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Sent: Sunday, April 01, 2007 11:19 PM
To: USCIS Comments
Subject: DHS Docket No. USCIS-2006-0044 - USCIS Fee Increase Comment

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April 1, 2007

USCIS Comments

Dear USCIS Comments:

These comments represent the views of the Office of International Affairs at Indiana University-Purdue University Indianapolis (IUPUI), a large urban research university that is home to a community of about 1500 international students and scholars who will be directly affected by the fee increases outlined in the February 1, 2007, proposed rule "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule."

The proposed fee increases are so extreme they will act as a further disincentive for international students and scholars to study and work in the United States. (Note that the United Kingdom recently announced that it was REDUCING its visa application fees.) In light of the important role that international students and scholars play in advancing the competitiveness of the US in the global economy, the USCIS and the US Congress must reconsider the role of appropriated funds to meet the administrative needs of the agency.

We ask that fees be reduced to the actual cost of processing the application or petition. At the same time, we see some significant flaws in the way this approach is being applied to various types of applications.

1. The formula for determining the processing costs does not take into consideration the multiple uses of certain forms. For example, consider Form I-765. This form can be used by a variety of visa-holders, including Asylees/Refugees, F-1 Students, Employment-Based Nonimmigrants, Family-Based Nonimmigrants, and Adjustment of Status Categories. The required documentation varies by each status, and each benefit requested.

- use of the I-765 to apply for Optional Practical Training (OPT) by F-1 students.

Nearly all F-1 students studying at our institution want to gain practical employment experience in their field of study, and we recommend OPT for 150-200 students each year. The students' eligibility for this benefit is not difficult to determine. If they have been enrolled full-time for the prior two semesters, and have not violated their F-1 status, they are eligible for OPT. This simple adjudication does not warrant a fee of \$340. It would be very difficult for some students to pay this fee at the end of their studies, before they have had a chance to begin working and earning, and is an unjust burden to place on students.

Currently, F-1 students eligible for Curricular Practical Training (CPT) are authorized for this employment by the Designated School Official (DSO), and students need not submit Form I-765 to pursue CPT employment. As stated above, the criteria for OPT are very simple, much less complex in fact than for CPT. The USCIS should amend its F-1 regulations to permit DSOs to approve OPT for F-1 students as well. This would relieve the USCIS from processing tens of thousands of routine EAD applications each year and provide DSOs with the authority to provide timely, accurate OPT authorizations to students.

In fact, it used to be possible for DSOs to approve OPT in accordance with agency regulations. The benefits of reinstituting and expanding this process are obvious: no application, no processing, no fee, one less task to be performed by the USCIS, 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. With the Student and Exchange Visitor Information System (SEVIS) now fully in place, it would be easy to devolve this responsibility back to the schools. Yet the cost of processing this unnecessary application process continues to drive up the fee, while creating delays for students and employers.

- Applications for Employment Authorization based on Economic hardship.

Each year our office works with a number of students who have suffered unanticipated financial hardships. One of the few resources available to these students is the ability to apply for Economic Hardship employment authorization. For students facing severe financial hardship, the proposed fee of \$340 would make it nearly impossible for students to use this emergency benefit. Students whose financial sponsors have been hit by illness or natural disaster struggle to pay the current fee of \$180. In light of the nature of this benefit, We would suggest that the I-765 fee be waived for all F-1 student applicants applying for authorization based on Economic Hardship. We note that this form is included on the proposed list of "applications for which an individual fee waiver based on inability to pay may be granted"; however, applications that require an individual fee waiver request are often delayed, making the necessity of a fee waiver request impractical for students in need of immediate assistance. Relatively small numbers of students apply for this benefit, and it would be more logical to exempt these applicants from the fee across the board.

2. While we do not know all of the procedures that are followed by USCIS when adjudicating an application, we think it is fair to suggest that most renewal applications require less work than new applications.

For example, consider the H-1B visa. The initial application certainly involves a complex adjudication process. However, when circumstances of the employment have not changed, the employer petitions for an extension of H-1B status without amendment of the position. In this case, there is no need to re-adjudicate the H-1B eligibility of the position. Because far less work is required to adjudicate the extension I-129, the fee should be adjusted for extensions.

Please also consider the following information describing the national scope of this issue:

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. Academic salaries are frequently well below those paid for similar positions in industry, and the significantly higher fees will present a significant burden to families with the modest living standard afforded by academic employment.

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 the high value that the US 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 and perpetuate the impression among international students and scholars that they are not truly welcome in the US. The solution to correcting these systemic problems is not to keep raising fees in an 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 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.

While we 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, we ask that the fees be reduced to the actual cost of processing the application or petition. Meanwhile, we would 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,

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