COUNCIL OF GRADUATE SCHOOLS

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November 3, 2026

The Honorable Markwayne Mullin
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

RE: U.S. Immigration and Customs Enforcement (ICE), U.S. Department of Homeland Security (DHS) NPRM on Optional Practical Training Fees [Docket No. ICEB-2026-0100]

Dear Secretary Mullin:

On behalf of the Council of Graduate Schools (CGS), I am submitting comments to the U.S. Department of Homeland Security (DHS) on the proposal to establish new fees for Optional Practical Training (OPT). CGS shares DHS's interest in program integrity and in a strong American workforce. We are concerned, however, that the proposed rule, issued by DHS and U.S. Immigration and Customs Enforcement (ICE), would undermine both goals. By making OPT prohibitively expensive, it would sharply reduce international participation in graduate education, and with it the research capacity, program viability, and workforce contributions that benefit domestic and international students.

Since 1947, post-completion employment authorization has been available to graduating international students. The current OPT program continues this important tradition by providing international students and graduates the opportunity to work in the United States, contribute to our state and national workforces, support innovation, and in many cases establish companies that create American jobs[1]. For decades, OPT has received robust bipartisan support from Republican and Democratic presidential administrations and Congresses. Given the importance of the OPT program, CGS strongly urges DHS to withdraw this proposed rule and to support the existing OPT program.

CGS is an association of over 400 institutions of higher education in the United States and Canada, along with 16 international institutions. CGS is the only national higher education association in the United States solely dedicated to the advancement of graduate education, research, and the preparation of candidates for advanced degrees. CGS member-institutions educate, train, and prepare more than 1.7 million graduate students to be contributors to the nation's workforce.

International Students Are Integral to U.S. Graduate Education

International students are a vital part of graduate education in the United States. They represent a substantial share of enrollment in many graduate and STEM programs,[2] and their tuition and participation help sustain programs, courses, and research laboratories that domestic students also rely on for their education. A study on the role of international students in the U.S. Higher Education system concluded

[1] 2016 Final Rule, GAO-16-532R, gao.gov
[2] Nat'l Sci. Bd., Nat'l Sci. Found., The State of U.S. Science and Engineering 2026, Executive Summary, (May 4, 2026), https://ncses.nsf.gov/pubs/nsbsep20261/executive-summary, (last accessed October 31, 2026).

that the absence of international students from campus not only has an "impact on college-town economies and university dorm revenues, but the disruption in the flow of new international enrollment may have lasting impacts on university finances and academic outcomes"[3]. International graduate students serve as research and teaching assistants, collaborate on federally funded research, and add to the intellectual growth that strengthens learning for all students. Many later become faculty, researchers, and entrepreneurs in the United States. The prospect of practical training in the U.S. is one factor that attracts them. Reduced international enrollment would not make more seats available for domestic students. In fact, in many programs, particularly at institutions in rural locations, it would reduce enrollment needed to keep those programs offered, and it would weaken the research enterprise on which domestic students depend[4].

Before turning to the proposed rule, it is important to address DHS's stated goals for this proposed rule. Throughout the proposed rule, DHS asserts that there is widespread fraud and abuse of the OPT program and that the federal government must protect the interests of American workers. Specifically, the proposed rule says, "With the increased number of F-1 nonimmigrant students being recommended by DSOs for OPT, SEVP has encountered more institutions, DSOs, employers, and F-1 nonimmigrant students engaged in schemes to exploit the current OPT regulations for fraudulent purposes." The proposed rule goes on to say that there are reports of "widespread abuse" of the program. CGS takes fraud seriously and supports appropriate enforcement. However, the proposed rule offers largely anecdotal accounts and does not appear to quantify the prevalence of fraud or show that it is concentrated among institutions that would bear this cost. The proposed rule also says that "it is necessary to place the United States' interests first and protect American workers." The proposed rule does not explain how fees of $70,000 to $100,000 per student would reduce fraud or protect American workers, as opposed to reducing overall participation. DHS itself acknowledges that OPT participation may decline.

Dr. Michael Clemens, a well-respected economist and professor at Johns Hopkins University's School of Government and Policy has argued that the Food and Drug Administration's (FDA) "least burdensome principle" should be applied to this proposed rule. The FDA 2019 Guidance defines "least burdensome" as the minimum amount of information necessary to adequately address a relevant regulatory question, using the most efficient means at the right time. Applying that logic here, Dr. Clemens correctly argues that fees of this size are a disproportionate response to the problem DHS describes. If fraud is as widespread as DHS asserts, less burdensome tools are available, such as targeted SEVP audits and

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[3] Bound, et. Al. (2021). The Globalization of Postsecondary Education: The Role of International Students in the US Higher Education System. Journal of Economic Perspectives, 35(1), 163-184. https://doi.org/10.1257/jep.35.1.163

[4] Council of Graduate Schools (CGS): "Status of International Graduate Students in the United States" (Aug. 2026): https://cgsnet.org/wp-content/uploads/2026/08/2026-International-Flash-Survey-Brief.pdf; Academic Jobs: "US Colleges Cut Programs as International Student Enrollment Declines" (July 2026): https://www.academicjobs.com/pg/higher-education-news/us-colleges-cut-programs-amid-declining-international-enrollment-or-academicjobs-25979; Changing Higher Ed: "Take the University to the World" (April 2026): https://changinghighered.com/international-enrollment-strategy-for-regional-and-private-colleges/

recertification, employer verification, and enforcement against bad actors, rather than a uniform charge on every compliant institution.

The Proposed Fees Function as a Tax on Colleges and Universities

Dr. Clemens also argues that these charges are better understood as a tax rather than a fee on colleges and universities. In a recent presentation to the higher education community, Dr. Clemens defined fees as "compulsory payments to offset an agency's cost for providing a good or service," whereas taxes are defined as "compulsory payments that fund general provisions of public goods." This distinction matters because the proposed rule would direct revenue to the U.S. Treasury rather than to offset the cost of administering OPT. By comparison, the current OPT application fee for international students is $520 (paper filing), which reflects the cost of processing. The Supreme Court has recognized that a charge qualifies as a fee only when it is tied to a specific benefit to the payer. See the National Cable Television Association v. United States, 415 U.S. 336 (1974). This raises a question about DHS's statutory authority to impose these charges under its fee authorities[5] "A fee is tied to a voluntary act and a specific benefit; a tax is a general levy without direct benefit to the payer."[6]

The Proposed Tax is Cost Prohibitive for America's Colleges and Universities

Under this proposed rule, SEVP-certified colleges and universities would be required to pay the U.S. Department of the Treasury $70,000 per F-1 student recommended for OPT for the first time. The fee must be paid before a Designated School Official's (DSO) initial recommendation. For subsequent recommendations, including STEM OPT extensions, institutions would pay $30,000 per student. A single student who completes both initial and STEM OPT would therefore generate $100,000 in fees. For most institutions, and especially public institutions, small graduate programs, and those serving lower-income students, charges of this magnitude would be financially unsustainable. Even though the proposed rule says institutions may pass the cost to students and employers, few students could pay it, and DHS provides little evidence that employers would pay this significant amount of money. While the proposed rule emphasizes reducing DHS's own enforcement burdens, it does not appear to fully account for the administrative and financial burdens it would place on institutions.

As one analysis, (Anderson, "DHS Immigration Rule Proposes $100,000 In Practical Training Fees," 2026)[7], observed, DHS did not provide an analysis showing that universities, students, or employers would pay the fees in significant numbers. The same analysis notes that, according to a recent proclamation, only about 700 individuals in a year found employers willing to pay the $100,000 H-1B fee, and that DHS's own technical appendix to its H-1B fee rule reports a 91.2% decrease in initial Form I-129 H-1B petitions after the fee took effect. The proposed rule does not explain why employers would pay these fees for entry-level OPT positions when the H-1B experience suggests far fewer will pay comparable amounts for multi-year positions.

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[5] 8 U.S.C. § 1356(m) (authorizing recovery of the full costs of adjudication and naturalization services).
31 U.S.C. § 9701 (authorizing federal agencies to assess user fees for government services and benefits).
[6] National Cable Television Association v. United States, 415 U.S. 336 (1974)
[7] Stuart Anderson, (2026), DHS Immigration Rule Proposes $100,000 In Practical Training Fees.

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The Proposed Rule Would Significantly Reduce Recruitment and Enrollment

In the proposed rule, DHS contends that participation in the OPT program is not the "sole reason" international students study in the United States. CGS agrees but believes OPT is an important factor in students' decisions, and that DHS underestimates the effect on recruitment of international students. According to an IZA Institute of Labor Economics discussion paper[8] by Dr. Michael Clemens, a combined practical training charge of $100,000 could reduce OPT participation by as much as 84% among bachelor's degree recipients and 99% among master's degree recipients. Declines on that scale would reduce international graduate enrollment, with consequences for research capacity, program viability, and graduate education availability to domestic students.

International Students and Graduates Contribute to the U.S. Economy

A recent Inside Higher Education article, "What OPT Is and How It Affects the Economy in 6 Charts," [9]cites data from the Institute of International Education (IIE). According to IIE, "the number of participants using OPT increased by 99-pecent from 2015-2025. Specifically, 294,253 graduate students participated in the OPT program in 2024-2025. This participation supports colleges and universities, employers, and the broader economy. Research indicates that international graduate students, particularly those earning STEM master's degrees, complement the U.S. workforce by expanding the supply of highly skilled labor in sectors with strong employer demand[10]. Rather than displacing American workers, these graduates help address talent shortages and contribute to the nation's innovation capacity.

Conclusion

CGS also encourages DHS to review the comments offered by our colleagues at the NAFSA: Association of International Educators, the Presidents' Alliance on Higher Education and Immigration and the National Foundation for American Policy, which we expect will include specific comments on the impact of the proposed rule on international student recruitment and enrollment and the economic value of international students to the U.S. workforce and economy.

CGS and our member-institutions appreciate your consideration. We stand ready to work with DHS on targeted measures that protect program integrity without sacrificing the benefits OPT provides to students, institutions, employers, and the nation. For these reasons, CGS respectfully urges the administration to withdraw the proposed rule and commit to the existing OPT program.

Sincerely,

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Chevelle Newsome
CGS President

[8] Clemens, M. A. (2026). Taxes on International Students: Demand and Supply Response for Post-Graduation Foreign Workers on Optional Practical Training. IZA Discussion Paper, 18933.
[9] Johanna Alonso, (2026), What OPT Is and How It Affects the Economy in 6 Charts.
[10] Michel Beine, Giovanni Peri, and Morgan Raux. *International College Students' Impact on the US Skilled Labor Supply*. Journal of Public Economics, Vol. 223 (2023), Article 104917.