

# PRESIDENTS' ALLIANCE | ON HIGHER EDUCATION AND IMMIGRATION

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## U.S. District Court Judge Biggs Issues Nationwide Preliminary Injunction Halting Enforcement of New Unlawful Presence Policy

*For Immediate Release*

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**Washington, D.C.**— On Friday, May 3, U.S. District Judge Loretta Biggs [issued a nationwide preliminary injunction](#) temporarily blocking the government from enforcing the new unlawful presence policy, as laid out in the policy memorandum entitled "Accrual of Unlawful Presence and F, J, and M Nonimmigrants." This important development is welcome news by international students and campuses across the country.

Under the new policy, which had gone into effect August 9, 2018, USCIS began counting unlawful presence for F and M students and J exchange visitors at the moment they violate or fall out of status (rather than at the point USCIS denies a benefits application on the basis of a status violation or an immigration judge determines a status violation). The policy can have a substantial impact on those in F, J, and M status; it could impose 3- and 10-year reentry bars on thousands of international students, researchers, medical residents, and others who inadvertently fall out-of-status.

The nationwide preliminary injunction applies to the more than one million international students, scholars and others on F, J, and M visas. In her opinion, Judge Biggs concluded that the plaintiffs will likely succeed on the merits of both procedural and substantive arguments, namely, that the government failed to follow notice and comment procedures, and that the policy memo substantively conflicts with underlying federal immigration law.

Presidents Jane Fernandes of Guilford College, Kim Benston of Haverford College, David Van Zandt of The New School, and Chancellor Judy Miner of the Foothill-De Anza Community College District, all members of the Presidents' Alliance on Higher Education and Immigration, along with the International Club of Guilford College, filed the original suit challenging the new unlawful presence policy in Federal District Court in October 2018. In December 2018, the American Federation of Teachers and two individual MAVNIs (participants in the "Military Accessions Vital to the National Interest" program) joined the complaint as additional plaintiffs; and, sixty-six colleges and universities [joined an amicus brief](#) supporting the legal challenge.

"Judge Biggs' order brings great relief to our international students at Guilford College and to international students across the country. As we outlined in the complaint, our

campuses are already experiencing the harmful effects of the new unlawful presence policy, which can have the effect of placing international students on the path to removal following even inadvertent or minor immigration status infractions; and could also bar them from re-entering the country for up to 10 years. While a few of us came forward as plaintiffs, the new policy affected all international students and colleges and universities.”

President Jane Fernandes  
Guilford College  
Member, Presidents’ Alliance Steering Committee

“I am so proud of the many leaders in higher education and organized labor who took a stand on behalf of just and fair treatment of those who enter our country on F, J, and M visas. Our education system must continue to be a beacon of hope throughout the world and the Biggs injunction is an essential element in protecting that standing.”

Judy C. Miner, Ed.D.  
Chancellor  
Foothill-De Anza Community College District

“Higher education in the United States is made stronger by the presence, perspectives, and talents of our many international students and scholars. They are vital members of our campus communities and active contributors to our country. The district court’s injunction makes a clear statement that, as a nation, we must keep our promise to international students and not retroactively rescind our commitment to investing in these scholars. ”

Kim Benston  
President  
Haverford College

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The non-partisan **Presidents’ Alliance on Higher Education and Immigration** brings together college and university leaders dedicated to increasing public understanding of how immigration policies and practices impact our students, campuses and communities, and supporting policies that create a welcoming environment for undocumented, immigrant, and international students. The Alliance is comprised of over 420 presidents and chancellors of public and private colleges and universities, representing over four million students in 41 states, D.C. and Puerto Rico.