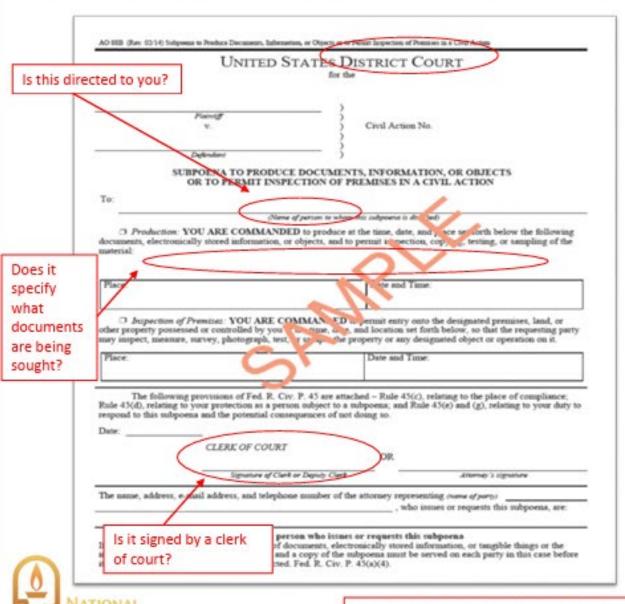
FERPA Student Privacy Protections

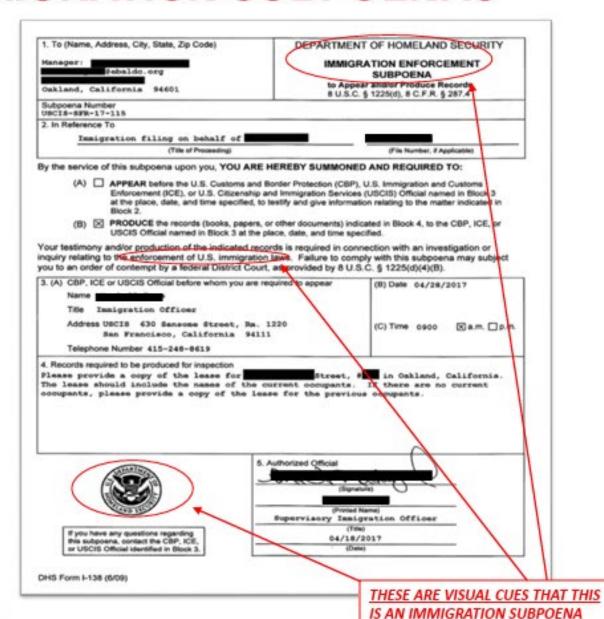
- Family Education Rights & Privacy Act (FERPA) prohibits schools from disclosing personally identifiable info from a student's education records without the student's or parent's written consent.
 - Applies to all students, regardless of citizenship or immigration status (there are exceptions for international students).
- Exception: per lawfully-issued judicial subpoena
- Directory information (student name, major, etc.) is a narrower category that FERPA allows schools to define and release (if the student has not opted out) but still subject to institutional policy
- See Guidance for Higher Education on Immigrant Student Privacy and FERPA on Higher Ed Immigration Portal

FERPA Exceptions: Judicial vs. Administrative Subpoenas

- Judicial subpoenas
 - Issued by federal or state court, signed by a judge or clerk (not an immigration judge)
 - Must be valid under both state and federal law
 - May be subject to challenge (e.g., overbreadth, improper purpose, undue burden)
- Administrative subpoenas
 - Issued by DHS
 - Do not automatically trigger a FERPA exception unless accompanied by federal court order

JUDICIAL SUBPOENAS v. IMMIGRATION SUBPOENAS





IF THE ANSWER TO THESE IS YES, THEN
IT IS LIKELY A VALID JUDICIAL SUBPOENA

FERPA Exceptions for F and J Students

- International students are protected by FERPA, except for the data elements enumerated here: **8 CFR 214.3(g), 214.1(h).** This information must be provided to ICE/SEVP (not other agencies) within three days of request.
- Importantly FERPA still protects some information, such as class schedule, extracurricular activities, friends and acquaintances and generally any other info that might reveal the student's real-time location.
- Disciplinary records are not enumerated; this is currently under litigation. The Dept of Ed contends they are, but does not acknowledge that international students are subject to clear FERPA exceptions and the same do not apply to domestic students.
- FERPA still applies even if the student is out of status or in removal proceedings, and generally until the student dies or until records are destroyed.
- Records must be maintained for three years from date student leaves.
- STUDENTS WITH NO RECORD IN SEVIS ARE FULLY PROTECTED BY FERPA, e.g., UNDOCUMENTED STUDENTS.
- <u>Disclosing Student Disciplinary Records: Understanding FERPA Guidelines</u>



New Developments for International Faculty: H-1B Specialty Occupation

- Broader definition of "specialty occupation" effective 01/17/25
- To qualify as a specialty occupation, the position normally requires a bachelor's degree in a specific field of study
- DHS clarified that "normally" does not mean "always"
- DHS clarified that a range of degree fields may be acceptable provided that they are "directly related" to the duties of the H-1B position
- 89 FR 103054 (December 18, 2024)

New Developments for International Faculty: H-1B Cap Exemption

- The "Colleges for the American People" (CAP) Act would end the long-standing H-1B visa cap exemption for U.S. colleges and universities, pushing hires to J, O and TN.
- H.R. 4743 introduced on 07/23/2025 by Reps. Tom Tiffany and Andrew Clyde
- S 2567 introduced 07/31/2025 by Sen. Tom Cotton
- If enacted, foreign faculty hires would be required to compete under the standard cap of 65,000 H-1B visas
- Separately, a proposed rule would prioritize higher salaries in the selection process for H-1B positions.

"Restriction on Entry of Certain Nonimmigrant Workers"

- EO/PP of September 19, effective midnight September 21.
- Restricts entry or visa issuance of all H-1B workers outside US as of effective date, until employer pays \$100K fee per worker.
- · No exclusion for higher education.
- Forbids approval of any new H-1B petition without attached \$100K fee. Not clear if extensions are excepted for workers in US.
- Waiver in national interest available; exact criteria unknown.
- Action Decision Memorandum- HQ Other of Sept 20 provides that rule does not apply retroactively, leaving current visa and
 petition holders unaffected. Only petitions not yet filed must include the \$100K fee. CBP issued a parallel memo same day.
 Unfortunately, the memo does not resolve visa issuance/renewal. DOS 9/21: The Proclamation's restrictions on visa issuance and entry apply
 only to aliens seeking visa issuance or entry into the United States based on H-1B petitions filed with USCIS after the Proclamation's effective date of September
 21, 2025, at 12:01 a.m. Eastern Daylight Time (EDT).
- Also directs agencies to come up with across-the-board H-1B fee rule, as well as rule prioritizing lottery by wages/degree.
- Expires September 21, 2026, unless agencies determine otherwise.
- https://www.whitehouse.gov/presidential-actions/2025/09/restriction-on-entry-of-certain-nonimmigrant-workers/
- Wild rumors about modifications/interpretations of PP: excluding universities, 100K one time or per annum, per employer or employee?
- Takeaways: focuses on one of four major immigrant streams; styled as exclusion order rather than fee increase (would require reg); tech bro's now officially "out"; "H1B dependent" employers already under many restrictions.



New Developments for International Faculty: Optional Practical Training (OPT)

- The "Fairness for High-Skilled Americans Act" would terminate the Optional Practical Training (OPT) program
- H.R. 2315 introduced on 03/25/2025 by Rep. Paul Gosar
- Three years ago, the D.C. Circuit upheld F-1 OPT as a valid exercise of DHS authority under the INA
- DHS may set the time and conditions of a non-immigrant's stay in ways that "reasonably relate" to the visa they used to enter the U.S.
- Washington All. of Tech. Workers v. DHS, 50 F.4th 164 (D.C. Cir. 2022).

New Developments for International Faculty: Administration

- USCIS issuing Requests for Evidence (RFEs) for residential addresses in H-1B and employment-based green card cases to collect biometric data
- U.S. consulates issuing H-1B visa stamps valid for only one year even though the I-129 has been approved for three years. Reciprocity?
- In some cases, DHS appears to be eliminating the 60-day grace period to remain in the U.S. after expiration of the I-129 validity period, issuing a Notice to Appear in immigration court, if person has minor criminal offenses, any prior lapse in status.

New Developments for International Faculty: Administration

- O-1s, TNs, and H-1Bs may face more beneficiary review, including background investigations examining social media and using posts/activities as discretionary grounds for denial
- Use of AI and more expansive investigative work to evaluate all visa holders in the U.S. is foreseeable. Visa holders may have their visa stamps "automatically terminated" on the basis that they have violated their status.
- At U.S. Consulates, increased use of Administrative Processing resulting in missed employment start dates. Increased use of PEOs to bridge the gap? Export control considerations.
- Further reductions in State Department workforce and more workload due to increased vetting, making visa appointments harder to schedule and denials more likely

Admissions Cycle

- NYT Report: Princeton up, Columbia steady.
- Harvard up!
- Times of India, AP reporting as much as 40% decline.

Main Sources of Concern Going Forward

- Elimination of D/S
- Elimination of OPT/STEM
- NIL guidance (not addressed here)
- H-1B Changes
- Drop in enrollments
- Increased DOS/USCIS discretion, perhaps unreviewable
- DACA
- Immigration enforcement on campus



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