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March 20, 2007

USCIS Comments

Dear USCIS Comments:

My name is Heidi Staerkel, and I am an international student advisor at Washburn University in Topeka, Kansas. I am writing you this message in strong 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 strongly discourage international students and scholars from studying and working in the United States. The USCIS must reconsider the role of appropriated funds to meet the administrative needs of the agency. I am asking 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. Here at Washburn, for example, we have approximately 7-12 students apply for this benefit each semester. Because F-1 students usually apply for OPT at the end of their degree, they are often already financially strapped, and this fee increase would further place an unnecessary burden on them.

"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 non-immigrant status for dependents and the increase from \$190 to \$320 (a 68 percent 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.

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 competitiveness, and our public diplomacy from attracting the best and brightest minds and the next generation of world leaders to America's educational institutions. We at Washburn are finally beginning to see a small increase in our F-1 visa student numbers after September 11th, and I strongly believe that these massive fee increases would again lead to declining F-1 student numbers.

Regrettably, the increased fees will reinforce the inefficiencies and dysfunctionalities USCIS inherited from 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.

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 re-instituting 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.

I thank you for the opportunity to comment on this proposed rule and urge you to act in a way which will demonstrate that the U.S. is truly serious about continuing to encourage international students and scholars to come study and work in the U.S.

Sincerely,

Heidi R. Staerkel  
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