

Paul Kircher
1735 LeRoy Avenue
Berkeley, CA 94709-1115

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USCIS Comments

Dear USCIS Comments:

I am writing to you as International Student Advisor at the Jesuit School of Theology at Berkeley, in order to express my opposition to the February 1, 2007, proposed rule "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule." The proposed fee increases are so exorbitant they will act as a disincentive for international students and scholars to study and work in the United States. USCIS must reconsider the role of appropriated funds to meet the administrative needs of the agency. I ask that fees be reduced to the actual cost of processing the application or petition.

International students and scholars, and campus officials that employ them, file tens of thousands of petitions and applications with USCIS annually, including:

- The near-doubling of the I-765 fee for international students in F status to apply for work authorization for Optional Practical Training, from \$180 to \$340. Even at our small school where the international student enrollment is approximately 70 students, there are several every year who apply for this authorization. Given that they are generally not working at the time of application, they must stretch their student budgets to pay this fee. This nearly doubles the fee, causing hardship and sending the message that the United States discourages students from complementing study with practical training.

- The increases in the fees required in connection with change of status from F to H-1B, including the increase from \$200 to \$300 (a 50 percent increase) in the I-539 application to change nonimmigrant status for dependents and the increase from \$190 to \$320 (a 68 percent increase) in the I-129 petition for nonimmigrant worker. These fees are on top of the required data collection and fraud prevention fee, which is not part of the fee schedule. We paid for the H-1B petitions for two international faculty in the past year. For a small school, these fees strain a budget that is limited and discourages us from drawing the international faculty that truly meets the needs of our students. We strive to be an international center for the study of theology in service to a global Church, and this adds to the already formidable obstacles involved in hiring an international faculty that truly represents the global Church.

- The huge increases in the fees required to adjust status from H-1B to legal permanent resident (green-card status), including: the near-tripling of the I-485 application fee for permanent residence, from \$325 to \$905; and the increase from \$195 to \$475 (143 percent) in the I-140 immigrant petition for alien worker. (The proposed increase in the

I-485 fee is partly offset by the fact that it is accompanied by the elimination of additional filing fees for work authorization and for permission to re-enter after traveling abroad. However, the inclusion of those fees in the proposed new I-485 fee means that they would have to be paid even by those who do not expect to require the benefit.) Again, this will increase the hardship for international faculty who already face substantial legal fees in applying for permanent residency.

Many colleges and universities pay the USCIS fees for the green card process for the person being hired. It is less common for the fees for the family members, such as spouse and children, to be paid for by the colleges or universities. The increases in fees will have a severe impact on families.

Apart from the direct impact of the excessive fees, they are contrary to clearly expressed U.S. policies. The President, the Secretary of State, and indeed the Secretary of Homeland Security have expressed clearly and often the high value that the United States places on attracting international students and scholars to this country. The United States reaps immeasurable benefits—for our foreign policy, our students' education, our economy, our competitiveness, and our public diplomacy—from attracting the best and brightest minds and the next generation of world leaders to America's educational institutions.

Regrettably, the increased fees will reinforce the inefficiencies and dysfunctionalities USCIS inherited from INS when the Department of Homeland Security was created. The solution to correcting the systemic problems that plague the agency is not to keep raising fees in a futile attempt to finance a twenty-first century agency. Unfortunately, to meet its statutory requirements, USCIS is turning to its only steady source of funding, its filers and petitioners, to finance the required modernization of its systems. While that is understandable, it is not acceptable as a matter of public policy, because it prices statutory benefits out of the reach of those who need them.

The fact that USCIS operates on a fee-funded basis creates a built-in incentive to subsidize unnecessary work. This creates an incentive to requiring USCIS approval for things; that way, you can charge a fee for processing the request, which provides necessary income to finance your broader operations. The I-765 fee for Optional Practical Training is a classic example. It used to be possible for school officials designated by the INS to approve OPT in accordance with agency regulations. The benefits of reinstituting and expanding this process speak for themselves: no application, no processing, no fee, one less task to be performed by the agency, more time to devote to what the agency really needs to do. There is no obvious public policy reason for USCIS to require agency approval for OPT today. With the Student and Exchange Visitor Information System (SEVIS) now fully in place, it would be easy to devolve this responsibility back onto the schools. Yet the cost of processing this unnecessary application process continues to drive up the fee.

While I understand that USCIS is permitted by law to recover the full cost of its services through fees, and indeed has no other option so long as Congress is unwilling to appropriate funds for the operation of the agency, I ask that the fees be reduced to the actual cost of processing the application or petition. Meanwhile, I ask Congress to step up to its

responsibility for fixing the untenable situation that drives these fee increases.

Raising fees sends precisely the wrong message to prospective international students and scholars, who already have the perception that it is difficult to obtain a student or scholar visa, and who thus opt to pursue study in other countries that are doing much more to attract and welcome international students and scholars.

I thank you for considering the negative impact these drastic fee increases will have precisely at a time when it is crucial for the United States to repair its standing as a country that supports international education.

Thank you for the opportunity to comment.

Sincerely,

Paul Kircher