

**Discourage, Delay, Deny: How the Campaign to
Reduce Legal Immigration Will Affect Your Campus**

AIEA 2019 San Francisco

**Victoria Jones, University of California, Irvine
Parinaz Zartoshty, San Jose State University
David Ware, Ware|Immigration, Attorneys at Law**



You Are Probably Not Aware....

- Off the front pages or “below the fold” myriad changes are taking place that will affect your campus for years to come.
- “Caravans” and walls have made headlines, but these policy and regulatory changes affecting legal immigrants have not.
- We will first give a thumbnail sketch of the socioeconomic and political issues which likely have propelled such changes.
- Then we will walk through the most significant ones.
- Finally, we will give you a bird’s eye view of two campuses where these changes are already beginning to bite.



Climate: Socioeconomic, Geopolitical

- Wages for white middle class stagnant or declining.
- White males' life expectancy declining.
- Multiple international threats, real and imagined.
- Society increasingly multicultural, foreign born at 12%.
- Many other changes, social and technological.
- Fake news; information "silos".
- Immigrants (especially muslims) demonized and blamed for multiple ills.
- False information spread about immigrants.



President Trump

- No coherent ideology.
- Ill- or misinformed on many issues.
- Advisors pulling in multiple directions.
- Obsessed with "success," overturning Obama policies.
- No plan for working with Congress.
- Critical positions: persons hostile to agency mission.
- Always playing to "base".
- Immigration playbook: written by FAIR, NumbersUSA.



➤ **EXTREME UNPREDICTABILITY.**



STEPHEN MILLER...TOP ADVISOR

- From Wikipedia (footnotes omitted):

“An immigration hardliner, Miller was a chief architect of Trump's [travel ban](#), the administration's reduction of refugees accepted to the United States, and Trump's [policy of separating migrant children from their parents](#). On February 12, 2017, he appeared to question the power of the judiciary to limit the executive's role in setting immigration policy.”



Federation for American Immigration Reform

- FAIR is a far-right, anti-immigrant group with links to white nationalists. From Wikipedia (FN omitted):

“The **Federation for American Immigration Reform (FAIR)** is a non-profit [tax exempt](#) organization in the [United States](#) that self-identifies as an organization seeking to reduce both legal and illegal immigration. The group publishes position papers, organizes events, and runs campaigns in order to influence US immigration policies. The [Southern Poverty Law Center](#) classifies FAIR as a hate group with close ties to white supremacist groups.”



FAIR's Recommendations to Trump

- In 2016, FAIR produced a set of 40+ proposals addressing both legal and illegal immigration, setting out policy goals, not requiring Congressional action, for the President in first 100 days and first year. About half dealt with reducing legal immigration.
- http://www.fairus.org/sites/default/files/2017-08/FAIR_2017TransitionDocument.pdf
- Trump has already accomplished or is in the process of granting much of this “wish list”, including: H 4 work authorization revocation, public charge provisions, extreme vetting, readjudication of H and L petitions, and revocation of TPS for many countries.



Trump Supports Reducing Legal Immigration

- In early August, Mr. Trump endorsed a bill by Sens. Cotton and Perdue to reduce legal immigration by half, based on a points system. The bill also aligns exactly with FAIR's aims and recommendations.
- <https://www.nytimes.com/2017/08/02/us/politics/trump-immigration.html>
- https://www.cotton.senate.gov/files/documents/170801_New_RAISE_Act_One_Pager_FINAL.pdf



The Con



- Republicans extremely divided:
 - Pro business ~ pro immigration?
 - Scared of primary challenges from right
 - Nativist = anti immigration
 - Will support President to extent they can use him to achieve own agenda.
 - Democrats united in opposition to dismantling Obama legacy, but not all are pro immigration: concerned about effects on US workers.
- NOT MUCH WILL HAPPEN. SO EXECUTIVE TAKING THINGS INTO OWN HANDS....



A tale of two mission statements

USCIS's Previous Mission Statement

"USCIS secures America's promise as a nation of immigrants by providing accurate and useful information to our customers, granting immigration and citizenship benefits, promoting an awareness and understanding of citizenship, and ensuring the integrity of our immigration system."

USCIS's Current Mission Statement

"U.S. Citizenship and Immigration Services administers the nation's lawful immigration system, safeguarding its integrity and promise by efficiently and fairly adjudicating requests for immigration benefits while protecting Americans, securing the homeland, and honoring our values." (www.uscis.gov)



General Issues

- Travel ban, very few waivers granted: Somalia, Iran (F's and J's exempted), Libya, Yemen, Syria
- 90 day rule: 9 FAM 302.9-4(B)(3)(g) and (h)
- Extreme vetting, greater scrutiny: longer SAOs for nationals of "countries of interest", technology issues, examination of history in US
- Revocation of visa interview waiver, except for renewals within 12 mos of expiration
- Much longer processing times for EADs, COS, AOS and other applications
 - Are processing time computations deceptive? Inability to inquire until petition/application outside very long windows. Some receipt #'s missing.
- Revocation of InfoPass
- Revocation of TPS for many nationalities
- Revocation of DACA/DAPA
- Drastic changes for Public Charge
 - Old policy: <https://www.uscis.gov/greencard/public-charge>
 - Proposed changes: <https://www.uscis.gov/legal-resources/proposed-change-public-charge-ground-inadmissibility>
 - Summary: <https://www.cbpp.org/research/poverty-and-inequality/trump-public-charge-rule-would-prove-particularly-harsh-for-pregnant>



Regulating by memo, not regulation

- RFE, NOID memo allows USCIS to more easily deny benefits without a chance to refute their conclusions
 - <https://www.uscis.gov/news/news-releases/uscis-updates-policy-guidance-certain-requests-evidence-and-notices-intent-deny>
- NTA memo: many classes of applicants put into removal if benefit application denied (no EB yet!)
 - <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf>
- Revocation of deference policy for previously approved petitions/applications
 - <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2017/2017-10-23Rescission-of-Deference-PM6020151.pdf>



Student/EV Issues

- Unlawful presence memo
 - <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-08-09-PM-602-1060.1-Accrual-of-Unlawful-Presence-and-F-J-and-M-Nonimmigrants.pdf>
 - Are your processes liability-proofed?
- Changes to FAM regarding assessing nonimmigrant intent: 9 FAM 402.5-5(E)(1) (U)
- Bridge Applications
 - COS from B to F
 - COS from statuses where no EOS possible, e.g., J-2, H-4, H-1B status ending
- Cap Gap expired midnight 9/30 (**reminder issued 9/28** from USCIS with reference to ULP consequences)
- CPT and OPT – USCIS interpretation varies from previous SEVP policies and guidance
 - Counting PT CPT against OPT?
 - Counting all CPT against OPT?
 - Prohibiting CPT immediately following OPT at same ed level?
 - Increased inquiries at COS/AOS regarding appropriate OPT/CPT
- End of D/S? Who will adjudicate extensions?



OPT/CPT—Count Against One Another?

8 CFR 214.2(f)(10)

Practical training. Practical training may be authorized to an F-1 student who has been lawfully enrolled on a full time basis, in a Service-approved college, university, conservatory, or seminary **for one full academic year.** This provision also includes students who, during their course of study, were enrolled in a study abroad program, if the student had spent at least one full academic term enrolled in a full course of study in the United States prior to studying abroad. **A student may be authorized 12 months of practical training, and becomes eligible for another 12 months of practical training when he or she changes to a higher educational level.**



OPT/CPT

(i) Curricular practical training. An F-1 student may be authorized by the DSO to participate in a curricular practical training program that is an **integral part of an established curriculum**. Curricular practical training is defined to be alternative work/study, internship, cooperative education, or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school. **Students who have received one year or more of full time curricular practical training are ineligible for post-completion academic training.** Exceptions to the one academic year requirement are provided for **students enrolled in graduate studies that require immediate participation** in curricular practical training.



H-1B and Permanent Residence Issues

- H1B denials up 40%, according to analysis by the [National Foundation for American Policy](https://nfap.com/wp-content/uploads/2018/07/H-1B-Denial-and-RFE-Increase.NFAP-Policy-Brief.July-2018.pdf) (<https://nfap.com/wp-content/uploads/2018/07/H-1B-Denial-and-RFE-Increase.NFAP-Policy-Brief.July-2018.pdf>)
 - RFE Apocalypse: up by 300%
 - Specialty occupation
 - Level 1 and 2 wage and other LCA issues
 - Rescission of deference memo
- Readjudication of H, L and O petitions at consulate.
- PP suspension for cap-subject and change of employer filings until 2/19: smothering H1B's?
- H4 work authorization going away?
- Toughening of EB1B standards? Nebraska leads the way!
- Tougher standards on routine I-140s?
- Interview requirement for EB AOS: routine questions but much longer processing times.
 - Consistently asking for marital bona fides for spouse.
- I 245J: Lots of questions on "same or similar".
 - Not needed: concurrent filing of AOS, NIW, EB1A
 - Needed: separate filing of AOS, change of employer



Overall Effect: Dismantling the Higher Education Ecosystem



- PI's, Professors, Instructors: H or O visa.
- Researchers: J or H visa.
- Graduate Assistants: F or J visa.
- Undergraduates: F or J visa.
- H 4/Other Work Authorization.



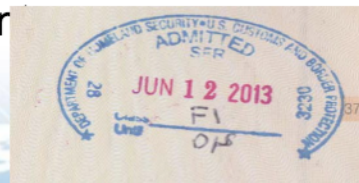
Canada Stealing our Lunch...

- Intl enrollment up 13%
- 2 yr program, 3 yrs work
- PR: age, English, degree, work exp in Canada
 - Most employers can sponsor without labor market test (labor certification)



Students/EVs

- Unlawful presence
- CPT and impact on OPT
- Bridge applications for COS (H4s to F-1s)
- Visa denials: non-immigrant inter
- End of D/S?



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Staff/DSOs/AROs

- Compliance
- Changing nature of advising
- Burn out and stress
- Staff retention



WI
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Faculty/Departments/Institution

- Budgetary impact
- Resource impact (e.g. research and teaching assistants)
- Less predictability of enrollment
- Less diversity in student population



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Community



- Fewer students who meet eligibility for internships and jobs (especially, STEM fields)
- Less diversity of thought in community
- Reduction in innovation and growth (international students and role with start ups)
- Fewer EVs to collaborate on research projects with companies and institution

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Impact on UCI

- Application pool – increase slowing, no decline yet
- No significant denials
- Reprivee...



Student support! Undocumented Students

- The University of California welcomes and supports students without regard to their immigration status
- Guide for faculty about supporting undocumented students, e.g. terminology - “undocumented” not “illegal”
- UCI Dream Center
 - No-cost legal services
 - Resources and referrals
 - Programming



Student support! Travel Ban

- Townhalls
 - Legal team and ISS
 - Psych and social support
 - Resources for study accommodations
 - Updated information 24/7 online



Spies and Thieves



Tensions

Impacts

Actions

Tensions

Labs are leaking US IP
 Visitors are stealing trade secrets
 Campuses are naïve

vs.

Student restrictions and freedoms
 Basic research, public domain
 Collaboration

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Impacts

Fear – better not to do it than to do it wrong

Uncertainty - what are we allowed to do?

Suspicion – who can be trusted?

REsearch

Programming

students

faculty

**Community
Engagement**

Classroom

donors

Discussions

visitors

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Actions

- “Tiger Teams” – sensitive issues & students
- International Relations Council
- Campus guidelines
- Federal relations
- Foreign relations – “sub-national”
- Student outreach

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QUESTIONS?

¿Preguntas?	Vragen?
Domande?	Perguntas?
Câu hỏi?	Shitsumon wa arimasu ka?
Fragen?	Kum tum?
Preguntes?	Voprosy?
Savāla?	Tanong?
Pytannya?	Kesyon?
Sorular?	Jilmun?
Yǒu wèntí ma?	Kit'Khvebi?
Maswali?	Kysymyksiä?
Dotazy?	
Ερωτήσεις;	

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