Draft Comments on Proposed H-1B Weighted Selection Process

Below is a list of potential comments for you to cut-and-paste into a set of comments from you and your organization. Ideally, your comments will reflect you and your organization's experience with the H-1B process and the **expected impact the proposed rule would have on your organization and your stakeholders**.

Index of Potential Comments to File:

Sample fill-in-your-data comments

It is valuable to include in your comments how the rule will impact you and your organization specifically, beyond national level impact. If you would like support finding data for your region please contact info@globaldetroitmi.org.

- According to the IIE Open Doors report for the 2024-25 academic year, [INSERT YOUR STATE] hosts xxxx international students These international students are estimated to spend $xxx billion every year in the [INSERT YOUR STATE OR REGION] economy through tuition, rent, food, goods and services. [NOTE: THE DATA ON NUMBER OF INTERNATIONAL STUDENTS AND THEIR SPENDING CAN BE EASILY OBTAINED FROM THE IIE OPEN DOORS STATE FACT SHEETS AVAILABLE AT https://opendoorsdata.org/download-state-fact-sheets/]
- This research function is significant to the [INSERT YOUR STATE OR COMMUNITY] economy. [INSERT YOUR STATE OR COMMUNITY] has approximately [INSERT INFORMATION FROM obtobservatory.org] STEM graduates working on OPT at any one time, which makes them an important part of our STEM workforce. Making it harder for those early-career workers to obtain H-1Bs will be a blow to the businesses who rely on them, and a blow to our regional dynamism.

More fill-in-your-data comments are available in the Sample Comments documents for in-Michigan and outside of Michigan organizations.

Potential Comments to File:

The Purported Benefits Are Minimal

Using recently released FOIA data on all H-1B registrations and petitions filed from FY 2021–2024, linked with Department of Labor data showing those individual workers' Wage Levels, the Institute for Progress has developed research that demonstrates that the proposed Wage Level system would not prioritize the highest-skilled or best-paid workers.[1] Instead, it would have three surprising consequences that include:

1. **A windfall for outsourcers.** Large IT outsourcing firms (Wipro, Infosys, Tata, Cognizant, etc.) would actually *gain* under the rule, receiving 8% more visas, because they systematically register mid-career workers classified at higher Wage Levels despite paying comparatively low salaries. By contrast, a system based on actual pay would reduce visas for outsourcers by over 60%.

[1] Jeremy Neufeld, "The 'Wage Level' Mirage: How DHS's H-1B Proposal Could Help Outsourcers and Hurt U.S.-Trained Works," (September 24, 2025) found at https://ifp.org/the-wage-level-mirage/?utm_source=substack&utm_medium=email

2. **A setback for U.S.-educated talent.** International students graduating from American universities earn higher salaries on average than other H-1B workers, but because they are early-career, they are overwhelmingly classified at the lowest Wage Levels. The proposed rule would cut visas to F-1 graduates by 7%. A compensation-ranking would increase their share by 7%.

   American colleges and universities are the on-ramp for much of the skilled talent that fuels our research labs, startups, and innovation clusters. About half of all college graduates in the United States who were born abroad said that they originally came to the United States because of education opportunities. Each year, tens of thousands of international graduates, particularly in STEM fields, seek to move from F-1 student status into H-1B employment. Retaining this talent is essential if the U.S. is to continue leading in science and technology, as the president himself has said.

   The proposed Wage Level Lottery would undercut this pipeline. Recent graduates are necessarily early-career, so their positions are overwhelmingly certified at Level I or II—even when their salaries are six-figure offers in cutting-edge industries. DHS data confirm this mismatch: international students transitioning from F-1 to H-1B status earned higher salaries on average than non-F-1 workers, yet they were far more likely to be certified at the lowest wage levels. Under the proposed rule, that misclassification translates into a 7% reduction in H-1Bs awarded to U.S.-educated international students each year.

3. **Minimal skill gains.** DHS justifies the rule as raising skill levels, but the effect is trivial: the weighted lottery would lift the median H-1B salary by just 3% (from $92,000 to $95,000). By contrast, a compensation-based system would raise the median by a 52% jump to $140,000. Compensation-ranking would also vastly increase the share of PhDs selected by a whopping 148%. Importantly, Wage Levels are not the same as actual wages but are intended to correspond to seniority within an occupation and area. While Wage Levels are correlated with actual salaries, it is only a loose proxy, and there is significant overlap between the actual salaries paid by employers for workers at different Wage Levels. A Wage Level IV job is not necessarily a high-wage job. In fact, the data show many Level IV certifications for salaries far below the median American wage, while some Level II jobs are among the best-paid in the economy. The ranking system would thus favor companies sponsoring older workers with longer seniority, even in lower-skill jobs, over genuinely high-wage, high-skill roles.

The Proposed Methodology Is Flawed

The Department of Labor Wage Levels relied upon the proposed rule are a compliance construct to benchmark prevailing wage levels within an occupation and location. They are not designed to, and cannot, compare wages across the many occupations that qualify for H-1B status. It does not follow that Wage Levels are a reasonable proxy for comparing compensation *across* occupations. The proposed rule asserts that “salary generally is a reasonable proxy for skill level.” But that premise does not establish that Wage Level weighting can validly be used to compare or prioritize across occupations. A selection system keyed to Wage Levels therefore risks rewarding seniority within lower-paid occupations over genuinely high-wage, high-skill roles in other fields.

This leap from a framework meant to compare workers *within* an occupation to a tool to prioritize workers *across* occupations is not supported by the underlying statute (INA §212(p)), DOL regulations (20 C.F.R. §655.731), or the agency's guidance (last updated in 2009)—and, as discussed below, is not borne out by the government's own data.

Awarding H-1Bs by Wage Level Will Decrease International Student Enrollment and Deter International Student Retention and Hurt the Economy

The proposed rule identifies that it is seeking to prioritize higher-waged positions with more seniority. By nature, such a system would disadvantage positions wishing to hire international student talent graduating from U.S. colleges and universities and, thus, will decrease the U.S.-based employment opportunities for international student graduates.

In anticipation of the Department's publication of the proposed rule, NAFSA: Association of International Educators conducted surveys in August and September 2025 of current graduate students and postdoctoral fellows in the U.S. and prospective students outside the country. The responses of over 1,000 current F-1 and J-1 visa holders, primarily PhD students and postdoctoral fellows, and over 600 prospective students, two-thirds of whom are seeking Masters-level or Bachelors-level degrees suggest significant reductions in enrollment.[2]

53% of respondents said they would not have enrolled in the first place if access to H-1B was determined by Wage Levels. 48% of the master's students who said they are currently likely to try to stay and get another visa under current rules say that if H-1Bs were instead determined by Wage Levels, they would not try and stay. For PhDs currently likely to stay, 52% say they are unlikely to try to stay if their decision if H-1Bs were prioritized by Wage Level. 38% of postdocs would change their intention to try to stay.

International students spent $43.8 billion annually in the U.S., making it the seventh largest service export product. Those expenditures don't just benefit higher education, but they impact retail business, landlords, tourism, hospitality and other business sectors in the university towns and communities across the nation. In August 2025—prior to the publication of this proposed rule—NAFSA and JB International predicted a 15 percent decline in overall international student enrollment this fall and 30-40 percent decline in new international student enrollment. The loss of these students is projected to cost the U.S. economy $7 billion.

[2] Surveys on International Student Talent Pipeline, summarizing Key Results and providing Tabulated Results. The Institute for Progress and NAFSA conducted three surveys to understand the international student talent pipeline and how employers use the H1B program to hire international talent. Found at https://ifp.org/wp-content/uploads/2025-Surveys-on-International-Talent-Pipelines-1.pdf

The proposed rule sends another signal to international scholars considering studying in the U.S. that their talents are unwelcome and that federal immigration policies governing their entry into the U.S. workforce after degree completion will be more difficult to navigate moving forward. The loss of these international students will result in lost economic spending in the U.S. and will hurt a significant export sector.

Reductions in International Student Enrollment and Retention Cuts Off a Critical Supply of Talent to U.S. Innovation and the Economy and Will Hamper U.S. Competitiveness

International student retention is critical to the long-term supply of high-skilled STEM talent necessary to support the U.S. national defense, as well as innovation that undergirds U.S. competitiveness. Relatedly, as a matter of the nation's security, Congress included as part of the National Defense Authorization Act an instruction to the National Academies of Sciences, Engineering, and Medicine to study international talent programs employed by and in the United States.[3] In response to this statement of work, a 2024 National Academies report concluded, in essence, that the primary if not sole global talent pipeline for the United States is the international students, scholars, and researchers attracted to U.S. university campuses. **"The U.S. has a talent program," the National Academies committee chair said, "It's called graduate school."** [4]

International students contribute to our national defense and economic competitiveness in several ways. They contribute to innovations and research happening at U.S. colleges and universities while studying in the U.S. It is estimated that 75 percent of the patents awarded to the nation's top ten patent-producing research universities had an international student, faculty or researcher among the team filing the patent. International student graduates go on to launch some of the most important and valuable startup companies in the U.S., having founded or co-founded approximately 25 percent of all U.S. unicorns (143 of the 582 companies), startup companies backed by venture capital with market valuations in excess of $1 billion. They also contribute to a disproportionate number of U.S.-won Nobel Prizes in science.

By making it more difficult for international student graduates to win the H-1B lottery and creating a disincentive to employers willing to offer such positions to graduating international students, the proposed rule will create a disincentive for aspiring international students considering studying in the U.S. and will result in a reduction in the number of such students matriculating to U.S. colleges and universities.

[3] Section 238, NDAA for FY2021, Pub.L. 116-283, enacted January 1, 2021 (Mac Thornberry National Defense Auth. Act).

[4] Mark Barteau and Sarah Rovito, "International Talent Programs in the Changing Global Environment," National Academies of Science, Engineering and Medicine (2024) found at https://nap.nationalacademies.org/catalog/27787/international-talent-programs-in-the-changing-global-environment

In several critical ways the Department's Notice of Proposed Rulemaking fails to account for the vital national security interest of retaining this talent pipeline of international STEM experts,[5] almost all of whom first come to the United States on F-1 and J-1 visas. As noted, the proposed rule is biased against this talent entering the U.S. workforce via the H-1B visa. The Department's NPRM (1) does not recognize serious risks of its approach with regard to deterring international students, scholars, and researchers generally and international PhD students and postdoctoral fellows specifically, and (2) does not properly establish the national-level costs to the U.S. economy of its proposed approach.

[5] A bipartisan group of 70 national security experts and officials made these points in a May 2023 letter imploring congressional action on international scientific and engineering talent because when America attracts global STEM talent many "will be working in Pentagon-identified critical technology areas." See Alison Snyder and Sophia Cai, "Experts Push Congress for More High Skilled Immigrants to Compete with China," Axios (May 15, 2023) found at
https://www.axios.com/2023/05/15/science-tech-stem-china-immigration