

***Washtech* Lawsuit Threatens Optional Practical Training (OPT)**

A federal court is considering whether to strike down student experiential learning programs called OPT and STEM OPT. These programs provide temporary employment authorization to international students so they may gain practical training related to their field of study in the United States. Several corporate trade associations are submitting a brief about the U.S. workforce.

It is important to file an amicus brief explaining the value of these programs to student success and international education on campuses. Over sixty schools signed on to an amicus brief last year opposing the Unlawful Presence Memo that would have made minor student visa violations retroactive, and we hope to build on that model of sharing the voice of higher education as immigration rules are being considered in court.¹

Update on the Case Process

- [The Washington Alliance of Technology Workers \(“Washtech”\) filed suit](#) against the U.S. Department of Homeland Security (DHS) more than a decade ago arguing that DHS does not have the authority to grant work authorization to F-1 students for Optional Practical Training (OPT).
- On July 1, 2019, the U.S. District Court for the District of Columbia issued a decision allowing the case to proceed and permitting WashTech to challenge the legality of the 12-month period of OPT as well as the two-year STEM OPT extension.
- If this challenge succeeds, the OPT program could end.
- There is concern that the current administration might not defend OPT. In this case, it is the role of the Department of Justice to defend the OPT program against Washtech’s allegation that OPT should not be available to international students. In this instance, to submit an amicus brief would be to argue on behalf of a long-standing government program.
- The court also granted permission for three organizations to join the case as intervenors in defense of OPT. They are U.S. Chamber of Commerce, Information Technology Industry Council, and National Association of Manufacturers.
- Other interested parties can present their perspectives to the Court through the filing of *amicus curiae* briefs on or before October 25, 2019.

Important Perspective from U.S. Higher Education

The Presidents’ Alliance for Higher Education and Immigration and NAFSA: Association of International Educators are working to coordinate an *amicus* brief for higher education institutions to join. The brief would outline the importance of OPT to these institutions, their students, and higher education in this country, highlighting the value of OPT as an important educational component to a student’s program of study, as a key complement to the classroom experience, and as supplemental training and experiential learning. Why join?

- Access to OPT attracts students from around the world and is vital to the recruitment efforts of U.S. higher education institutions. Many competitor countries like Australia and Canada have similar programs that attract students away from the United States. At a time when we are seeing increased global competition for international students, the impact of losing programs such as OPT would threaten the United States’ role as the leader in international education.

¹<https://www.presidentsimmigrationalliance.org/pressrelease/u-s-district-court-judge-biggs-issues-nationwide-preliminary-injunction-halting-enforcement-of-new-unlawful-presence-policy/>

- The U.S. government has allowed international students to pursue practical training in some form since the 1950s.
- U.S. colleges and universities have a front-row seat to the value of OPT for their institutions and their students. They offer an invaluable perspective that differs from the perspectives of the parties in the case and the business organizations that have intervened.
- U.S. colleges and universities have the primary perspective on the educational and training role of OPT for international students.
- Experiential learning is a key component of U.S. higher education. The internship, training, and career preparatory work opportunities that are available through OPT are part of the broader educational life cycle for all students on campus and beyond.
- International students contributed \$39 billion to the U.S. economy and supported over 455,000 jobs during the 2017-2018 academic year,² making international education the fifth largest U.S. services export.
- This amicus brief is an opportunity to pull together evidence, narratives, and arguments for OPT, which would become part of the record on appeal.

The deadline to join this *amicus* brief is October 11, 2019.
Institutions can learn more and express interest in joining the brief [here](#).

² “International Student Economic Value Tool”, NAFSA: Association of International Educators,
<http://www.nafsa.org/economicvalue>