

Testimony of

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and
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before the

**U.S. House of Representatives
Committee on Science**

in regard to

**"Dealing with Foreign Students and Scholars in the
Age of Terrorism: Visa Backlogs and Tracking Systems."**

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Mr. Chairman, my name is David Ward and I am president of the American Council on Education. ACE represents 2,000 public and private colleges and universities. I am testifying today on behalf of those institutions as well as the 32 education and exchange visitor organizations listed at the conclusion of my testimony.

I have a deep professional interest in the issue that we are discussing today. As the former Chancellor of the University of Wisconsin-Madison, a major research university with 4,500 international students and scholars, I had the privilege of working with international students and scholars every day and saw firsthand the talents and skills they brought to my university. I am also personally interested in this issue – I originally came to the United States as an international student in 1960, earned a Ph.D. and then left, as my visa required me to do. I returned to the U.S. later and became a U.S. citizen in the Bicentennial year of 1976.

I believe that international students and exchange visitor programs are enormously beneficial to the United States. They dramatically increase the knowledge and skills of our workforce. They boost worldwide appreciation for democracy and market-based economics and give future world leaders first-hand exposure to America and Americans. At the same time, international education generates billions of dollars in economic activity every year.

The most important benefits of international students and exchange scholars cannot be easily quantified. But we know what they are. First, international students and visitors bring knowledge and skills to U.S. classrooms, laboratories, and businesses. The sum total of their intellectual contributions is enormous. For example, the rapid developments in information technology that helped fuel the economic growth of the 1990s benefited immeasurably from international students and scholars from Southeast Asia who studied at American universities in the late 1980s. In the same vein, a central feature of the advances in biomedical research that will pave the way for future gains in the quality and length of life are collaborative efforts between native and foreign-born researchers now taking place in thousands of American laboratories.

Second, international students and exchange scholars help bring greater international understanding. In the current global climate, we need more and better efforts to enhance international understanding. One of the best ways to do this is through the everyday classroom discussions that one finds on college and university campuses. Candid discussion enhances familiarity – and familiarity leads to understanding. When international students and exchange visitors

return home, they take with them first-hand understanding of our country and our values. Indeed, some of America's strongest supporters abroad are those who have spent time in this country.

International students add diversity to college classrooms. For many native-born students, international students offer the first chance for a sustained friendship with someone born in another country. As the world grows ever smaller, meaningful exposure to international students will better prepare American students to live, communicate, and compete in the global economy.

This does not mean that the economic benefits are trivial. According to the Institute for International Education, the nearly 583,000 international students who visit this country purchase some \$12 billion a year in goods and services. They do this when they pay tuition, rent an apartment, buy a pair of jeans, order a pizza, or go to a movie. Of course, like everyone else, international students and exchange visitors pay taxes on the goods and services they purchase. If they are allowed to work while they are here, they also pay federal and state income tax.

According to the U.S. Commerce Department, higher education is the nation's fifth largest service-sector export. In an era when many policy makers and economists worry about our huge trade deficit, the presence of international students helps reduce it.

In short, the benefits of international students are unambiguous and overwhelming. So it is no surprise that President Bush has said: "The United States benefits greatly from international students who study in our country," or that he has committed his Administration to "continue to foster and support international students."

Secretary of State Colin Powell – no stranger to what is in America's international interests – says that international education "encourages and sustains democratic practices, creates a cohort of future leaders who understand each other's countries from the inside, and promotes long-term linkages between institutions here and abroad." The list of foreign heads of state that have studied at an American college is long and distinguished. The State Department has concluded that fully one-half of the world leaders who agreed to support our war on terrorism first came to this country as an international student or exchange visitor.

The events of September 11th changed much in this country. Many of the policies and practices by which the U.S. welcomes international visitors have been the subject of examination and sustained discussion. A large number of

changes have been put in place, including, the process by which international students and exchange visitors enter the country and are monitored while they are here.

We support these efforts. Colleges and universities are among the most open institutions in our very open society. The openness and the freedom that campuses provide individual students and scholars is one of the key factors in our widely admired system of higher education. To maintain this openness, we need to make certain that all potential students and researchers come here with the best of intentions, that they remain in compliance with all appropriate laws and regulations, and that we help the appropriate authorities monitor their academic activities and visa status.

But we fear that the inconsistent and inefficient implementation of these steps is making it more difficult to encourage international students and scholars to come to our country and to complete their studies, scholarship and research. I call the Committee's attention to several problem areas:

- Electronic monitoring of international students and exchange visitors who come to the U.S. does not work as promised;
- Extensive visa delays for students and scholars who seek to enter the country have become common; and
- Very real questions about what students can study or what scholars can investigate when they do arrive create confusion.

The new federal system for monitoring International Students and Exchange Visitors does not work as promised.

On January 1, 2003, the Immigration and Naturalization Service implemented the Student and Exchange Visitor Information System or SEVIS. This is a large and complex information technology system that is designed to link all US embassies and consulates, all INS ports of entry, every institution of higher education that sponsors international students, and every exchange visitor program.

We believe that SEVIS is the single most important step that the federal government can take to improve its ability to monitor international students and exchange visitors and we strongly support its implementation. However, we

have repeatedly indicated a concern that this system was being implemented before it was fully operational. Last fall, at separate hearings held by the House Education and the Workforce Committee and the House Judiciary Committee, the higher education community indicated that we did not believe that the SEVIS system would be operational in time for smooth implementation. The Department of Justice Inspector General also expressed doubts about the implementability of SEVIS at both hearings.

Sadly, as we feared, SEVIS was not ready and campuses are confronting enormous difficulties. The simplest way to characterize these problems is to say that the Immigration and Naturalization Service implemented this system before it was fully tested. Campus officials are now dealing with the failure to adequately develop this system.

SEVIS suffers from three serious problems:

First, SEVIS is technologically flawed. Schools using SEVIS report that it frequently 'loses' data that has been properly entered into the system. Many schools report that their immigration forms have printed out on the computers of other schools. For example, official government immigration forms that Stanford University in Palo Alto, California, attempted to print were later discovered at Duke University in Durham, North Carolina; forms for Michigan State University appeared on the printer at Arizona State University. Most worrisome, perhaps, confidential SEVIS forms printed by the Jet Propulsion Laboratory – a secure government installation – were printed at a proprietary school in San Francisco. And batch processing, which schools need to submit large amounts of data, works intermittently at best. Some schools have not been able to make batch processing work at all.

These technological flaws can have serious consequences for students. One local university discovered that, despite repeated efforts, it could not successfully reactivate the record of an international student from Thailand into SEVIS after the student record was incorrectly terminated by the INS. INS officials told campus personnel they would address the issue. However, INS officials visited the student at home and, upon further discussion, arrested her and led her away in handcuffs.

Second, contrary to promises, SEVIS does not provide real-time access to data. SEVIS was designed to link schools, the State Department and the INS in real time. This is a reasonable goal for an electronic information system. Unfortunately, SEVIS does not yet provide these linkages in a timely fashion. For an extended period in February, no data was transmitted because the INS did not configure the system to transmit it and failed to do a manual

transmission of the data for 10 days. Some embassies and consulates find that it takes a week or longer for them to access data entered into SEVIS. This means that students arrive at an embassy – sometimes after traveling a great distance – only to be told (incorrectly) that their data has not been entered into SEVIS and that they may not apply for a visa. In fact, their data is in SEVIS – that’s the only way they could receive an I-20 form – but the SEVIS data has not been forwarded to the consulate. The bottom line is the same – without timely consular access to the SEVIS data, a student may not apply for a visa. These delays cause confusion and frustration for embassies, students and schools.

Third, the INS has not provided adequate training to anyone. Training is critical for the successful implementation of any new information technology system, yet the INS has provided almost no training to campus officials or even to its own staff. One campus official recently visited an INS regional service center and learned that the center did not know how to identify SEVIS documents and had not been provided with any training. The campus official was asked to help INS officials understand what they were supposed to do. Regional INS officials have not been adequately trained and therefore often provide different answers to the same questions. INS's SEVIS Help desk can answer technical questions about the system but is unable to answer regulatory questions. As a result, school officials are on their own.

Two factors make this situation even more worrisome. First, the volume of information in SEVIS is about to increase dramatically. Between now and August 1, we conservatively estimate that an additional one million records – approximately 250,000 per month – will need to be entered in SEVIS. We do not believe there is any chance that SEVIS will be able to accommodate this huge surge of information and are deeply concerned that it will play havoc with students, colleges, universities, and consular and immigration offices, alike.

Second, the federal government still has not published the regulations specifying how the SEVIS fee will be collected. Under the law, potential international students must be registered in SEVIS and they must pay a SEVIS fee. The government has not yet begun to collect the fee but there are indications that it plans to do so in the very near future. While no regulations have been published, we understand that the fee collection process will be totally separate from the process by which students are listed in SEVIS. Moreover, fee collection will reportedly rely on traditional mail and paper receipts and thus dramatically undermines the promise that SEVIS would be an entirely electronic system.

We have proposed ways to simplify the collection of this fee but federal agencies have been unwilling to consider them. We believe that adding a poorly designed fee collection process to a poorly functioning SEVIS system is a prescription for further disaster.

Delays Entering the Country Have Become Common

Because of the enhanced background checks and additional administrative procedures now being employed, it often takes far more time for an international student or scholar to enter the country. Prior to September 11, 2001, some visa applications routinely attracted closer examination than others. For example, some international students and researchers who hope to study or work in fields identified on the State Department's "Technology Alert List" have been subject to a higher level of scrutiny. In addition, individuals from countries that are known to sponsor terrorism have long received more extensive attention from government officials before a visa is granted.

In the last 18 months, visa delays for students and scholars have become more extensive and unpredictable for several reasons. First, the State Department has increased the number of subjects on the Technology Alert List significantly. New fields added to the list include multiple sub-areas of the biological sciences, as well as community development, environmental planning, geography, urban planning, housing and landscape architecture. Second, last summer, the State Department imposed stricter procedures for visa applications flagged for review in the Visa Mantis process. Under the stricter procedures, a visa application that a consular officer refers to Visa Mantis must be reviewed by appropriate government agencies and must receive a security advisory opinion before a visa decision can be made. Prior to this point, some visa applications referred to Visa Mantis did not require a security advisory opinion. We understand that this increased level of scrutiny coupled with the expansion of the Technology Alert List, has been largely responsible for the enormous backlog of visa applications, estimated to be 25,000 last fall.

International students and scholars tend to be severely impacted by delays in granting visas for two reasons. First, their visits are most typically tied to programs with specific start dates. Students need to begin their programs at the start of an academic term. Scholars and researchers need to be on campuses in time to begin research projects and to begin teaching at the beginning of the academic term. International students and researchers and host colleges and universities rely on a timely and predictable visa process.

Second, international students and scholars travel outside the U.S. during semester or term breaks, to attend international academic conferences, to take care of personal affairs, or to visit family. Many students and scholars who have done so in the past 18 months have encountered enormous difficulties in reentering our country. Increasingly international scholars and students already in the country are reluctant and refusing to travel outside of the U.S. for fear of

being unable to return to complete their studies or research. In several cases, students who need only to defend their dissertation before receiving their PhDs have found themselves unable to reenter the United States. Visa delays have also made it increasingly difficult, if not impossible, for international scholars and researchers to attend short-term scientific conferences that are held in the United States. Having the world's best scholars attending international conferences in the U.S. benefits our nation in multiple ways. However, if significant numbers of foreign scientists continue to find that they are unable to enter this country in time to attend conferences, then conferences will be hosted in other countries instead. U.S. science and technology, tourism, and the economy would suffer as a result.

I should emphasize that we do not in any way object to careful review of all visa applications. We seek a visa process that is timely and predictable. Moreover, we seek a process by which existing student and scholar visa holders can revalidate their visas before leaving the U.S. for academic, health, or other personal reasons. This would significantly reduce the impact of visa processing delays because students and scholars would be able to continue their studies, teaching, and research uninterrupted while their visas are being processed.

Unclear what international students can study or scholars can investigate if they do come to this country.

Students and scholars who are granted a visa and enter the country now find themselves subjected to additional levels of scrutiny and restrictions. As noted above, the Technology Alert List that consular officers use in evaluating visa applicants, now encompasses virtually every area of contemporary science and engineering. Blanket areas like "civil engineering" have now been added to the list.

For the last year, the Administration has been working on a new visa review process for international students and scholars who seek to study in so-called "sensitive areas" as specified in Homeland Security Presidential Directive 2. Known as I-PASS (for Interagency Panel on Advanced Science and Security), its goal is to ensure that international students and scholars do not acquire

‘uniquely available’ education and training in the U.S in sensitive areas of study with direct application to the development and use of weapons of mass destruction. We have not seen the details of this proposal, but we have some concerns that it could further increase the number of delayed visa applications and impede teaching and research.

In addition, we increasingly see new restrictions on publication of scientific research and on access to research and research results by foreign nationals. For example, usage of export control restrictions and talk of new categories of restricted information are growing. These new categories include: "sensitive but unclassified" and "sensitive technical homeland information". Certainly, the results of scientific research with national security implications should not be in the public domain. It is our belief, however, that such research should be clearly labeled as "classified" research as called for under Administration policy. Current Administration policy on access to scientific information can be found in National Security Decision Directive 189 (NSDD 189). This policy, which is strongly supported by colleges and universities, clearly establishes that research is either "classified" or "fundamental". NSDD 189 was first promulgated in 1985 by President Reagan and it has been reaffirmed by every subsequent administration. While this directive remains in effect, its meaning has been lost or diluted in most departments and agencies. Indeed, we fear that NSDD 189 has been replaced by an ad hoc approach that makes it far harder for campuses and scientific organizations to understand exactly what research security protocol the government wishes to follow.

I emphasize that the federal government must decide who receives a visa to study in the United States. International students and scholars who are of concern to the government should not receive a visa. Speaking as a former university president and a devout supporter of international education and scientific research, I do not want any individuals on a college campus if the government has any reasonable concerns about them. I do not want them in our nation’s classrooms, dormitories, laboratories, or libraries. I do not want them to have access to scientific equipment or even to extracurricular activities.

The U.S. economy is fueled by innovations in science, engineering and technology. Given the innovation-driven nature of our economy, it is important that the U.S. continue to remain the destination of choice for the world’s best students and scholars.

Obviously in the new world in which we live, the government must put new security procedures and policies in place. We support these efforts and we have and will continue to work with the government to meet security needs. We

understand it will take some time before new policies and procedures begin to operate smoothly. Some of these procedures appear counterproductive, unworkable, ad hoc and uncoordinated. As a result, costs associated with these new policies will be higher than desirable and necessary. We fear that some of the new policies and procedures may well make the nation a less desirable and welcoming place for international students and scholars and this will force some students to choose to go elsewhere. The loss to our economy and our scientific enterprise will be incalculable and profound.

We recognize that the Science Committee does not have jurisdiction over many of the agencies that oversee SEVIS and the issuance of visas for international students and scholars. However, we think that the Committee could be helpful in encouraging the federal government and the agencies involved in SEVIS implementation and the issuance of visas for international students and scholars implement several measures right now. These measures would fix a number of the current and future problems of SEVIS by making it the system it is supposed to be, reducing the number of visa delays and making it clear that openness in research is the policy of the U.S.:

- State Department consulate offices should collect the SEVIS fee as a part of the visa collection fee. This maintains SEVIS as an electronic system and streamlines the process for the consular offices and for the international student.
- Campuses – specifically Designated School Officials (DSOs) – should be given broader access to SEVIS in order to correct clerical errors in the initial form. (For example, a field of study change, correction of gender, name spelling.) In one instance, a field of study change took 47 days to complete. These types of changes are minor and should not require direct involvement by the INS to correct.
- The State Department should use the SEVIS system to ensure real time access of data. Currently, the State Department runs the SEVIS data through their own system instead of using the secured Internet-based interface. In some instances, this has caused data loss.
- The Social Security Administration (SSA) should be granted access to SEVIS to allow SSA officials to verify information for work authorization before issuing Social Security numbers to F1 and J1 visa holders.
- With respect to openness in research, reaffirm and strengthen National Security Decision Directive 189 (NSDD 189).

Mr. Chairman, I would like to thank you and the members of the Science Committee for holding this hearing on the development and implementation of SEVIS and the impact on education and research on U.S. campuses. I wish to assure you and the members of this Committee our strong commitment to the implementation of SEVIS. But, to do this, we ask that our campuses be given the

tools and the regulatory guidance to achieve this goal while ensuring that international student and scholars are not discouraged from study and research in the U.S. Thank you for the opportunity to testify this morning.

On behalf of:

Alliance for International Educational and Cultural Exchange
American Association of Community Colleges
American Association of Higher Education
American Association of University Professors
American Council on Education
American Dental Education Association
APPA: The Association of Higher Education Facilities Officers
Association of American Medical Colleges
Association of American Universities
Association of Catholic Colleges and Universities
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of International Education Administrators
Association of Jesuit Colleges and Universities
Council for Advancement and Support of Education
Council for Opportunity in Education
Council of Graduate Schools
Council of Independent Colleges
Educational Testing Service
Hispanic Association of Colleges and Universities
NAFSA: Association of International Educators
National Association for Equal Opportunity in Higher Education
National Association of College and University Business Officers
National Association of Independent Colleges and Universities
National Association of State Universities and Land-Grant Colleges
National Association of Student Financial Aid Administrators
National Collegiate Athletic Association
National Council for Community and Education Partnerships
National Council of University Research Administrators
The College Board
United States Student Association
University Continuing Education Association