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March 8, 2007

USCIS Comments

Dear USCIS Comments:

I am writing to you as an international educator in 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. For the fiscal year 2007 Virginia Commonwealth University (VCU) already has:

- at least 108 pending or approved Optional Practical Training applications. USCIS is proposing a near-doubling of the I-765 fee for international students in F status to apply for this work authorization, from \$180 to \$340.
- at least 35 pending or approved change of nonimmigrant status to F-1 student. A proposed 50 percent increase in the fees required for the I-539 applications to change nonimmigrant status take them from \$200 to \$300.
- approximately 45 pending or approved H-1B temporary worker petitions. Some of these include change of status applications for family members. There would be a 68 percent increase from \$190 to \$320 for 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.
- Though VCU does not always pay filing fees for adjustments of status from H-1B to permanent residency (green-card status) we gain excellent international professors and research scholars through employment-based permanent residency petitions. Unfortunately, USCIS is proposing huge increases in the fees required to adjust status from H-1B to legal permanent resident, 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.

International students are usually top notch in their fields of study. Furthermore, they pay full out of state tuition, creating valuable income for our universities. 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.

Furthermore, we estimate that increased work authorization application fees will affect at least 800 of our international students in the next couple years. In addition to the already extremely complicated and intimidating visa application process, the application and benefit fee increases for F-1 students will no doubt further negatively impact our international student enrollment.

Furthermore, 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.

Regrettably, the increased fees will reinforce the inefficiencies and dysfunctionalities USCIS inherited from INS when the Department of Homeland Security was created. 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. In the past school officials designated by the INS could 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.

Thank you for the opportunity to comment.

Sincerely,

Ingrid Mercer
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