

International Student Policies: A Failing Grade for the United States

By Kelly Ann Whelan

Amid the chaos of the pandemic, the Administration has systematically pushed the walls in on the immigration space, even for those seeking a temporary stay in the United States. These bans include those placed on skilled foreign employees in the H-1B, J, and L visa categories, as well as temporary visitors in the B-1 and B-2 visa categories.¹ Yet, these bans only affected applicants and not those already within the United States. However, in early July, the Department of Homeland Security (DHS) announced the newest crackdown on immigrants, this time targeting both students seeking to come to the United States to study, and those already in the country at a time where many college campuses have been forced to operate fully virtually in order to protect against COVID-19. Under the policy, students would not be able to remain in the country if they were taking a full online course load. In particular, the DHS announcement stated that,

Nonimmigrant F-1 and M-1 students attending schools operating entirely online may *not* take a full online course load and remain in the United States. The U.S. Department of State will not issue visas to students enrolled in schools and/or programs that are fully online for the fall semester nor will U.S. Customs and Border Protection permit these students to enter the United States. Active students currently in the United States enrolled in such programs must depart the country or take other measures, such as transferring to a school with in-person instruction to remain in lawful status. If not, they may face immigration consequences including, but not limited to, the initiation of removal proceedings.²

The message was clear: students must pick between protecting their lives and health and continuing their course of study. Outraged, several universities sued the administration, including Harvard University and the Massachusetts Institute of Technology (MIT).³ In response, the Administration reversed its policy; a rare move.

Yet, the introduction of the policy in and of itself represents a longstanding standard of inhospitable conditions for students who seek to continue their academic careers in the United States. The United States is one of the most difficult countries in the world to permanently immigrate to post-graduation, despite having been a student at an American university. In this paper, we explore the different approaches countries around the world have taken toward students, their ability to immigrate to the country where they studied post-graduation, and how the United States measures in the international community.

Policies of International Student Integration

Several countries in the Global North have policies that integrate international students into the economy during and after their academic careers. This integration is generally done by the institution of employment programs related to the student's educational experience. The most hospitable countries include Australia, Canada, Ireland, and New Zealand.

Australia

Australia has a favorable student visa system, with estimates of visa approval around 90 per cent, as long as the applicant meets the English language and Genuine Temporary Entrant (GTE) requirements,

which are integrity measures requiring students to show they actually intend to study.⁴ However, after study is complete, international students have options to remain in Australia to work. In 2013, the government reformed its work visa regulations to include two options for international students graduating from an Australian university under visa subclass 485. The first is a Post-Study Work Stream Visa. This visa allows an international student to work in their field of study in Australia for between two and four years depending on the level of education achieved. For a bachelor's degree, the visa is valid for two years, a master's – three, and a doctorate – four.⁵ After the period of validity, depending on the circumstances, a student may transfer to a different skilled worker visa, obtain permanent residency, and eventually, citizenship. The second, the Graduate Work Stream Visa, grants less benefits, but does allow a student to remain in Australia for a period of 18 months to work. Unlike the first option, those who have a qualification less than that of a bachelor's degree are eligible to qualify as long as their work falls under a list of skilled occupations.⁶

Canada

The success rate of gaining a student visa in Canada is significantly lower than Australia, sitting around 60 per cent.⁷ However, Canada has an international student-friendly post-graduate program that encourages students to stay in Canada to work. The Post-Graduation Work Permit Program (PGWPP) allows immigrant graduates of Canadian universities to receive work permits for up to three years depending on the length of their course of study in areas not limited to the field of study.⁸ Within six months of employment, the student may apply for a Canadian Experience Class (CEC) that allows graduates to qualify for permanent residence.⁹

Ireland

Ireland has a high student visa success rate and one of the most favorable student employment schemes internationally for those still studying. Regular

students can work part-time jobs for up to 20 hours per week during the semester and up to 40 hours per week during vacation periods without having to apply for any further work authorization documentation.¹⁰ After graduation, non-European Union (EU) citizen students have the ability to seek employment under the Third Level Graduate Programme. Much like Australia, Ireland grants different visa validity periods based on the level of education completed – bachelor's degrees grant 12 months, master's degrees and PhDs grant 24 months.¹¹ The program allows for a bridge to permanent residency after completion.

New Zealand

New Zealand's success rate for conferring student visas is around 84% with employment options during and post-study.¹² While studying, international students can apply for a work permit under the University Pathway to New Zealand Programme for up to four years with no restrictions on part vs. full time work for master's and PhD students.¹³ After graduation, graduates may apply for the Post-Open Study Employment Visa, which grants a 12-month work visa in research related areas.

Unfriendly Student Integration Conditions

In contrast to the countries discussed above, the conditions for international students coming to the United States make it difficult for many to obtain visas to study, work during study, work after graduation, and/or gain permanent residency or citizenship.

The rejection rate for F-1 student visas varies greatly depending on the citizenship of the student. Students from the EU, for example, have a much higher rate of success than students from African countries.¹⁴ Yet, even after a visa is granted to a student, he or she is not automatically granted entry into the country. When students arrive at a port of entry, they will be screened by a U.S. Customs and Border Protection (CBP) officer and must prove they actually intend to study in the United States. If the officer decides the conferral of a visa and supporting

documents are not enough, the student may be immediately denied entry and deported.¹⁵

Once in the United States, the options for a student to support him or herself are limited. For the first year of study, the student may be employed on campus up to 20 hours per week during the semester and up to 40 hours per week during vacation periods.¹⁶ However, work availability on campuses tends to be limited and usually tends to pay around minimum wage. After the first year, however, employment becomes more complicated. Students may engage in off-campus employment in a training program, but it must be in the field of study and approved by U.S. Citizenship and Immigration Services (USCIS).¹⁷

After graduation, students have the option of applying for the Optional Practical Training (OPT) program, a 12-month extension to the F-1 status to work in the field of study and look for a more permanent employment option.¹⁸ Yet, relatively few students find employment past the period of OPT because most must obtain an employer sponsored visa, such as the H-1B visa for skilled employees. The annual cap for H-1B visas is 85,000, meaning between 30 and 50 per cent of applicants receive one.¹⁹ Moreover, the process to obtain the visa is complicated, requiring the employer to submit an application to a lottery, which takes place annually every April. Then if granted, the visa becomes effective four to five months after the lottery, which means most applicants must return or remain in their countries of citizenship until it is issued.²⁰

Benefits to Student Integration

The most recent policy, while rescinded, represents the latest obstacle in a long line of hoops already instituted in the United States for international students. While detrimental to students themselves who seek to study in the country, the loss lies with the United States, rather than with the students themselves. Why is this?

The United States is losing out to other countries because of their more welcoming policies paired with similar standards of living.

Before graduation, international students during their periods of study bring benefits to both host institutions and host countries. A study in Australia concluded that Australian universities benefited from international students as a mechanism to enhance competitiveness in the international educational arena, increase international networks, and enhance the reputation and international profile of the institutions.²¹ Further, a Canadian study found that increasing commitment to the internationalization of colleges and universities, including the establishment of new organizational systems and structures, expanded recruitment efforts and the development of new institutional partnerships.²² Partnerships and heightened profiles of universities help to bring both talented academics and funding for research into the university, and therefore the country. From an economic perspective, international students coming to the United States for higher education had a significant positive economic impact – international students contributed \$45 billion to the U.S. economy in 2018.²³

After graduation, if allowed to remain within their countries of study, international students greatly benefit economies, research fields, and industries as skilled employees. First, high-skilled immigrants with education received in the host country in the labor market can raise wages for low-skilled native workers struggling with declining labor market prospects.²⁴ Second, international students who are allowed to remain and work in highly-skilled areas requiring educational specialty widen the tax base and help offset growing fiscal challenges along with boosting innovation, a key to long-term economic growth.²⁵ International students trained in the

country are given the same tools to succeed in the economy as domestic students, contributing to the ability to benefit the country. According to the George W. Bush Institute,

Immigration fuels the economy. When immigrants enter the labor force, they increase the productive capacity of the economy and raise GDP. Their incomes rise, but so do those of natives. It's a phenomenon dubbed the "immigration surplus," and while a small share of additional GDP accrues to natives — typically 0.2 to 0.4 percent — it still amounts to \$36 to \$72 billion per year.²⁶

While the United States appears to have instituted policies that only hurt its prospects in this area, other countries have clearly seen the benefits and done the opposite. In Ireland, the government recently increased the number of allowed international student visas and launched the "Ireland Education, Global Connected" growth strategy to expand the international education industry. Under this strategy, the government plans to increase the number of

international students by 2020 and raise international education revenues from €1 billion to €2.1 billion.²⁷ And in Australia even amidst the pandemic, in stark contrast to the United States, the government has prioritized international students re-entering the country with the Minister of Education Chris Hipkins stating that, "International students remain a priority group in the government's planning for any managed border entry arrangements."²⁸

Among its peers, the United States currently gets a failing grade on the report card to promote international students coming to the country. By restricting international students and failing to integrate them before and after graduation, it gives an easy advantage to its competitors in the world economy and fields of innovation.

¹ Pres. Proclamation No. 10052, 85 F.R. 38263 (2020); Bureau of Consular Affairs, *Suspension of Routine Visa Services*, U.S. DEPARTMENT OF STATE (20 March 2020).

² U.S. Customs and Immigration Enforcement (ICE), *SEVP modifies temporary exemptions for nonimmigrant students taking online courses during fall 2020 semester*, U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) (6 July 2020), www.ice.gov/news/releases/sevp-modifies-temporary-exemptions-nonimmigrant-students-taking-online-courses-during.

³ Complaint, *President and Fellows of Harvard College, et. al. v. U.S. Department of Homeland Security, et. al.*, Civil Action No. 1:20-cv-11283 (D. Mass 2020).

⁴ The Student Housing Company, *7 Reasons Student Visas are Rejected in Australia*, Global Student Accommodation Group (2018), www.thestudenthousingcompany.com.au/blog/7-reasons-student-visa-rejected-australia.

⁵ Department of Home Affairs, *Temporary Graduate visa (subclass 485): Post-Study Work stream*, Government of Australia (2020), www.immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-graduate-485/post-study-work.

⁶ *Id.*

⁷ Kelly Toughill, *Four in 10 international students turned away by Canadian immigration*, POLESTAR (4 September 2019), www.studentimmigration.ca/four-in-10-international-students-turned-away-by-canadian-immigration/.

⁸ Immigration, Refugees and Citizenship Canada, Post-Graduation Work Permit Program (PGWPP), Government of Canada (2020), www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/study-permits/post-graduation-work-permit-program.html.

⁹ *Id.*

¹⁰ Department of Justice and Equality, *Frequently asked questions for students*, GOVERNMENT OF IRELAND (2019), www.inis.gov.ie/en/INIS/Pages/Frequently%20Asked%20Questions%20-%20Students#Q17.

¹¹ Department of Justice and Equality, *Third Level Graduate Programme*, GOVERNMENT OF IRELAND (2020), www.inis.gov.ie/en/INIS/Pages/Student%20Pathway.

¹² Ministry of Business, Innovation and Employment, *Offshore student visa application decisions for 2017*, GOVERNMENT OF NEW ZEALAND (2018), www.immigration.govt.nz/assist-

[migrants-and-students/assist-students/international-markets/student-visa-decision-data.](#)

¹³ Ministry of Busines, Innovation and Employment, *Working on a student visa*, GOVERNMENT OF NEW ZEALAND (2020), [www.immigration.govt.nz/new-zealand-visas/options/study/working-during-after-your-study/working-on-a-student-visa.](#)

¹⁴ Bureau of Consular Affairs, *Nonimmigrant Visa Statistics*, U.S. DEPARTMENT OF STATE (2019), [www.travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/nonimmigrant-visa-statistics.html.](#)

¹⁵ The Office of International Affairs, *Arriving in the U.S.*, THE UNIVERSITY OF CHICAGO (2020), [www.internationalaffairs.uchicago.edu/page/arriving-us.](#)

¹⁶ U.S. Citizenship and Immigration Services (USCIS), *Students and Employment*, U.S. DEPARTMENT OF HOMELAND SECURITY (2020), [www.uscis.gov/working-united-states/students-and-exchange-visitors/students-and-employment.](#)

¹⁷ *Id.*

¹⁸ Student and Exchange Visitor Program, *F-1 Optional Practical Training (OPT)*, U.S. DEPARTMENT OF HOMELAND SECURITY (2020), [www.studyinthestates.dhs.gov/sevis-help-hub/student-records/fm-student-employment/f-1-optional-practical-training-opt.](#)

¹⁹ Katharine Boshkoff, *Want to work in the U.S. after graduation? Now's the time to think about a visa*, HULT INTERNATIONAL BUSINESS SCHOOL (2018), [www.hult.edu/blog/work-in-the-us-after-graduation/.](#)

²⁰ *Id.*

²¹ Dorothy Davis, et. al., *Becoming internationally competitive: The value of international experience for Australian students*, IDP EDUCATION AUSTRALIA (1999).

²² Jane Knight, *Progress and promise: The AUCC report on internationalisation at Canadian universities*, ASSOCIATION OF UNIVERSITIES AND COLLEGES OF CANADA (2000).

²³ Research and Insights, *Economic Impact of International Students*, INSTITUTE OF INTERNATIONAL EDUCATION (2019), [www.iie.org/Research-and-Insights/Open-Doors/Data/Economic-Impact-of-International-Students.](#)

²⁴ Abdurrahman Aydemir, *Skill-based immigration, economic integration, and economic performance*, 41 IZA WORLD OF LABOR 1 (2014).

²⁵ *Id.*

²⁶ Pia Orrenius, *Benefits of Immigration Outweigh the Costs*, THE GEORGE W. BUSH INSTITUTE (2016), [www.bushcenter.org/catalyst/north-american-century/benefits-of-immigration-outweigh-costs.html.](#)

²⁷ Jack Power, *Big increases in number of international students in Ireland*, THE IRISH TIMES (21 May 2019), [www.irishtimes.com/news/education/big-increases-in-number-of-international-students-in-ireland-1.3898838.](#)

²⁸ John Ross, *Australia set to ease virus visa hardship for foreign students*, TIMES HIGHER EDUCATION (3 July 2020), [www.timeshighereducation.com/news/australia-set-ease-visa-hardship-foreign-students#.](#)