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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." I ask that fees be reduced to the actual cost of processing the application or petition.

I believe I have a fairly accurate insight into this issue. Not only am I an international educator at the University of Iowa, but I recently completed a year serving as Student Regulatory Ombudsperson - a volunteer liaison that helped facilitate communication between the USCIS Service Center in Lincoln, NE and international educators in the states of Iowa, Minnesota, Missouri, North Dakota, and South Dakota. Whenever international advisers experienced difficulties with students' applications for employment or changes of immigration status, I would try to communicate with the Service Center to help resolve the issue.

At the University of Iowa we assist 2-300 students each year to obtain Optional Practical Training (OPT) authorization for USCIS, which permits them to gain up to one year of practical experience in their fields of study following graduation. The cost of filing the I-765 application to obtain OPT is currently \$180 and is proposed to be raised to \$340.

The population of international students who would be affected by this already face many financial challenges. Unlike American students, they are not eligible for financial aid, cannot take out loans without a U.S. cosigner, and are unable to access all of the employment options available to American students. Many are supported by family funds from their home countries, and in many cases there are considerable imbalances between home currencies and the U.S. dollar. In short, an extra \$160 at the time of the OPT application can be a considerable amount for many of these students, and the means to scrape together this additional amount can be very limited. There could very well be many students who may not be able to afford to apply for OPT and the practical experience it brings.

The same applies to the proposed increase for the I-539, which our students and prospective students use to apply for a change of immigration status, usually to move from a status that does not legally permit them to be students, to F-1 or J-1 student status. The fee increase would be from \$200 to \$300 - a smaller increase than that for the I-765 mentioned above. However, many of the individuals who utilize this change of status are in an immigration status where finances are even more prohibitive and there is no legal way to work, thus it makes it even more difficult to come up with the funds to cover the fee.

Aside from the impact these fees will have on our students and visiting scholars, I am concerned about efficiency and accountability at USCIS Service Centers. During my tenure as the Regulatory Ombuds liaison with the Nebraska Service Center, I saw numerous instances where application adjudication times are exorbitantly long. This is particularly true when it comes to I-539 change of status applications. It is the norm that such an application can take several months, on average 4-5, to be adjudicated. Sometimes longer. This problem is compounded when we consider that many students cannot legally begin their academic programs until they have gained F-1 or J-1 student status. It is not uncommon for students who were admitted to begin a program one semester have to defer their admission to a subsequent semester because they are still waiting to have the appropriate status approved.

Time is also an issue with the I-765 applications for OPT employment authorization. Current processing times at the Nebraska Service Center are 3 months. Students are not allowed to submit an OPT application more than 4 months before completion of their program. Thus we habitually encourage students to begin the application process 3.5-4 months before graduation just to ensure they have sufficient time to receive the authorization. However, many students - particularly those in graduate programs - may not know until relatively late in the semester if they will be ready to complete their programs and graduate, and thus may not know if they are eligible for OPT until a month or two before graduation.

I do commend the Nebraska Service Center in that for the last few years they have been willing to offer a courtesy "expedited processing" service for students who happen to have job offers at the time they apply for OPT. This has helped many students get their OPT processed more quickly. However, these situations are generally reserved for jobs that would start in 4-6 weeks from the time of application, and still can take 6-8 weeks to be adjudicated.

The OPT situation is further complicated by the fact that USCIS revoked a popular fall-back authorization known as the "interim Employment Authorization Document." Until Fall 2006, students who had OPT applications pending for 90 days could at least go in person to a local USCIS office and obtain a temporary, or interim, OPT authorization card to permit them to begin working while they were waiting for the permanent 12-month card to be adjudicated. Many students had taken advantage of this because of the amount of time it traditionally takes for applications to be adjudicated. As of Fall 2006 this option is no longer available.

Along with my concern for the processing times goes hand in hand a concern for the ability for international educators and advisers to communicate with the Service Centers handling their applications. Again in my role as Regulatory Ombudsperson, I would frequently attempt to help clarify and fix errors made by the Service Center during adjudication. At times the communication process operated very smoothly and efficiently. And having the Service Centers create email addresses dedicated to schools and universities was a helpful step. But the efficiency and effectiveness of these communications are entirely dependent on the individuals directly involved. I can say that I found the Nebraska Service Center contact for I-765 issues among the most responsive, helpful, and efficient staff members that I've ever worked with. I could feel fairly secure I would

receive a fast response and that the cases I submitted would be rectified speedily. I cannot say the same for the I-539 contact at the same Service Center. It was not uncommon for emails from me or other educators to be completely ignored, or for errors to go uncorrected, even after multiple communication attempts over weeks or months. Nor is this the norm for only the Nebraska Service Center. It is absolutely unacceptable to have communication handled in such a manner.

Hence I am extremely concerned that these fees will be increased, yet processing times and poor communication will continue to be the norm. This will mean our students and scholars are paying extra money with no benefit whatsoever to 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.

Thank you for the opportunity to comment.

Sincerely,

Leanne Seedorff

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