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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 out of proportion that 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. If OPT is to be granted for two years, as proposed, then there should be an option for the student to request a one year OPT at the \$180 rate and \$340 for the 2 year OPT without the ability to renew the one year to the two year. However, if the one year OPT is to remain then the \$340 fee is without justifiable reason.

- 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% increase), in the I-129 petition for non-immigrant worker. These fees are on top of the required data collection and fraud prevention fee, which is not part of the fee schedule.

- 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%) 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.)

Apart from the direct impact of the excessive fees, they are contrary to expressed U.S. policies. The President, the Secretary of State, and 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.

The raising of the fees at the percentage indicated come at a time that the Asian market is already looking at ways to attract and capture this market by adding all English classes in their major universities. The impact of this will be felt in the years to come.

The fact that USCIS operates on a fee-funded basis creates a built-in incentive to subsidize unnecessary work. This creates an incentive for USCIS to approve charging a fee for processing various request, which provides necessary income to finance broader USCIS operations. The I-765 fee for Optional Practical Training is a classic example. At one time it was 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 percentage of increase 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,

Ann L. Stewart
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