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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." 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. At the school where I work I see a great negative impact from several of the proposed fees, the I-765 and I-539.

- The near-doubling of the I-765 fee for international students in F and M status to apply for work authorization for Optional Practical Training, from \$180 to \$340 will cause great hardship for many students, who are typically low on funds by the time their study period ends.

The fee increases hit M-1 students especially hard as they have to pay a fee to apply to extend their stay, whether for extended study or for their Optional Practical Training period. (F-1 students don't have this additional cost) The I-539 extension fee is now \$200 and will go up to \$300.

So for an M-1 student to apply for OPT they will have to pay a total of \$640 (\$340 + \$300.) They can only typically apply for a 2 month OPT period to begin with, so these fee increase effectively take away any their ability to do OPT and gain practical experience in their area of study. Without any OPT time available to them, they may be more likely to seek training in a country other than the US.

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.

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 reconstituting 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,

Lenore Lyons

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