

October 23, 2025

The Honorable Kristi Noem
Department of Homeland Security
Nebraska Avenue Complex
3801 Nebraska Avenue NW
Washington, DC 20395

Dear Secretary Noem:

On behalf of the American Council on Education (ACE) and the undersigned higher education associations, we write with questions regarding the Sept. 19, 2025, Presidential Proclamation “Restriction on Entry of Certain Nonimmigrant Workers” that would establish a new \$100,000 fee for new H-1B applications.¹ We also ask that U.S. institutions of higher education be exempted from this fee, as faculty, researchers, and staff hired under H-1Bs educate domestic students in areas of national need, such as health care, engineering, and education fields.

As you are aware, the proclamation allows the Department of Homeland Security to issue fee exemptions that are in the national interest. U.S. colleges and universities hire highly skilled professionals on H-1Bs for campus classrooms, research settings, interdisciplinary study, and university hospitals and clinics. These individuals contribute to groundbreaking research, provide medical services to underserved and vulnerable populations, offer specialized and advanced training programs, and enable language study, all of which are vital to U.S. national interests.

While the State Department,² U.S. Citizenship and Immigration Services (USCIS),³ and U.S. Customs and Border Protection (CBP)⁴ have released some clarifying details, our community has questions regarding this new fee and how it will be implemented. These questions include:

- Recently released USCIS guidance states that the payment must be made prior to a petition being accepted by DHS.⁵ Will the \$100,000 be refunded if a petition is denied or not awarded through the lottery?
- How will USCIS ensure timely processing of H-1B petitions, given the new requirement for this \$100,000 fee and the process of confirming the payment?

¹ Sept. 19, 2025 Presidential Proclamation: <https://www.whitehouse.gov/presidential-actions/2025/09/restriction-on-entry-of-certain-nonimmigrant-workers/>

² Sept. 21, 2025, State Department H-1B FAQ: <https://www.state.gov/h-1b-faq>

³ Sept. 20, 2025, USCIS memorandum: https://www.uscis.gov/sites/default/files/document/memos/H1B_Proc_Memo_FINAL.pdf

⁴ Sept. 30, 2025 CBP memorandum: <https://www.cbp.gov/document/foia-record/restriction-entry-certain-non-immigrant-workers-h-1b-memo>

⁵ H-1B Specialty Occupations, Presidential Proclamation on Restriction on Entry of Certain Nonimmigrant Workers: <https://www.uscis.gov/working-in-the-united-states/h-1b-specialty-occupations>

- Please confirm that the USCIS guidance stating that a petition requesting a “change of status” is not subject to the \$100,000 fee includes individuals transitioning from an F-1 or J-1 status to H1B status.

Additionally, the Sept. 19 proclamation also noted: “The restriction imposed shall not apply to any individual alien, all aliens working for a company, or all aliens working in an industry, if the Secretary of Homeland Security determines that the hiring of such aliens to be employed as H-1B specialty occupation workers is in the national interest and does not pose a threat to the security or welfare of the United States.” The continuing education of our postsecondary students is in the national interest of the United States.

H-1B visa holders working for institutions of higher education are doing work that is crucial to the U.S. economy and national security. Recent data from the College and University Professional Association for Human Resources (CUPA-HR) show that, among faculty working in the United States on H-1B visas, over 70 percent hold tenure-track or tenured positions, with contracts that typically extend well beyond one year. CUPA-HR data also show that the top five disciplines employing H-1B faculty include: business (13.6 percent), engineering (12.3 percent), health professions (9.2 percent), computer science (9.1 percent), and physical sciences (7.2 percent).

According to the Department of Labor, high-demand sectors such as healthcare, information technology, education, and finance include several occupations projected to add the most new jobs between 2024 and 2034—including physicians and resident physicians, nurse practitioners, software developers, medical and health services managers, financial managers, and computer and information managers.⁶ The Georgetown University Center on Education and the Workforce, in its report *After Everything: Projections of Jobs, Education, and Training Requirements through 2031*, found that by 2031, 72 percent of jobs in the United States will require some postsecondary education and/or training.⁷ The role of institutions in preparing students to enter the U.S. workforce has never been more critical.

Given the fact that H-1B beneficiaries working at our institutions train and educate domestic students for these high-demand occupations, conduct essential research, provide critical patient care, and support the core infrastructure of our universities, we therefore ask that higher education be considered exempted from the \$100,000 fee requirement. This would be similar to our current exemption from the H-1B lottery cap, which was enshrined by Congress in the Immigration and Naturalization Act⁸ in recognition of the special role that institutions of higher education play in hiring H-1Bs on our campuses. Therefore, we ask:

- How will exemptions/exceptions for industries be determined, and when will guidance on their availability be issued? Can you provide further details on how the process by which an exemption/exception can be requested and how should employers document

⁶ <https://www.bls.gov/ooh/most-new-jobs.htm>

⁷ <https://cew.georgetown.edu/cew-reports/projections2031/>

⁸ Section 214(g)(5) of the INA

eligibility once granted?

- What are the metrics that will be used to determine whether “no American worker is available to fill the role” as required by the USCIS guidance on granting exceptions?

As you work to implement this new fee, we hope you will consider higher education as an important stakeholder and consider our vital role in educating the domestic workforce. We look forward to continuing to work with you on these important issues.

Sincerely,



Ted Mitchell
President

Cc: The Honorable Marco Rubio, Secretary of State
The Honorable Joseph B. Edlow, Director of USCIS
The Honorable Rodney S. Scott, Commissioner, CBP

On behalf of:

ACPA-College Student Educators International
American Association of Colleges for Teacher Education
American Association of Colleges and Universities
American Association of Colleges of Nursing
American Association of Colleges of Osteopathic Medicine
American Association of Community Colleges
American Association of State Colleges and Universities
American Association of University Professors
American Association of Veterinary Medical Colleges
American Council of Learned Societies
American Council on Education
American Dental Education Association
American Indian Higher Education Consortium
Association of American Medical Colleges
Association of American Universities
Association of Governing Boards of Universities and Colleges
Association of Independent California Colleges and Universities
Association of Jesuit Colleges and Universities
Association of Public and Land-grant Universities
College and University Professional Association for Human Resources
Council for Advancement and Support of Education

Council for Christian Colleges & Universities
Council of Graduate Schools
Council on Social Work Education
EDUCAUSE
Hispanic Association of Colleges and Universities
NAFSA: Association of International Educators
National Association for College Admission Counseling
National Association of College and University Business Officers
National Association of Colleges and Employers
National Association of Independent Colleges and Universities
Presidents' Alliance on Higher Education and Immigration