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USCIS Comments

Dear USCIS Comments:

I am writing on behalf of Indiana University Bloomington (IUB) in my capacity as Associate Dean of International Programs and Director of the Office of International Services in opposition to the February 1, 2007, proposed rule "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule."

Indiana University currently enrolls 3,687 international students, and is host to approximately 1,000 visiting international faculty, researchers and staff. The significant increases in fees as proposed will serve as a major disincentive for international students and scholars to study and work in the United States. It is therefore imperative that the United States Citizenship and Immigration Service (USCIS) reconsider the role of appropriated funds necessary to meet the administrative needs of the agency. I respectfully ask that immigration benefit and application petition fees be reduced to the actual cost of processing the relevant application or petition.

In order to support our important teaching, research, and service missions, IUB international students, faculty and hiring departments file several thousand petitions and applications with USCIS annually. To illustrate the impact the proposed fees will have on our critical contributions to the state of Indiana and indeed the world, I offer the following:

- Form I-765 is used for international students in F status to apply for work authorization under Optional Practical Training, and for J-2 dependents to apply for work authorization as well. We assist in the filing of approximately 900 of these applications each year for the Bloomington campus. With a fee increase from \$180 to \$340, the financial impact would be \$144,000 on our students and their dependents. Compare the proposed Form I-765 processing fee increase to recent initiatives in Canada, a country which has recently granted extended work permission to all international students for an application fee of \$150CAN. The exorbitant increase as proposed will clearly serve as a disincentive to study in the United States for these students.
- 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. IUB files 120 H-1B petitions annually, and as required

by regulation, the associated fees are paid by our hiring departments. The fee increase as proposed would add \$15,600 to already tight recruitment and hiring budgets.

- The huge increases in the fees required to adjust status from H-1B to lawful permanent residence (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. While 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 the U.S. after traveling abroad, the inclusion of these 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. IU-Bloomington files approximately 30 direct petitions per year, and as a result, the proposed fee increases would require our academic departments to reallocate \$25,800 from critical academic initiatives in order to cover these dramatic fee increases. The financial impact on our foreign national faculty and staff members will also be significant as the increases in fees will have a severe impact on their families. For example, I-485 applications for a family of four would cost \$3620.

At a time when our nation has a shortage of highly skilled workers, these fees will have a chilling effect on our continued ability to attract and retain the world's most gifted scholars. 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 global competitiveness, and our public diplomacy—from attracting the best and brightest minds and the next generation of world leaders to America's educational institutions.

As Indiana University President Adam Herbert testified before the Senate Committee on Foreign Relations in October of 2004, "stemming the flow of international students and scholars who want to participate in our academic life also stems the free flow of knowledge and ideas. The Outstanding programs we have worked to build at IU - many of which further national strategic interests - are at risk."

Regrettably, the increased fees will only reinforce the inefficiencies USCIS inherited from the Immigration and Naturalization Service (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.

Premium Processing for H-1Bs, for example, was promised as a temporary fee. In fact, the premium processing program has been expanded to other categories. Now we're told premium processing will remain in place, but

the supplementary information in the Federal Register states that the revenue will be used to fund infrastructure improvements. These initiatives do not accurately reflect the true processing cost of I-129 petition.

This agency has made numerous attempts at increased efficiencies. Meanwhile, colleges and universities have been forced to navigate an ever-changing bureaucratic sea, including fee increases and promises of improved services which have not materialized, except in very narrow and specific areas. The implementation of SEVIS (for F, J and M programs) has both strengthened institutional accountability and communication to DHS and its agencies. Maintaining old systems is, in many cases, now redundant and unnecessary. The I-765 fee for Optional Practical Training is a classic example. A number of years ago it was possible for school officials designated by the INS to approve OPT (like they currently approve pre-graduation work permission via Curricular Practical Training) 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, and 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.

Perhaps the time has come to audit USCIS practices, realize the full advantages provided by SEVIS, and use Congressional appropriations to fund national priorities, rather than unnecessary bureaucratic processes.

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 set to reflect 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.

Thank you for the opportunity to comment.

Sincerely,

Christopher J. Viers, Ph.D.
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