



## Insight

# The Immigration Suspension Impacting Chinese International Students

JACQUELINE VARAS | JUNE 3, 2020

## Executive Summary

- President Trump's [latest immigration suspension](#) prevents certain Chinese graduate students from seeking an education in the United States if they have current or former ties to Chinese agencies engaged in stealing intellectual property.
- As it currently stands, the order is extremely limited in scope, only impacting 1 percent of Chinese international students (roughly 3,000 out of a total of 300,000 individuals).
- The order may be redundant, as the United States already has safeguards in place to protect U.S. intellectual property at universities – namely export controls and the Visa Mantis Program.
- If the order is expanded in the future to prevent a greater number of international students from studying in the United States, it could have harmful impacts on the U.S. economy.

## Introduction

Last week, President Trump signed [a proclamation](#) suspending the entry of some Chinese graduate students into the United States to protect U.S. intellectual property. This is the second immigration suspension over the last couple months. [The first suspension](#), issued in response to the COVID-19 pandemic for economic reasons, will prevent approximately 32 percent of green card applicants (roughly 350,000 individuals) from becoming legal permanent residents. Like the previous suspension, the president's latest order is limited in scope but has the potential for expansion in the future.

## What is in the Proclamation?

President Trump's latest proclamation halts all new visa issuances to Chinese students and researchers currently or previously involved with organizations supporting China's military-civil fusion strategy. The order defines a "military-civil fusion strategy" as any effort to "acquire and divert foreign technologies, specifically critical and emerging technologies, to incorporate into and advance (the Chinese government's) military capabilities." The determination of who fits this definition will be made by the Secretary of State in consultation with the Attorney General and the Secretary of Homeland Security.

The order impacts individuals seeking two types of temporary visas, as well as their families. The first – the F visa – grants temporary legal status to foreign students pursuing a U.S. education, while the second – the J visa – grants temporary legal status to individuals participating in exchange visitor programs. The suspension does not apply to undergraduate students, individuals with permanent legal status, the spouses of legal permanent residents, members of the U.S. Armed Forces and their families, individuals whose entry is determined to be in the national interest, individuals qualified to enter the United States under preexisting international agreements,

or individuals studying or conducting research that does not contribute to China's military-civil fusion strategy.

The immigration suspension is in effect as of June 1, 2020, and will remain indefinitely. Furthermore, the order directs the Secretary of State to consider revoking the visas of individuals already in the United States who meet the same criteria. It also directs the Secretaries of State and Homeland Security to conduct a review examining if the United States, in order to protect U.S. intellectual property, should bar other individuals seeking temporary or permanent visas. The review is due in 60 days, by July 31.

### **What Will the Impact Be?**

The order's scope is extremely limited, only applying to roughly 1 percent of Chinese international students. Based on the criteria laid out in the order, reports suggest that it could impact roughly **3,000 individuals** per year. For context, roughly **300,000 Chinese nationals** were enrolled in U.S. institutions during the 2018/2019 academic year, 45 percent (133,000) of whom were graduate-level students. An additional 70,000 students from China were enrolled in Optional Practical Training (OPT), a program allowing international students to temporarily work in the United States either while in school or after completing their degree. Many students use OPT as a means to obtain employment in the United States after graduation while they seek sponsorship for an H-1B high-skilled visa and work toward permanent legal status.

The purpose of the order is to protect U.S. national security and intellectual property, but its potential for expansion carries with it the potential to harm the U.S. economy. China is the single largest source country of foreign students, supplying 34 percent of the entire **U.S. international student population**. The second largest source country is India (202,000 students, or 18 percent), followed by South Korea (52,000 students, or 5 percent), and Canada (26,000 students, or 2 percent). Foreign students together **contribute** over \$40 billion to the U.S. economy each year and support over 450,000 U.S. jobs. Estimates suggest that for every seven international students studying in the United States, three U.S. jobs are either created or supported. Furthermore, international students **disproportionately concentrate** in Science, Engineering, Technology, and Math (STEM) fields, **increasing innovation and productivity** in the United States. These productivity increases, in turn, boost U.S. citizen wages. If the president decides to expand the order to encompass a greater number of Chinese international students, perhaps in response to the COVID-19 epidemic, the U.S. economy would suffer.

In addition to expanding the order to encompass a greater number of international students, there is also potential that the executive branch or Congress could take additional action. For instance, the Trump Administration is **reportedly considering** restricting or eliminating the OPT program, which would effectively cut the United States off from its pool of high-skilled foreign-born workers. Similarly, Senators Tom Cotton and Marsha Blackburn recently **introduced legislation** that would prevent Chinese nationals from studying STEM fields at U.S. universities, a move that would harm the U.S. economy and labor market by reducing labor and productivity.

### **Is the Proclamation Justified?**

The stated motivation behind the order – to protect U.S. intellectual property – is certainly justifiable. Its actions may, however, be redundant. For instance, international students and researchers are **already subject** to export controls. **These regulations** prevent non-U.S. citizens or residents from accessing dual-use items, including sensitive technologies, identified on the Department of Commerce's Commerce Control List without first obtaining an export license. Similarly, foreign nationals must obtain export licenses to access defense articles and technical data identified on the State Department's U.S. Munitions List. A violation of U.S. export control

laws may result in civil penalties up to \$500,000 per violation or heftier criminal penalties including jail time.

A second layer of defense at U.S. universities is the Visa Mantis Program. The Visa Mantis Program empowers the State Department to order security advisory opinions (SAO) before foreign students may study sensitive subjects or participate in sensitive projects. Areas of sensitive information are identified on the [Technology Alert List](#) and range from conventional munitions and nuclear technology to biochemistry and pharmacology. [SAO processing](#) is managed by the State Department but can involve numerous government agencies such as the Department of Homeland Security, Central Intelligence Agency, and Federal Bureau of Investigation.

The president's order has the potential to add to these already-established safeguards, further protecting U.S. intellectual property. It also, however, increases the probability that foreign students will be denied access to the United States. Given the discretionary nature of the order, it carries with it the potential for abuse, especially if the suspension is expanded in the future to encompass a wider variety of Chinese international students or other foreign-born individuals.

## **Conclusion**

The president's latest immigration suspension prevents Chinese graduate students from studying or researching at U.S. universities if they have current or former ties to Chinese agencies focused on acquiring intellectual property. As it currently stands, the order seeks to address a real problem and is limited in scope. It may, however, be expanded to encompass a greater number of international students or even individuals seeking other types of visas. Depending on the scope of any future expansion, an order preventing foreign-born students from seeking education in the United States could significantly harm the U.S. economy, productivity, and labor force.