

**Agency name:** U.S. Citizenship and Immigration Services

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**Organization:** The Center for Security and Emerging Technology (CSET)

**Respondent type:** Organization>Academic institution / Think tank

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The Center for Security and Emerging Technology (CSET) at Georgetown University offers the following comments in response to DHS's proposed rule *Modernizing H-1B Requirements, Providing Flexibility in the F-1 Program, and Program Improvements Affecting Other Nonimmigrant Workers*. A policy research organization within Georgetown University, CSET provides decision-makers with evidence-based analysis on the security implications of emerging technologies, focusing on artificial intelligence, advanced computing, cybersecurity, and biotechnology. We appreciate the opportunity to offer these comments. This response was compiled by Luke Koslosky.

Our response focuses on nonimmigrant workers in the technology areas mentioned above, specifically artificial intelligence talent. Foreign-born talent in AI is a critical [source of strength](#) for the U.S., and immigrants from many countries often choose to [remain in the U.S. long-term](#), providing long-lasting contributions to the economy.

Many of these workers use H-1B visas to enter the U.S. workforce. From 2015 to 2018, companies with active AI programs hired over [34,000 H-1B workers](#), and did so without paying them less than domestic workers, indicating that they used nonimmigrant workers to fill roles that they were unable to fill with domestic workers. However, annual caps on new H-1B visas are not indexed to labor force, economic growth, or employment indicators, and there are no exemptions for strategically important industries. Raised cap levels or other exemptions would be a powerful tool for attracting more talent in critical technology areas.

Both H-1B visas and the OPT program for F-1 students are important pipelines for AI talent deserving of the attention given in the proposed rule. We appreciate the efforts of USCIS to modernize and improve nonimmigrant visa programs within the context of their regulatory authority. We would further encourage Congress to enact legislative reforms to allow individuals who can contribute to the U.S. AI labor market to study, live, and work in the U.S. more easily. The most impactful congressional actions that USCIS and the Biden administration should advocate for are:

- New exemptions to the caps on H-1B visas and green cards for graduates from top U.S. AI programs and researchers, technologists, and entrepreneurs in AI disciplines,

- Alternatively, Congress and the administration could:
  - Establish entirely new temporary visa and green card categories for AI and other emerging technologies, or
  - Raise or remove the overall numerical limits on H-1B visas and employment-based green cards, or
  - Index the caps to labor force, economic growth, or labor market conditions to ensure that visas and green cards keep up with current demand for talent.

We support the goal of the proposed rule to streamline and codify degree requirements as part of the definition of a “specialty occupation.” [Past CSET work](#) has demonstrated the demand for AI workers in roles that require specialized skills, but not necessarily a bachelor’s degree. Arbitrary degree requirements can often shut out large segments of capable workers; recognizing this, state and federal agencies as well as private companies have begun to remove degree requirements in their job postings. We believe that skills and competency-based hiring is more effective and more equitable in a digital economy.

With that in mind, we support the clarification that the position under review should “normally” require a bachelor’s degree, but not “always” require one. Without this clarification, the term “normally” could be used restrictively.

We also support the broadened definition of “specialty occupation” allowing for a range of degree fields leading to specialty occupations. Even in STEM fields which have the strongest correlation, there is still not a clear one-to-one pipeline from major field to career field. The new rule allowing for a range of degree fields is a step in the right direction, as long as the “direct relationship” it requires is interpreted sufficiently broadly, and that in practice it is not used as a restrictive measure. Once again, it is the skills and knowledge imbued by the coursework within a degree – as well as other related experience – that speaks to the suitability of the applicant. Adjudicators should not take this guidance to mean that only the types of degree, matched to specific jobs, are what matters. The final rule should give significant weight to related experience and degree coursework along with a degree field.

This is particularly important to the field of AI, where many AI specialists study disciplines outside of computer science such as physics, philosophy, linguistics, or others. In order to inform adjudicators and consular officers about the particularities of AI jobs, employers, and degree programs, USCIS should consider providing dedicated resources for noncitizens specializing in AI and other strategic fields, such as a “concierge service” or fast-track process.

This would help reduce bureaucratic misunderstandings, which often contribute to processing delays.

We also believe that USCIS should consider removing degree field requirements altogether, or removing the stipulation that general degree fields are insufficient by themselves, or at very least placing more emphasis on demonstrable competencies and relevant experience than on specific degree requirements.

Finally, we support the proposed H-1B cap exemptions, regarding the additional flexibility and simplification of eligibility for cap-exempt H-1B petitions, and the cap-gap extension post-completion of optional practical training (OPT) for F-1 visa holders. As noted at the beginning of this response, H-1B and OPT workers are important parts of the immigration pipeline but are limited by the annual caps of applicants.