

Twenty West Coast Universities and Colleges File Lawsuit Challenging DHS and ICE's Order to Revoke Foreign Student Visas

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On behalf of 20 West Coast universities and colleges, Gibson, Dunn & Crutcher LLP filed a lawsuit today challenging the July 6, 2020 order by the Trump Administration's Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) and others in their official capacity that restricts Student F-1 foreign student visas to mandate taking in-person courses. This arbitrary and capricious decision has tremendous negative impact on the schools, as well as to thousands of international students.

On March 9, 2020, ICE issued an order advising that F-1 visa students would be exempt from the ordinary requirement that they attend the majority of their classes in person. This order allowed F-1 students to attend their courses remotely without fear of endangering their health or losing their immigration status or being deported. In reliance on that statement and in response to the coronavirus crisis, these 20 schools began a thoughtful, deliberative, and reasoned process of planning a premier education for the Fall of 2020. Based on their unique circumstances, the schools have begun adopting a variety of approaches – from fully remote classes to a combination of remote and in-person classes, among other options – for the Fall 2020 semester.

With no notice and no prior examination of what impact and recourse would occur, on July 6, 2020, ICE issued a new order, primarily rescinding its prior exemption for F-1 students and announcing that these foreign students in the United States would be required to attend classes in person or face removal to their home countries. This announcement was made without any warning and any input from the schools or students directly affected.

The lawsuit alleges that DHS violated the Administrative Procedures Act when they changed the March 9, 2020 order allowing students with F-1 visas to remain in their collegiate programs. The lawsuit was filed in the U.S. District Court for the District of Oregon, Eugene Division and seeks the following:

- A finding that the July 6 order violates the Administrative Procedures Act and a vacating and setting aside of that order
- A reinstatement of the March 9 Guidance
- A temporary restraining order preventing the defendant from enforcing or implementing the July 6 order or the policy announced in the July 6 order
- A preliminary and permanent injunction preventing DHS from enforcing or implementing the July 6 order

Plaintiffs are a diverse coalition of post-secondary education institutions in the Western states that will not tolerate ICE's unwarranted and unlawful action that threatens to disrupt

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the education of hundreds of thousands of hard-working students and the ongoing academic environments. The coalition includes: the University of Southern California, University of Oregon, Oregon State University, Arizona State University, California Institute of Technology, Chapman University, Claremont McKenna College, Northern Arizona University, Pitzer College, Pomona College, Santa Clara University, Scripps College, Seattle University, Stanford University, St. Mary's College of California, University of Arizona, University of the Pacific, University of San Diego, University of San Francisco and University of Utah. They bring the suit on their own behalf and on behalf of their students to vindicate their rights under the law to fair, reasoned, and transparent government action.

Gibson, Dunn & Crutcher LLP represents the coalition, and the team includes lawyers Debra Wong Yang, Matthew D. McGill, Theodore B. Olson, Alexander Southwell, Ethan Dettmer, Theane Evangelis, Katherine Marquart, Joshua Wesneski, Chelsea Thomas, Amalia Reiss, Aaron Smith, Oliver Fong, Mark Mixon Jr., and Emil Nachman. Summer associate Adam Garnick also assisted.

"The destructive impact of this arbitrary and capricious decision imposes tremendous negative effects on America's top universities and colleges – institutions that long have prided themselves in offering world-class education that provide all students with the benefit of having foreign students as part of their cohorts," said Debra Wong Yang, a partner with Gibson Dunn and counsel for the coalition. "These students, who also work as teaching assistants, researchers in laboratories, interns in programs, and help further America's progress, are now being forced to face immediate deportation causing untold disruption to their lives and thereby ripping a hole in the educational fabric that these schools have carefully built up."

"In a deeply misguided attempt to compel schools to fully reopen regardless of the health consequences to their communities, ICE's order attempts to make colleges and universities choose between their educational and public health judgments about how best to instruct students this fall and the hopes and well-being of their international students," said Matthew D. McGill, partner at Gibson Dunn. "For good reason, ICE has no authority to regulate schools' methods of instruction; it has no expertise. This effort is plainly unlawful and should be immediately enjoined alongside the many other attempts by this Administration to ride roughshod over the rule of law."

A copy of the complaint can be found [HERE](#) [PDF].

A copy of the motion for a temporary restraining order and preliminary injunction can be found [HERE](#) [PDF].

A joint statement from the coalition can be found [HERE](#) [PDF].