Quick Guide to Immigration Issues on Campus - 2020
Dan Berger and Stephen Yale-Loehr

This document summarizes key immigration issues to understand and follow this year.

Students
- The USCIS Unlawful Presence Memo, which made a myriad of student visa violations retroactive, is on hold by injunction, thanks in part to a 2018 amicus brief signed by over 60 schools. The amicus was an experiment in national litigation on immigration.
- A court challenge threatens student work authorization (OPT). Over 150 schools have joined an amicus brief. ICE has started STEM OPT site visits, and now requires more evidence of the relationship to the student’s major.
- Discretionary visa denials are on the rise, especially Middle Eastern students at airports and consulates. Searches of electronics have been limited through court action, but social media screening continues.
- The Supreme Court upheld the travel ban, and it could be expanded to other countries. There is a bill in Congress to address this.
- Court challenges are temporarily keeping discretionary programs such as DACA and TPS alive. The Supreme Court will likely rule on DACA in the spring or early summer. Schools have joined an amicus brief on DACA.
- The Dream and Promise Act has passed the House, but is not moving in the Senate.
- A new “public charge” regulation is discouraging foreign nationals from accessing government programs. The rule has been paused by injunction.

Scholars and Professors
- H-1Bs are being scrutinized, particularly where the job does not require a specific degree.
- Security checks are causing delays, especially from China, Russia and the Middle East.
- Some spouses of H-1B visa holders may lose their ability to work some time next year.

Overall Recommendations
- Address mental health consequences of immigration policy. Consider adding counseling resources to visa law presentations.
- Be ready for more scrutiny from the President's “Extreme Vetting” and “Buy American/Hire American” executive orders. This means longer processing times for everything from student work cards to visa interviews to green cards.
- Have clear point people on campus to field questions - there are many rumors swirling around.
- Collect campus data to support advocacy at the state (e.g. drivers licenses, NJ schools letter) and federal levels (e.g., StartUp Act to help entrepreneurs, Believe Act to reform employment-based immigration, new bill to address severe green card backlogs).
- Support continuing education and government liaison efforts of international advisers. With new leadership at various agencies, immigration will likely continue to get more challenging.