November 9, 2026

To: U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS)

Re: Comments on Proposed Rule, Optional Practical Training Fees, 91 FR 64566 (October 8, 2026), Docket No. ICEB-2026-0100

Submitted via Regulations.gov

NAFSA: Association of International Educators submits these comments in opposition to the Department of Homeland Security's (DHS) proposed rule establishing fees of $70,000 for an initial recommendation for optional practical training (OPT) and $30,000 for subsequent recommendations. We urge DHS to withdraw the proposal.

With over 9,000 members at more than 2,300 colleges and universities, NAFSA is the world's largest and most comprehensive nonprofit professional association dedicated to international education. NAFSA believes that international education advances learning and scholarship, fosters understanding and respect among people of diverse backgrounds and perspectives, is essential for developing globally competent individuals, and builds leadership for the global community. Our membership includes designated school officials (DSOs), campus compliance administrators, international student and scholar advisers, and the institutional staff.

Optional practical training is an established component of the F-1 student program that allows eligible international students to obtain practical experience directly related to their fields of study. It connects classroom education with professional practice, supports American employers and research institutions, and contributes to the United States' ability to attract and retain international talent. The proposed fees would fundamentally undermine these objectives by making OPT financially inaccessible to most students and institutions.

Although DHS characterizes the proposed charges as fees intended to deter fraud, strengthen immigration integrity, and protect U.S. workers, the amounts bear no demonstrated relationship to the costs of administering OPT or the Student and Exchange Visitor Information System (SEVIS) or investigating noncompliance. Instead, they would operate as substantial financial barriers to participation in a longstanding regulatory program. Available economic research indicates that the resulting reductions in OPT participation, international student enrollment, and skilled-worker retention could impose significant costs on American higher education, employers, and the broader economy.

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U.S. Immigration and Customs Enforcement (ICE) | U.S. Department of Homeland Security (DHS)
RE: DHS Docket No. ICEB-2026-0001

I. The proposed fees would significantly reduce international student enrollment and access to OPT.

Recent economic research provides substantial reason to question DHS's assessment of the proposed rule's effects.

In September 2026, Michael A. Clemens published *Taxes on International Students: Demand and Supply Response for Post-Graduation Foreign Workers on Optional Practical Training*, IZA Discussion Paper No. 18933. The study examines how a $100,000 charge on OPT would affect student demand, university decisions, and employer hiring.

Clemens estimates that such a charge would reduce OPT participation substantially under different assumptions about who ultimately bears the cost. Under central scenarios in which universities bear the charge, OPT starts could decline by approximately 80 percent. The study also estimates that reduced international enrollment could cost universities hundreds of millions to more than $4 billion annually in net margins. These are model-based projections, subject to uncertainty, but they demonstrate the potential magnitude of the proposal's effects.

The Institute for Progress (IFP) similarly projects substantial reductions in OPT participation and international student enrollment. Its modeling estimates that the proposal could ultimately reduce annual U.S. gross domestic product by approximately $362 billion after ten years, with significant consequences for the domestic STEM workforce. IFP also estimates that the resulting reductions in university revenue and capacity could mean approximately 46,000 fewer American students enrolling annually in bachelor's and master's programs. The resultant decline in enrollment and negative impact on the economy stand in opposition to the goal of protecting U.S. workers.

Although these are estimates, they do raise important questions that DHS must address in assessing the proposal's economic effects. In particular, DHS should examine how students, institutions, and employers would respond to fees that in all but the most limited circumstances would exceed the financial resources available for the underlying training opportunity.

The consequences would extend beyond current F-1 students considering OPT. Prospective international students evaluate the availability of practical training, including OPT, when deciding whether to pursue an American degree. A substantial reduction in access to OPT would therefore affect enrollment decisions made years before a student becomes eligible for employment authorization.

According to research by IDP Education in August 2025, international students will adjust their educational plans based on policy changes such as access to post-study work experiences. In this research, 66 percent of the student survey respondents would go elsewhere or consider going elsewhere if post-graduation work opportunities were not available.

Assigning formal responsibility for payment to the educational institution does not eliminate the economic burden on students. Institutions may be unable or unwilling to absorb the charge, while attempts to recover it through direct reimbursement by or advance collection from the student, tuition, special charges, or employer contributions would create additional barriers. Inequitable treatment will arise between rural and urban institutions as well as well-resourced and lesser-resourced institutions. Students without substantial financial resources or access to employers willing to contribute would be particularly disadvantaged.

DHS should conduct a comprehensive assessment of these behavioral responses, including effects on prospective enrollment, student retention, institutional finances, and the distribution of optional practical training opportunities across institutions and academic disciplines.

II. The proposed fees would undermine the educational purposes of OPT

OPT is an important part of the educational experience for many international students. Under 8 CFR 214.2(f)(10), eligible students may apply to engage in OPT that includes pre-completion training, post-completion training, and, for eligible graduates in science, technology, engineering, and mathematics (STEM) fields, a 24-month extension of post-completion OPT.

These opportunities serve related but distinct educational purposes to classroom instruction. Pre-completion OPT allows students to apply academic knowledge while pursuing their degrees. Post-completion OPT provides practical experience to continue training and apply what was learned in the classroom following graduation. The STEM extension allows eligible graduates to obtain additional structured training under employer training plans and reporting requirements.

The proposed fees would apply to any OPT recommendations, including pre-completion OPT, rather than exclusively to post-graduation employment, so even students seeking relatively brief summer training opportunities could face the same initial $70,000 institutional fee as students seeking a full year of post-completion OPT.

This structure creates an especially severe disincentive for optional short-term internships. A student seeking three months of pre-completion OPT could trigger a $70,000 fee, followed by another $30,000 fee when seeking post-completion OPT. Since the proposal directs schools to pay these fees, schools will likely respond by declining to recommend otherwise eligible students for training, regardless of the educational value of the experience. It is not realistic to expect any party, higher education institutions, students, or employers, to absorb these exorbitant fees.

DHS should explain how these consequences are consistent with the educational purposes of OPT and why existing oversight mechanisms are inadequate to address the agency's stated concerns.

III. The proposal threatens U.S. innovation, research, and economic competitiveness.

International students and graduates contribute substantially to the nation's scientific and technological capacity. OPT provides an important bridge between American higher education and the U.S. workforce, enabling employers to recruit individuals already educated at U.S. institutions.

The Institute of International Education (IIE)'s Fall 2025 International Student Enrollment Snapshot Survey posits institutions will continue to place significant value on the OPT program, with 76 percent of institutions responding it was important for recruiting international students, and 92 percent reporting that, without OPT, many international students would likely choose to study in other countries.

Research from Georgetown University's Center for Security and Emerging Technology illustrates the importance of international educational pathways to American innovation. Its September 2026 report, *How Global Talent Pathways Shape U.S. STEM Award Achievement*, examines 550 recipients of major STEM awards between 2014 and 2024. Of the 471 awardees who had studied, worked, or lived in

the United States, 47 percent were foreign-born. Among foreign-born U.S. awardees whose initial educational or professional activity could be identified, approximately two-thirds first came to the United States as students.

Although these findings do not establish that OPT itself caused these achievements, they demonstrate the importance of maintaining educational and early-career pathways through which international talent contributes to American science and technology.

The OPT Observatory, developed by IFP using detailed SEVIS microdata obtained through the Freedom of Information Act, provides further evidence of the importance and breadth of these pathways. Its data document international student participation across institutions, degree levels, academic fields, and employment sectors. These data, together with DHS's own *SEVIS by the Numbers* reports, provide a substantial empirical foundation for examining the proposal's effects on different student populations and institutions. DHS should use these resources to evaluate whether the proposal would disproportionately affect STEM graduates, smaller institutions, rural institutions, regional universities, and employers that lack the financial resources to support excessively large fees.

The effects would also extend to American workers. International students attending U.S. colleges and universities contribute tuition revenue that supports academic programs, faculty positions, research infrastructure, and educational opportunities for domestic students. International graduates also contribute specialized skills to businesses, laboratories, and research teams. Reducing these contributions could undermine, rather than advance, the interests of U.S. workers.

A key finding of *The 2026 US Talent Report, Benchmarking America's STEM Pipeline Amid the Great Talent Competition*, produced by the Hoover Institution and the Institute for Human-Centered Artificial Intelligence at Stanford University and written by Emerson Johnston and Amy Zegart, is that "[i]nternational talent powers American research and industry after graduation. International graduates constitute majorities of postdoctoral researchers in several STEM fields, work in STEM at higher rates than US-born graduates with comparable degrees, and have founded or co-founded a large share of the country's leading AI firms." (Ibid, page 7).

The report also found that while the United States has abruptly changing policies that create uncertainty about opportunities after graduation, "Canada, the United Kingdom, Australia, Germany, and Singapore have moved in the opposite direction, offering skilled migrants clearer criteria, faster decisions, or more direct routes to permanent residence." (Ibid, page 159). Considering competition among countries, the researchers state, "America is no longer competing only on the quality of its universities and laboratories. It is competing on the predictability of the path that follows them." (Ibid, page 159).

This change in demand is evidenced in the most recent Global Enrolment Benchmark survey (January to March 2026 Intake) that indicates sharp declines in international enrollments in the U.S. and Canada while many European and Asian institutions reported growth. Restrictive government policies and visa restrictions were cited as the biggest negative impact for those institutions experiencing enrollment declines.

Imposing charges of this magnitude would create a substantial competitive disadvantage for American institutions and employers, particularly when other countries offer more accessible post-study work opportunities.

IV. DHS has not adequately justified the proposed fee amounts or established their relationship to its stated objectives.

DHS identifies fraud prevention, immigration system integrity, protection of U.S. workers, and the costs of OPT investigations as principal justifications for the proposal. These are legitimate areas of governmental concern. They do not, however, establish that fees of $70,000 and $30,000 are necessary, appropriate, or authorized.

The proposal does not adequately demonstrate why these particular amounts are required. Nor does it establish that charging educational institutions extraordinary amounts for making otherwise permissible OPT recommendations is a proportionate response to identified compliance problems.

The distinction between a regulatory fee and a revenue-raising or deterrent charge is particularly important. Congress has established statutory frameworks governing immigration-related fees, including 8 U.S.C. 1356(m) and 8 U.S.C. 1372. DHS must identify statutory authority supporting the charges it proposes and explain how that authority permits fees designed to discourage participation rather than recover the costs of providing governmental services or administering a program.

General authority to administer and enforce immigration laws does not, without further explanation, resolve whether DHS may impose charges of this magnitude for the purpose of changing institutional, student, and employer behavior.

DHS should provide a transparent accounting of the governmental costs that the proposed fees are intended to recover, including the extent to which those costs are attributable to individual OPT recommendations. It should also distinguish administrative cost recovery from any intended deterrent effect.

If the objective is to encourage greater institutional review of OPT recommendations, DHS should explain why targeted documentation requirements, enhanced compliance reviews, and enforcement against identified violations would be insufficient. If the objective is to deter fraudulent employment arrangements, DHS should demonstrate how imposing the same substantial charges on compliant institutions and students would more effectively accomplish that purpose than targeted investigations and enforcement.

The proposal also warrants closer examination under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612, as amended) and the principles governing reasoned agency decision-making. Its effects on small educational institutions, students, employers, and other affected entities cannot be adequately evaluated without accounting for the likelihood that institutions will decline to make OPT recommendations rather than incur the proposed fees.

V. The statutory authorities cited by DHS do not authorize the proposed OPT fees.

DHS also says in the proposed rule preamble that its authority to impose the proposed OPT fees rests on "multiple, independent, and mutually reinforcing statutory sources." However, the authorities identified concern DHS's general responsibility to administer immigration laws, regulate nonimmigrant status and employment, and oversee educational institutions certified by the Student and Exchange Visitor Program (SEVP) and tracked in SEVIS. [DHS states in the preamble, “The Secretary has authority under Section 102 of the Homeland Security Act of 2002 (HSA) (Pub. L. 107-296, 116 Stat. 2135), 6 U.S.C. 112,

and section 103(a)(1) and (3) of the Immigration and Nationality Act (INA), 8 U.S.C. 1103(a)(1), (3), to administer and enforce the immigration and naturalization laws of the United States, to include the issuance of regulations that he deems necessary. Section 214(a) of the INA, 8 U.S.C. 1184(a), authorizes the Secretary to prescribe the time and conditions of admission of any alien as a nonimmigrant."] None of these provisions expressly authorizes DHS to impose the extraordinary charges contemplated by this proposal. DHS's reliance on these provisions raises substantial questions about whether it is attempting to exercise taxing authority that Congress has not delegated.

DHS's proposal to deposit OPT "fees" into the general Treasury as miscellaneous receipts under 31 U.S.C. 3302, rather than retain or earmark them for SEVP administration or immigration enforcement, raises further questions not only about their characterization as regulatory fees. DHS acknowledges that ICE would not receive the revenue and that any subsequent appropriation for immigration enforcement would depend on congressional action. And so there is no assurance that the substantial amounts DHS seeks to collect from educational institutions would be used to address the very program vulnerabilities DHS invokes to justify the charges. DHS dismisses this concern by asserting that the charges would retain their deterrent effect regardless of whether Congress ever appropriates the revenue for immigration enforcement. Although depositing revenue into the general Treasury does not itself invalidate a regulatory fee, the absence of any dedicated use for the funds, coupled with the lack of a demonstrated relationship between the amounts charged and the costs of administering or enforcing OPT requirements, strengthens the argument that these assessments function primarily as deterrent taxes on lawful activity rather than fees to recover costs for governmental services. DHS has not identified clear statutory authority to impose charges of this nature.

DHS identifies deterring fraud and other misconduct involving OPT as a principal justification for the proposed fees yet offers no systematic evidence establishing the prevalence of such misconduct, relying instead on anecdotal accounts. Rather than targeting demonstrated abuses, the proposal would arbitrarily impose substantial charges on all institutions and students seeking to participate in a longstanding, lawful immigration benefit, regardless of any evidence of wrongdoing. In this respect, the proposed charges more closely resemble an arbitrary excise tax designed to discourage otherwise lawful activity than a regulatory fee intended to recover the costs of administering or enforcing the program.

The power to issue regulations necessary to administer a statutory program cannot be interpreted as authority to impose taxes or high fees on participation in that program. Broad regulatory discretion is not a substitute for the clear congressional delegation required to exercise Congress's taxing power.

DHS also relies on INA section 214(a), 8 U.S.C. 1184(a), which authorizes the Secretary to generally prescribe the time and conditions of nonimmigrant admission, as well as other provisions granting DHS the authority to implement programs. But the authority to prescribe conditions governing optional practical training does not necessarily include authority to tax institutions or charge them exorbitant fees for making otherwise lawful OPT recommendations.

As mentioned above, the proposed charges exhibit characteristics that support their treatment as taxes rather than ordinary regulatory fees. They would apply to otherwise lawful activity, would not depend on a finding of misconduct (as would a fine), and do not correspond to the governmental cost of processing an OPT recommendation or administering the associated regulatory requirements. DHS instead emphasizes their intended deterrent effects, which, although ostensibly targeting bad behavior, will instead indiscriminately deter all use of the OPT benefit.

DHS tangentially references section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1372, which authorizes the collection of information concerning nonimmigrant students and exchange visitors and provides a statutory framework for SEVIS. This statute contains specific provisions at 8 U.S.C. 1372(e) addressing fees associated with the student and exchange visitor monitoring program. Those provisions demonstrate that Congress knows how to authorize fees for the administration of this program and to define their purposes. DHS does not explain how the proposed OPT charges, which are designed in substantial part to deter participation and address broader immigration policy concerns, fall within that specific statutory fee framework. Nor does DHS establish that the proposed amounts are related to the costs Congress authorized the agency to recover. The existence of express, purpose-limited fee authority weighs against interpreting more general immigration provisions as granting an additional, unrestricted power to impose exorbitant monetary assessments.

Absent a persuasive statutory justification, the proposed charges would exceed DHS's delegated authority. Therefore, DHS should withdraw the proposal.

VI. The proposed rule contains consequential ambiguities regarding the application of the OPT fees.

Ambiguity surrounding the subsequent $30,000 fee further illustrates the proposal's deficiencies.

A. DHS must clarify whether the $30,000 OPT fee applies only to the first subsequent OPT recommendation or to every subsequent recommendation.

Under the proposal, the initial $70,000 fee would be triggered by the first OPT recommendation for a particular student by a DSO at a particular SEVP-certified school following the final rule's effective date. See proposed 8 CFR 214.13(i)(1).

Proposed 8 CFR 214.13(i)(2) then provides that a school that has paid the initial $70,000 fee for a particular student must pay $30,000 before "a subsequent recommendation" for that student for whom it has already paid the initial $70,000 fee.

But proposed 8 CFR 214.12(i)(3) then says that “any subsequent DSO recommendations for OPT issued for any F-1 student who has previously participated in OPT, and for which the $70,000 OPT fee has been paid, will be subject to the subsequent OPT fee of $30,000 per alien.”

Using the singular “a subsequent recommendation” and the plural “any subsequent DSO recommendations” in the same paragraph (i) creates ambiguity and uncertainty as to whether DHS intends a single $30,000 payment for the first subsequent OPT recommendation or $30,000 payments for *each* subsequent recommendation.

Two interpretations are possible.

Under the first interpretation, a particular school would pay $70,000 for the student's initial OPT recommendation and $30,000 for the first subsequent recommendation, with no further fee for additional OPT recommendations for that student at that school. Total liability would be limited to $100,000. This interpretation appears consistent with a notice distributed on October 8, 2026 by SEVP to DSOs, which describes a $70,000 initial charge and a $30,000 charge for the “second year” of practical

training, with no additional fees in subsequent years. DHS also uses a $100,000 total in portions of its economic analysis included in the proposed rule.

Under the second interpretation, the school would pay $70,000 for the initial recommendation and an additional $30,000 each time it subsequently recommends OPT for the same student. Total liability could therefore exceed $100,000. Statements in the proposed rule preamble support this second interpretation. The preamble summary describes the subsequent fee as applicable to "any subsequent OPT." Elsewhere in the preamble DHS expressly describes the proposed charge as applying "each time there is a subsequent OPT recommendation for that student." These statements are difficult to reconcile with a single second-payment interpretation.

The distinction is illustrated by the following examples.

Example. Consider a Master of Engineering student who seeks three months of pre-completion OPT for a summer internship, followed by nine months of post-completion OPT and a subsequent 24-month STEM OPT extension.

- This student's school would first pay $70,000 before recommending the pre-completion OPT. It would then pay $30,000 before recommending post-completion OPT.
- If DHS intends a maximum of one subsequent fee, the school would owe no additional amount when recommending the STEM extension, and total liability would be $100,000.
- If DHS intends to assess the fee for each subsequent recommendation, the STEM extension would trigger another $30,000 payment, bringing total liability to $130,000.

Example. The same ambiguity could also affect students pursuing post-completion OPT following successively higher degrees at the same school, for example, a student who obtains a bachelor's degree, then a master's degree, and then a doctoral degree at the same school, each followed by a period of post-completion OPT permitted.

- Under the first interpretation ($100,000 limit), the school would have to pay a total of $100,000 for the three OPT recommendations ($70,000 for the first, $30,000 for the second, and $0 for the third).
- Under the second interpretation, though, the school would have to pay a total of $130,000 ($70,000 for the first, $30,000 for the second, and $30,000 for the third).

DHS must clarify this in any final regulatory wording.

B. DHS must clarify whether the payment history of a particular school for a particular student persists after a break in study when the student returns in the future to pursue additional study at the same school.

Example. It is possible that a student pursues OPT following completion of a degree at one school, returns home for more than a temporary absence (or otherwise has a lawful break in the continuity of F-1 status as in a change of status to H-1B), and then returns to the same school to pursue another degree at a higher educational level. For example, a student completes a bachelor's degree at a school, does 12 months of post-completion OPT, returns home to work in that country (let us say for two years in this example), and then returns to the same school to pursue a master's degree, finishes the master's degree, and then plans for a period of 12 months of post-completion OPT following the master's.

- In this case, the school would have paid a $70,000 fee before making the OPT recommendation following the bachelor's degree.
- If the payment history persists, the school would pay a $30,000 fee before making the OPT recommendation following the master's degree.
- If the payment history does not persist following a lawful break in F status, the school would have to pay another $70,000 fee for the same student.

DHS must clarify this in any final regulatory wording.

C. DHS Must Clarify How the Rule Would Work When OPT is Recommended by Different Schools.

There is also ambiguity as to whether payment history and obligation is school-specific or follows the student across institutions, although the regulatory wording is best interpreted as OPT fee payment liability being school-specific. For example, consider this scenario under that interpretation:

- Student at School A wants to apply for 12 months of OPT eligibility as post-completion OPT, following completion of the master's degree.
    - Before recommending the post-completion OPT, the DSO at School A must ensure that School A has paid the $70,000 amount, since this is the first OPT being recommended for that student by that school.
- After completing the 12 months of OPT based on the master's degree earned at School A, student transfers to School B for a PhD in engineering.
- Student wants to apply for 12 months of OPT eligibility as post-completion OPT, following completion of the PhD degree at School B.
    - Before recommending the post-completion OPT, the DSO at School B must ensure that School B has paid the $70,000 amount, since this is the first OPT being recommended for that student by that school (i.e., a different school).
- Student wants to apply for STEM OPT
    - Before recommending the STEM OPT, the DSO at School B must ensure that School B has paid the $30,000 amount.

In the event that DHS proceeds with any form of this proposed rule, DHS must clarify these fee payment ambiguities in the regulatory wording. The proposal's financial analysis cannot be considered reliable unless DHS clearly identifies the circumstances triggering each fee and models the resulting liabilities. An analysis based on a fee maximum would understate costs if institutions could incur additional charges.

VII. DHS should withdraw the proposal and consider less burdensome alternatives.

DHS can address legitimate concerns about fraud, program integrity, and worker protections without imposing financial barriers that would effectively eliminate OPT opportunities for large numbers of otherwise eligible students.

The existing regulatory framework and SEVIS already provide DHS with substantial tools and information to identify potential fraud and noncompliance in OPT. DSOs must determine student eligibility and enter OPT recommendations in SEVIS, while students must report changes in employment and other required information. For STEM OPT, additional safeguards include employer participation in E-Verify, individualized Form I-983 training plans, employer attestations, periodic student evaluations, reporting

obligations, and DHS authority to conduct employer site visits. SEVIS maintains information on students' academic programs, immigration status, OPT authorization periods, and reported employment, enabling DHS to identify potentially suspicious patterns across students, employers, and institutions. These existing data and oversight mechanisms provide a substantial foundation for targeted, risk-based compliance reviews and enforcement against actual misconduct, without imposing extraordinary fees on institutions making otherwise lawful OPT recommendations.

Potential alternatives include improved use of SEVIS data to identify unusual employment patterns, risk-based compliance reviews, clearer institutional reporting requirements, enhanced enforcement against fraudulent employers or institutions, and additional guidance concerning DSO responsibilities. Any proposed administrative fees should be supported by a documented cost analysis and proportionate to the governmental services or regulatory activities involved.

DHS should also meaningfully evaluate the effects of the proposal on students already enrolled in U.S. institutions who made educational and financial decisions in reliance on the availability of OPT. Even prospective application of the proposed fees would substantially disrupt the expectations of these students and their institutions.

The economic studies and administrative data identified in these comments provide a basis for a more comprehensive assessment of the proposal's costs and alternatives. DHS should incorporate these resources into its analysis, address their findings, and provide the public with an adequate opportunity to evaluate any substantially revised proposal.

Conclusion

The proposed OPT fees that function as a tax would impose extraordinary costs on American educational institutions and threaten an established pathway through which international students gain practical experience and contribute to the U.S. economy. DHS has not adequately demonstrated that the proposed amounts are necessary to achieve its stated objectives, that the fees are supported by the statutory authorities cited, or that their likely consequences for students, institutions, employers, and American workers have been fully evaluated. Existing regulatory mechanisms already provide for school certification, DSO oversight, student and school reporting, employer obligations under STEM OPT, and investigations of suspected violations. DHS should instead better assess whether these mechanisms can be strengthened through more targeted measures. The ambiguity surrounding the subsequent $30,000 fee further illustrates the proposal's deficiencies.

For these reasons, we urge DHS to withdraw the proposed rule and pursue targeted, evidence-based measures that address identifiable compliance concerns while preserving the educational and economic benefits of OPT.

Respectfully submitted,

NAFSA: Association of International Educators